

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2007**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** Senate Bill 493 (First Edition)

**SHORT TITLE:** Bertie County Hunting.

**SPONSOR(S):** Senator Jones

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>
<b>GENERAL FUND</b>					
<b>Correction</b>					
<b>Judicial</b>					
<b>Local Govt.</b>					
<b>TOTAL EXPENDITURES:</b>					
	<b>Amount cannot be determined.</b>				
<b>ADDITIONAL PRISON BEDS: (cumulative)*</b>					
	<b>None anticipated. Jail impact is indeterminate.</b>				
<b>POSITIONS: (cumulative)</b>					
	<b>None.</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch; Local Government.				
<b>EFFECTIVE DATE:</b>	October 1, 2007. *Applies only to Bertie County.				
<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:** Makes technical and the following substantive amendments in S.L. 2001-367:

1. Deletes provision that prohibits discharging a firearm or bow and arrow from, on, across, or over the right-of-way of any public road street or highway unless the person is the owner or lessee of the land abutting the right-of-way.
2. *Retains prohibition on such discharges from, on, across, or over the roadway of any public road, street, or highway, regardless of abutting land ownership.*
3. *Makes it unlawful to possess a firearm or bow and arrow outside the passenger compartment of a vehicle while on the roadway or right-of-way of any public road, street, or highway, regardless of whether or not the person is the owner or lessee of the land abutting the right-of-way (underlined prohibition added).*
4. Rewrites provision making it unlawful to hunt or to possess a firearm or bow and arrow on the land of another without the permission of the landowner or the landowner's lessee, *to specify that the prohibition is on hunting, fishing, or trapping on another's land (and not on possession of a firearm or bow and arrow), and to require that the permission must be written and must contain complete contact information for the landowner or lessee.*

\* S.L. 2001-367 provides that violation is a Class 3 misdemeanor offense. Applies only to Bertie County. Effective October 1, 2007.

Source: *Bill Digest S.B. 493 (03/05/0200).*

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

Given current resources, any new charge or conviction that occurs for the proposed offenses will generate some additional fiscal impact. However, *the nature of the offense, proposed penalty level, and applicability only to Bertie County suggest minimal fiscal impact.* Accordingly, few additional charges and convictions are anticipated to result from this bill.

### **Department of Correction**

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. Accordingly, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Because this bill creates new criminal offenses, the Sentencing Commission has no historical data from which to estimate the number of additional Class 3 misdemeanor convictions that might result. However, since *Class 3 misdemeanants serve their designated terms of incarceration within local jails, there is no anticipated impact on the state prison population.*<sup>1</sup> *The potential impact on local jail populations is unknown.*

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<sup>1</sup> Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

In FY 2005-06, 23% of Class 3 misdemeanor convictions resulted in active sentences, with an average estimated time served of 8.5 days. Per Structured Sentencing, Class 3 active sentences may range from one to twenty days in length. Consequently, the Department of Correction would not incur any additional costs for county reimbursement.

The remaining 77% of Class 3 misdemeanants in FY 2005-06 received non-active, intermediate or community punishments. Thus, if new convictions were to occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision.

- Presently, general supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program.
- The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

### **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.

Because this bill creates new offenses, and is applicable only to Bertie County, there is no historical data from which to estimate the number of new Class 3 misdemeanor charges that might result. However, the Administrative Office of the Courts expects that any additional case will increase court-time requirements and the associated costs of case disposal.

Presently the estimated costs per Class 3 misdemeanor trial and plea are \$2,770 and \$226, respectively. These cost estimates account for indigent defense. However, actual costs may vary with time requirements and disposition. *Given the proposed penalty level, it is assumed that the majority of any new Class 3 misdemeanor charges, which are not dismissed, will be settled via guilty plea.*

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

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Bryce Ball and Jim Mills

**APPROVED BY:** Lynn Muchmore, Director  
Fiscal Research Division

**DATE:** May 16, 2007



**Signed Copy Located in the NCGA Principal Clerk's Offices**