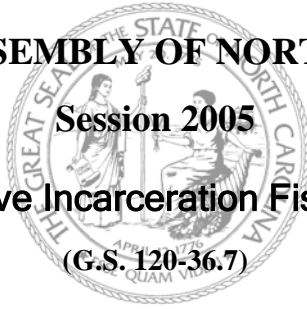


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 488 (Fourth Edition)
SHORT TITLE: Assault Handicapped/Increase Penalty.
SPONSOR(S): Senator Dannelly

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
GENERAL FUND					
Correction					
Recurring					
Nonrecurring					
Judicial					
Recurring					
Nonrecurring					
TOTAL EXPENDITURES: 					
ADDITIONAL PRISON BEDS*					
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments.					
EFFECTIVE DATE: December 1, 2006.					
<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: Rewrites G.S. 14-32.1(f) to increase the offense class for simple assault or battery of a handicapped person from a Class 1 misdemeanor to a Class A1 misdemeanor. Effective December 1, 2006, and applies to offenses committed on or after that date.

ASSUMPTIONS AND METHODOLOGY:

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 a specific bill. For such 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.

In response to the proposed penalty increase, the AOC anticipates more rigorous defense and prosecution of new cases, resulting in an increase in court-time and the number of trials, and a decrease in the number of pleas for this offense. In calendar year 2005, approximately 240 defendants were charged with, and 60 defendants convicted of, assaulting a handicapped person under G.S. 14-32.1(f). If, for example, 240 charges were to occur per year for this offense, the proposed penalty increase could require an additional \$23,512 in estimated court costs in the first fiscal year, and approximately \$42,350 in the second (full) fiscal year.¹ However, it is not known how many charges might occur. The AOC estimates court-time costs per single Class 1 misdemeanor trial and plea of \$3,153 and \$224, respectively; estimated Class A1 misdemeanor costs are \$3,540 and \$226.

Department of Correction – Division of Prisons

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.

In FY 2004-05, 25% of Class A1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 53.8 days; 5% resulted in intermediate sentences and 70% in community sentences. In comparison, 19% of Class 1 misdemeanor convictions resulted in active sentences in the same fiscal year, with an average estimated time served of 30.7 days; 2% resulted in intermediate sentences and 79% in community sentences.

While this proposed reclassification may increase active sentences for the offense, it is not expected to have a significant impact on the State's prison population – offenders serving active sentences of ninety days or less are housed in local jails. However, the Department of Correction reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per offender, per day. Thus, any additional active sentencing could generate additional costs for DOC.

Prior year conviction and sentencing data suggest only a small impact on local jail populations. For example, assuming 60 convictions occur per year under similar sentencing practice, local jail populations could experience a relative increase of 4 persons statewide as a result of the bill.² At

¹ Estimate provided by the Administrative Office of the Courts. Costs are based on an estimated increase in in-court hours per case, attorney preparation hours, and number of projected cases per disposition (trial and plea). Costs also include estimated indigent defense.

² Compared to active sentencing percentage for Class 1 misdemeanor convictions in FY 2004-05.

an estimated time served of 53.8 days, such active sentencing could require approximately \$3,874 in reimbursement costs for DOC.

Department of Correction – Division of Community Corrections

Though it is not known how many additional convictions and community or intermediate sentences might result under this bill, current sentencing practice suggests that additional costs for probation supervision could also be incurred. *However, based on CY 2005 conviction data, the Department of Correction does not expect a significant impact as a result of the proposed penalty increase.*

General supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs. Intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 (including probation officer cost) per offender per day and is for an average of six months. Electronic house arrest costs \$8.64 (including probation officer cost). Such costs are projected to begin in FY 2007-2008, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee. Those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bryce Ball and Jim Mills

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division



DATE: July 10, 2006

Signed Copy Located in the NCGA Principal Clerk's Offices