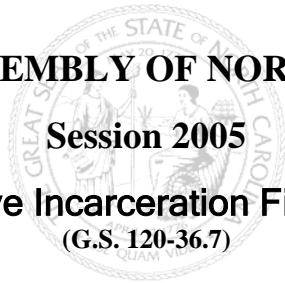


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1058 (First Edition)

SHORT TITLE: Amend Assault Assistance Animal.

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.				
LOCAL GOVERNMENTS	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*	Exact number cannot be determined; no substantial impact anticipated.				
POSITIONS: (cumulative)	Exact number cannot be determined; no additional positions anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments					
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: Current G.S. 14-163.1 provides that willfully causing physical harm to law enforcement agency animals or assistance animals is a Class I felony if the harm is serious, and a Class 1 misdemeanor otherwise. This bill would amend the offense under G.S. 14-163.1 to include causing *psychological* harm to such animals and would additionally require the defendant to make restitution if convicted of causing physical or psychological harm.

ASSUMPTIONS AND METHODOLOGY:

General

Because this bill would add causing psychological harm to the existing offense of assaulting a law enforcement agency animal or assistance animal, it would be expected to result in additional Class 1 misdemeanor and Class I felony charges and convictions and would consequently entail a fiscal impact. The Administrative Office of the Courts (AOC) currently does not maintain a specific offense code for violations of G.S. 14-163.1 (causing physical harm to such animals) some indication that the offense infrequently results in convictions (other AOC data show 15 charges in CY 2004). As such, the numbers of additional charges and convictions resulting from the bill are not expected to be significant, and the cost associated with this legislation is 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.*

Due to the lack of an offense code for current violations of G.S. 14-163.1 (some indication that convictions are presently infrequent), the Sentencing Commission has no historical data from which to estimate the number of additional convictions that might result from expanding the offense to include psychological harm.

Class 1 Misdemeanors: In FY 2003-04, 19 percent of Class 1 misdemeanants received active sentences, and the average estimated sentence length was 43 days. DOC reimburses the county for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per offender per day. Because active sentences of less than ninety days are served in county jails, Class 1 misdemeanor convictions resulting from this legislation are not expected to significantly impact prison population.

Class I Felonies: In FY 2003-04, 11 percent of Class I felony convictions resulted in active sentences. If, for example, there were ten additional Class I convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Non-Active Sentences: In FY 2003-04, 40 percent of Class I convictions resulted in intermediate sanctions and 49 percent in community sanctions; two percent of Class 1 misdemeanants received intermediate sanctions and 79 percent received community punishment. Probation officers in the

Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) 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.

While there is not a specific offense code for causing physical harm to law enforcement agency animals or assistance animals in violation of 14-163.1, AOC data does show 15 charges for the offense in CY 2004. It is unknown how many of these charges were for Class I felonies and how many were for Class 1 misdemeanors. Because the offense has not encompassed psychological harm in the past, no historical data is available with which to estimate the number of additional charges that the Court system would handle due to this bill. For any new Class 1 misdemeanor or Class I felony charge due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing district and superior court workload, respectively. AOC estimates the costs to process one Class 1 misdemeanor and one Class I felony charge as shown in Table 1 below. Based on prior-year data, the majority of charges that are not dismissed are likely to be settled via guilty plea.

Table 1: CY 2004 Estimated Per Charge Settlement Costs

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	-
Class 1 Misdemeanor	\$1,880	\$1,333	\$3,213	\$284
Class I Felony	\$3,904	\$1,931	\$5,835	\$330

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

TECHNICAL CONSIDERATIONS: None

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Signed Copy Located in the NCGA Principal Clerk's Offices