

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: HB 152 2nd Edition

SHORT TITLE: Prevent SIDS/Unauthorized Meds./Child Care

SPONSOR(S): Representative Alexander

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction					
Recurring					Unable to determine exact amount.
Nonrecurring					
Judicial					
Recurring					Unable to determine exact amount.
Nonrecurring					
TOTAL					Unable to determine exact amount.
EXPENDITURES:					
ADDITIONAL PRISON BEDS*					It is likely that misdemeanants sentenced to an active sentence under this bill would be housed in local jails because only A1 offenders falling in Prior Record Level III receive active sentences that might be served in the state prison system.
POSITIONS: (cumulative)					Unable to determine exact amount; additional positions not anticipated.
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					Department of Correction (DOC); Judicial Branch
EFFECTIVE DATE:					December 1, 2003
					<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: HB 152 amends Chapter 110 of the General Statutes by adding a new section G.S. 110-102.1A making it a Class A1 misdemeanor for an employee, owner or operator of a licensed or unlicensed child care facility to administer any medication to a child attending the child care facility without first obtaining written authorization from the child's parent or guardian in accordance with rules adopted by the North Carolina Child Care Commission. In addition, HB 152 adds three categories of persons to whom the bill applies: household members, substitutes, and volunteers. The bill also expands G.S. 110-102.1A(a) by stating that it is illegal to (1) administer any type of drug or medication to a child if he/she knew or should have known that written authorization was not obtained from the child's parent or guardian and (2) to direct another to administer any type of drug or medication to a child if he/she knew or should have known that written authorization was not obtained from the child's parent or guardian.

In addition, the bill expands G.S. 110-91 pertaining to the mandatory standards for a child-care facility. The bill requires a caregiver in a child care facility to place a child under 12 months of age or younger on the child's back for sleeping to reduce the risks associated with Sudden Infant Death Syndrome (SIDS), unless the caregiver receives a written waiver from a health care provider as defined in G.S. 58-50-61 instructing otherwise.

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 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.

Because the bill provides for a new Class A1 misdemeanor offense, AOC is unable to estimate the number of new charges that may result from this bill. Because the Division of Child Development does not have data on how often medications are administered without prior authorization¹, AOC is unable to estimate the number of charges that could arise from the amended statute. For offenses that are brought to trial, the estimated court cost per trial is \$2,594. For offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$214.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, 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.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

¹ Administrative Office of the Courts Research and Planning Division.

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 offenders might be sentenced under this bill. In FY 2001-2002, 20% of Class A1 misdemeanor convictions resulted in active sentences. The average estimated time served was 55.1 days. It is likely that misdemeanants sentenced under this bill would be housed in local jails but paid for by the State at a cost of \$18/day. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because only A1 offenders falling in Prior Record Level III receive active sentences that might be served in the state prison system, convictions for this proposed offense would not be expected to have a significant impact on the prison population.

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

TECHNICAL CONSIDERATIONS: None

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