

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 779 (Second Edition)

SHORT TITLE: Increase the Penalty for Truancy.

SPONSOR(S): Representative Fisher

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Exact amount cannot be determined. DOC would likely reimburse counties for some incarceration costs (\$18/day per offender for any offender sentenced to over 30 days).				
Judicial	\$20,103	\$34,463	\$36,186	\$37,995	\$39,895
LOCAL GOVERNMENTS	Exact amount cannot be determined. If, for example, offenders were housed, in sum, for an additional 1,890 jail days, costs to local jails would be an estimated \$75,600. This total would be reduced for any offenders sentenced to over 30 days through payments incurred by DOC.				
ADDITIONAL PRISON BEDS*	It is likely that most offenders receiving active sentences under this bill would be housed in local jails. The exception would be Class 1 misdemeanants falling in Prior Record Level III, who are eligible for active sentences long enough to be served in state prison.				
POSITIONS: (cumulative)	Exact amount cannot be determined; no additional positions anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch; Local Governments				
EFFECTIVE DATE:	December 1, 2005				
<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 would amend G.S. 115C-380 and 116-235(b)(2) to increase the penalty for aiding a student's unlawful absence from school from a Class 3 to a Class 1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

General

Elevating the penalty from a Class 3 to Class 1 misdemeanor for school attendance law violations would be expected to lead to increases in the active sentence rate and average active sentence length for the offense. Offenders sentenced to active time for this offense would principally impact local jail populations and costs but would also increase payments by the Department of Correction to local jails for housing some offenders. Additionally, costs to the Courts to process charges for these offenses would be expected to increase due to more vigorous defense and prosecution as a result of the more severe penalty.

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.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, 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.*

Of the 365 Class 3 misdemeanor convictions in FY 2003-04 for violations of the compulsory attendance requirements (failure to ensure a child's lawful attendance in school), 21 resulted in active sentences (6%), with an average active sentence length of 14 days. On average, 23 percent of Class 3 misdemeanor convictions in FY 2003-04 resulted in active sentences with an average estimated active sentence length of 8 days. During FY 2003-04, 19 percent of Class 1 misdemeanors resulted in active sentences, with an average estimated time served of 31 days. Therefore, increases in active sentence rate and sentence length would be expected as a result of reclassifying these Class 3 offenses as Class 1 misdemeanors.

Most Class 1 misdemeanants serving active time as a result of this bill would be housed in local jails (offenders with active sentences of less than ninety days are housed in local jails). As such, this legislation is not expected to significantly impact prison population. If offenders under this bill were sentenced according to the average active sentence rate and length for Class 1 misdemeanor offenses in 2003-04, the Sentencing Commission projects that, in sum, an additional 1,890 jail days would result from this legislation.

Local jails incur an estimated cost of \$40 per day per offender but are reimbursed by DOC at a rate of \$18 per day per offender for sentences exceeding thirty days. Because we cannot estimate the number of offenders with active sentences that would receive a sentence over thirty days the exact cost to local jails and DOC for additional jail days cannot be determined. If, for example, DOC

reimbursed local jails for all 1,890 additional jail days, costs to DOC would be \$34,020 and costs to local jails would be \$41,580 (i.e. \$75,600 less payments received by DOC).

The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts 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.

AOC data shows that 1,346 defendants were charged with Class 3 misdemeanors for school attendance law violations during calendar year 2004. If these charges were reclassified as Class 1 misdemeanors, AOC expects that costs to the Courts to process these charges would increase due to more vigorous defense and prosecution as a result of the more severe penalty.

The estimated increase in cost to process 1,346 charges as Class 1 rather than Class 3 misdemeanors would be \$34,463 in the first full year. This figure includes \$29,327 for court and attorney costs and \$5,136 for indigent defense and reflects anticipated increases in trial length, attorney preparation time, and time to handle pleas. The figures in the box on the first page reflect the total cost of processing these charges, inflated at a rate of five percent annually, and adjusted in FY 2005-06 to reflect only the seven months for which the bill would be effective.

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

TECHNICAL CONSIDERATIONS: None

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