

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 1118 < 1<sup>st</sup> Edition >  
**SHORT TITLE:** Fraud Against Financial Institutions  
**SPONSOR(S):** Representatives Church, Morgan; and Harrington

**FISCAL IMPACT**

<b>Yes (X)</b>	<b>No ()</b>	<b>No Estimate Available (X)</b>		
<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>

**REVENUES**

**EXPENDITURES**

Department of Correction – No estimate available but assume some fiscal impact  
Judicial Branch – No estimate available but assume some fiscal impact

**POSITIONS:** 0

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Judicial Branch and Dept. of Correction

**EFFECTIVE DATE:** This act is effective December 1, 2001, and applies to offenses committed on or after that date.

**BILL SUMMARY:**

Amends Article 20 of Chapter 14 of the General Statutes by adding a new section G.S. 14-118.6 that would make defrauding financial institutions a Class I felony for any person who knowingly and willfully executes, or attempts to execute a scheme or artifice to (1) defraud a financial institution; and (2) obtain any of the monies, funds, credits, assets, securities, or other property owned by, or under the custody and control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises.

G.S. 14-118.6(b) defines a financial institution as a bank, savings bank, savings and loan association, trust company, credit union, or other entity engaged principally in the business of lending money, receiving or soliciting money on deposit.

## **ASSUMPTIONS AND METHODOLOGY:**

### Department of Correction

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate how many offenders might be sentenced under this bill. Because of the lack of data, there is no estimate available of the fiscal impact of HB1118 on the prison population. However, Fiscal Research believes there could be some impact since offenders convicted of a Class I felony can receive an active prison sentence. For example, if there were 10 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 Sentencing Commission also noted that 13% of Class I felons received an active sentence in FY 1999/2000, with an average sentence length of six months. The AOC also notes that this offense could currently be included in certain fraud misdemeanor statutes; creating this new offense could result in upgrading the misdemeanor offense and increase the possibility of a prison sentence.

### Judicial Branch

AOC is unable to estimate the impact of this bill. They are unable to determine the extent to which this bill would apply to existing crimes (or establish new crimes). Some fraud offenses that are misdemeanors under existing law, but which could become Class I felonies under this bill if they were committed against a financial institution and could be deemed a knowing and willful “scheme or artifice,” include financial card fraud (627 defendants charged with a Class 2 misdemeanor in calendar 1999, G.S. 14-113.13) and perhaps some worthless check cases (some 76,000 defendants charged with misdemeanor offenses in calendar 1999). With the enhancement in punishment, and the cases disposed as felonies in superior court rather than misdemeanors in district court, the defense and prosecution would be more vigorous, time consuming and costly. Prosecution of a substantial number of worthless check cases as Class I felonies would have a substantial impact on the courts. Fiscal Research believes that depending on the number of charges under this bill, there could be a substantial impact on the court system.

AOC assumes that for the most part the conduct addressed by this bill could be charged under various provisions of existing law. In addition, AOC notes that several offenses already exist in the general category of financial fraud that are more or as serious as the new Class I felony created by this bill. Some such offenses include financial card theft, G.S. 14-113.9, a Class I felony, 964 defendants charged in calendar 1999; forgery of an instrument, G.S. 14-119, a Class I felony, 3,548 defendants charged; uttering a forged instrument, G.S. 14-120, a Class I felony, 5,293 defendants charged; obtaining property by false pretenses, G.S. 14-100, a Class H felony, 6,412 defendants charged; and financial card fraud, G.S. 14-113.13, 657 defendants charged with a Class I felony.

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

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** 733-4910

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