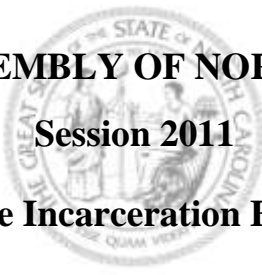


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 203 (Second Edition)

SHORT TITLE: Mortgage Satisfaction Forms/No False Liens.

SPONSOR(S): Representative Crawford

	FISCAL IMPACT				
	Yes ()	No ()	No Estimate Available (X)		
	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>
GENERAL FUND					
Prison					<i>* No Estimate Available</i>
Recurring					
Nonrecurring					
Probation					<i>* No Estimate Available</i>
Judicial					<i>* No Estimate Available</i>
Recurring					
Nonrecurring					
TOTAL					
EXPENDITURES:					<i>* No Estimate Available</i>
ADDITIONAL					
PRISON BEDS:					
(cumulative)*					<i>* No Estimate Available</i>
FTE POSITIONS:					
(cumulative)					<i>* No Estimate Available</i>
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Public Safety; Judicial Branch					
EFFECTIVE DATE: Sections 1 and 2 become effective October 1, 2012. The remainder of the act becomes effective December 1, 2012.					
<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:

This bill creates several new felony offenses and reclassifies two existing offenses. A Class I felony is created for filing a false lien against a public officer or public employee. This adds a new section to Article 20 of Chapter 14 of the General Statutes, G.S. 14-118.6. The bill also creates Class E and H felonies by adding a new subsection to provisions of the Residential Mortgage Fraud Act (G.S. 14-118.12(a)). Two Class 2 misdemeanors—filing of false liens and filing of false security agreements—are reclassified as Class I felonies by the amendments of G.S. 14-118.

ASSUMPTIONS AND METHODOLOGY:

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.

Sections 1 and 2 of the bill make revisions to four forms currently used by parties in lien proceedings; however, these are not published AOC forms, so there will not be any associated cost to the Judicial Branch for this change.

Sections 3 and 6 of the proposed bill elevate two current Class 2 misdemeanor offenses to Class I felonies. Of these two offenses, AOC data shows that in CY 2011 there were three defendants charged with the one offense (G.S. 14-118.1, Simulation of court process in connection with collection of claim); and there is not currently an offense code for the other (G.S. 14-401.19, Filing false security agreements), which may be some indication that it is infrequently charged. Although there will be some cost associated with each disposition of the higher level charges, because these two offenses do not constitute a high volume of charges AOC does not expect that the increase in these charges will have a substantial impact on the court system. Nonetheless, an estimated cost of the reclassifying of these offenses as Class I felonies is provided below.

While pleas to Class H and I felonies are sometimes handled in District Court, many pleas and all trials for Class H and I felonies are handled in Superior Court. Overall, the monetary value of the average workload of a Class I felony case is \$365. When the existing Class 2 misdemeanor charges are elevated to the Class I felony level, the cost differential is \$277 per case (\$365-\$88, the cost of a Class 1 misdemeanor disposition).

Sections 4 and 5 of the proposed bill create three new criminal offenses: a Class E, Class H and Class I felony offense. Because these are new offenses, AOC does not have any historical data upon which to estimate the number of charges that may arise from the passage of this bill. Therefore, AOC is unable to estimate the increased cost to the Judicial Branch.

While pleas to Class H and I felonies are sometimes handled in District Court, many pleas and all trials for Class H and I felonies are handled in Superior Court. All dispositions (pleas and trials) for Class E felonies are handled in Superior Court. Overall, the monetary value of the average workload of a Class E felony case is \$1,618, a Class H felony is \$501, and a Class I felony is \$365. This estimate includes costs for those

positions typically involved in felony cases – Superior Court Judge, Assistant District Attorney, Deputy Clerk, Court Reporter, and Victim Witness/Legal Assistant – as well as operating and infrastructure costs. In addition, there may be cost associated with jury trials. Jury costs are based on an estimated jury pool of 30 for the first day and, for subsequent days, the 12-person jury plus two alternates. Jury compensation, set in G.S. 7A-312, is \$12 for the first day, \$20 for days two to five, and \$40 for additional days. For criminal cases, jury costs come to \$360 for the first day, \$280 for days two to five, and \$560 for the days over five.

Department of Public Safety –Prison Section

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.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), makes changes to North Carolina’s court system, corrections system (both to prisons and probation), and to post-release supervision. The Act also creates a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. In addition, all F-I felons are subject to nine months of post-release supervision (PRS).

Based on the most recent population projections and estimated bed capacity, there are 1,791 surplus prison beds available through 2017. Taken in isolation, the impact of the proposed legislation is not expected to exceed current prison bed vacancies. To the extent that further legislation increases prison populations beyond the projected vacancies, additional beds would be needed.

POSITIONS: DPS is unable to provide an estimate of the impact of this bill on full time employment (FTE) positions.

DISTRIBUTION OF BEDS: DPS is unable to provide an estimate of bed distribution due to HB 203.

Department of Public Safety – Community Correction Section

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). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

Offenders given intermediate or community sanctions requiring supervision are supervised by the Community Corrections Section (CCS); CCS also oversees community service.¹ General supervision of intermediate and community offenders by a probation officer costs \$3.57 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Although there is no available estimate for the potential impact of the proposed legislation, it is possible to estimate the cost of one additional intermediate and community sentence under each proposed offense class. The table below shows the cost for one additional offender, per offense class per custody level.

¹ DCC incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.

Offense Class	Percent Community/Intermediate	Average Length of Time	Estimated Cost to CCS*
Class E Felony	Community: N/A	N/A	N/A
	Intermediate: 50 percent	36 months	\$3,909
Class H Felony	Community: 13 percent	27 months	\$2,931
	Intermediate: 49 percent	30 months	\$3,257
Class I Felony	Community: 45 percent	27 months	\$2,931
	Intermediate: 37 percent	22 months	\$2,389

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

TECHNICAL CONSIDERATIONS: None

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