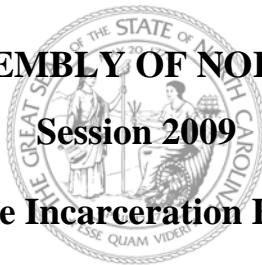


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 944 (Second Edition)

SHORT TITLE: Disclosure by Appointees.

SPONSOR(S): Representatives Glazier, Stam, Ross, and Tillis

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES					
GENERAL FUND:					
Correction			Indeterminate fiscal impact		
Probation			Indeterminate fiscal impact		
Judicial			Indeterminate fiscal impact		
Board of Elections			No significant fiscal impact anticipated		
ADDITIONAL PRISON BEDS:					
(cumulative)*			No prison bed impact anticipated		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; State Board of Elections					
EFFECTIVE DATE: January 1, 2010					
*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.					

BILL SUMMARY:

This bill creates a new statute, G.S. 163-278.23A, disclosure of contribution-related activity involving appointees to positions in state government. This statute would require a person who is being appointed to the Governor’s Cabinet, to the Supreme Court, the Court of Appeals, the Superior Court, the District Court, or to any board or commission exercising executive powers, to file the following reports with the State Board of Elections:

1. A list of contributions made by the appointee or a member of the appointee’s immediate family to a relevant political committee in the two years preceding the date of the appointment.
2. A list of contributions resulting from the appointee’s fund-raising for a relevant political committee in the two years preceding the date of the appointment.

Violation by an appointee of a duty imposed by this statute is a Class 2 misdemeanor offense.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. *It is not known how many offenses might be convicted and sentenced under the proposed bill.* In FY 2007-08, 20% of Class 2 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 2 misdemeanor convictions was 10 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, Class 2 misdemeanor convictions for this proposed offense *would not be expected to have a significant impact on the prison population.* The Department of Correction (DOC) reimburses county jails for misdemeanants, starting on the 31st day at a rate of \$18 per day. Because the average active sentences for Class 2 misdemeanors are less than 31 days, the State would incur no costs for convictions under the proposed bill. The impact on local jail populations is not known.

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined.*

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

This bill would create a new Class 2 misdemeanor offense. *AOC has no data from which to project the number of charges that would result from this bill.* Costs to the court system to dispose of each new Class 2 misdemeanor would range from \$83 to \$161, not including indigent defense.

In FY 2007-08, a typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

State Board of Elections

This bill will have a negligible fiscal impact on the State Board of Elections. The reporting and website management work required by House Bill 944 is already performed by State Board of Elections staff members in the normal course of their employment and thus would result in no additional need for personnel or associated expenses. The only expenditure incurred by this bill would be the costs of additional paper to print copies of the new reporting form; the agency estimates that this cost can be absorbed into its existing budget.

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

TECHNICAL CONSIDERATIONS: None

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