

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 507 (First Edition)

SHORT TITLE: Aggravating Factor/Add Social Worker.

SPONSOR(S): Senator Dalton

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Exact amount cannot be determined; no substantial impact anticipated.				
Judicial	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined; no substantial impact anticipated.				
POSITIONS: (cumulative)	Exact amount cannot be determined; no substantial impact anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 2005					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY: Under current G.S. 15A-1340.16(d)(6), it is an aggravating factor when sentencing felons if the offense was committed against or caused serious injury to any of a list of specified individuals involved in law enforcement, emergency services, custody of inmates, or judicial proceedings, because of the person’s official duties or while the person was engaged in their official duties. This bill would add social workers to that list.

Source: Adapted from Bill Digest S.B. 507 (03/14/2005).

ASSUMPTIONS AND METHODOLOGY:

General

Under this bill, offenders would face an aggravated sentence for any felony committed against or proximately causing injury to a social worker while that person was engaged in his or her official duties or because of that person's official duties. As sentences in the aggravated range may be up to 25 percent longer than the maximum sentence in the presumptive range, this bill would lengthen the amount of time for which some offenders would be incarcerated and thus increase prison costs. The Administrative Office of the Courts (AOC) also anticipates that costs to dispose of these cases would increase as a result of more vigorous defense and prosecution due to the potentially longer sentence for these crimes.

No data is available regarding the frequency with which the current aggravating factor provided by G.S. 15A-1340.16(d)(6) is applied or the number of offenses committed against social workers under these circumstances. However, based on the low rate at which aggravating factors are currently applied across all felony classes and the narrow expansion of the aggravating factor under G.S. 15A-1340.16(d)(6) provided by this bill, the costs associated with this legislation are not expected to be substantial.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

The impact on prison population due to this bill would depend on the number and the offense class of crimes committed against or proximately causing injury to a social worker while that person was engaged in official duties or because of that person's official duties. As the Administrative Office of the Courts' computerized Criminal Information System does not maintain data on the application of specific aggravating factors, no estimate is available in respect to the frequency with which the aggravating factor under G.S. 15A-1340.16(d)(6) is presently applied. Furthermore, because it is not known how often offenders are convicted of felonies in which the victim was a social worker, we cannot estimate the number of felons that might be sentenced in the aggravated range due to this bill. However, based on the relatively low rate of felony convictions in the aggravated range and the narrow expansion of the aggravating factor provided by this bill, the number of additional convictions with aggravated sentences due to this legislation is not expected to be substantial.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

AOC expects defense and prosecution would be more vigorous for felony charges in which the defendant would face an aggravated sentence if the victim was a social worker and the offense was committed because of that person's official duties or while that person was engaged in their official duties. As a result, AOC anticipates costs in superior court would increase in these cases due to increases in trial length, attorney preparation time, jury fees, and indigent defense costs.

Because no data is available on the number of felonies charged when the offense was committed against or proximately caused injury to a social worker, AOC is unable to estimate the potential cost to the Courts associated with this bill. Due to the narrow expansion of this aggravating factor and the relatively low rate at which aggravating factors are currently found in felony convictions, we do not expect the number of charges entailing increased costs because of this bill to be substantial.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Mills and Aaron Paul

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: April 4, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices