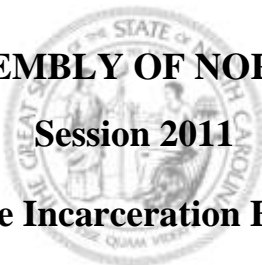


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 679 (Second Edition)

SHORT TITLE: Castle Doctrine/Amend Firearms Laws.

SPONSOR(S): Senator Newton

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
EXPENDITURES:					
Correction			<i>*See Assumptions and Methodology*</i>		
Probation			<i>*See Assumptions and Methodology*</i>		
Judicial			<i>*See Assumptions and Methodology*</i>		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 2011					
<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:

The proposed legislation amends or enacts various statutory provisions regarding the right to self-defense and the carrying of concealed weapons.

The act becomes effective December 1, 2011, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of the act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

ASSUMPTIONS AND METHODOLOGY:

General

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.

Department of Correction – Division of Prisons

Sections 1 and 2: The proposed legislation enacts new statutes and repeals an existing statute affecting the right to use defensive force. Overall, the changes expand the right of defensive force in a way that might reduce convictions for assaultive crimes, including homicides.

Impact: It is not known how many convictions, if any, will be avoided based on these changes.

Section 3: The act exempts from the offenses in G.S. 14-269, Carrying a concealed weapon, a person who is a district attorney (DA), assistant district attorney (ADA), or investigator employed by a DA's office who has a concealed handgun permit, provided the person does not carry a concealed weapon while in a courtroom or while consuming or having in the person's body alcohol or an unlawful controlled substance. Section 3 also narrows an existing exemption from the offense of carrying a concealed pistol or gun in G.S. 14-269(a1)(2) for persons who carry a handgun and have a valid concealed handgun permit, by also requiring that the person carry the handgun in accordance with the scope of the permit per G.S. 14-415.11(c).

Violation of G.S. 14-269(a) (carrying a concealed weapon) is a Class 2 misdemeanor. Violation of G.S. 14-269(a1) (carrying a concealed pistol or gun) is a Class 2 misdemeanor for a first offense and a Class I felony for a second or subsequent offense.

Impact: In FY 2009-10, there were 805 Class 2 misdemeanor convictions for violations of G.S. 14-269(a) (carrying a concealed weapon). There were 697 Class 2 misdemeanor convictions for violations of G.S. 14-269(a1) (carrying a concealed pistol or gun) for the first offense and 28 Class I felony convictions for a second or subsequent offense (See Table 1). It is not known how many convictions, if any, will be avoided by the new exemption from these offenses enacted in G.S. 14-269(b)(4a), or will be added by narrowing the current exemption from the concealed gun offense in G.S. 14-269(a1)(2). Therefore, it is not possible to determine the impact on the state prison system. Convictions for misdemeanor offenses typically do not have a substantial impact on the prison population.

Table 1: Convictions for Carrying a Concealed Weapon or a Concealed Pistol or Gun

Offense	Class	# of Conv.	Type of Punishment		
			Active %	Intermediate %	Community %
G.S. 14-269(a) (carrying a concealed weapon)	Class 2 Misd	805	30.9	1.3	67.8
G.S. 14-269(a1) (carrying a concealed pistol or gun)	Class 2 Misd	697	18.4	2.1	79.5
G.S. 14-269(a1) (carrying a concealed pistol or gun) 2 nd or subsequent offense	Class I Felony	28	7.1	28.6	64.3

DATA SOURCE(S): NC Sentencing and Policy Advisory Commission, FY 2009/10 Structured Sentencing Simulation Data

Sections 4-6: The act amends two existing statutes and enacts one new statute within G.S. Chapter 14, Article 54B (Concealed Handgun Permit), to enact the following:

- Allow a DA, ADA, or investigator employed by a DA’s office who has a valid concealed handgun permit to carry a concealed handgun in the otherwise-prohibited areas listed in G.S. 14-415.11(c), unless barred by federal law (Amended G.S. 14-415.11(c); new G.S. 14-415.27).
- Allow a person having a valid concealed handgun permit to carry a concealed handgun on the grounds or waters of a park within the State Parks System (New G.S. 14-415.11(c2)).
- Allow local governments to adopt ordinances that prohibit, by posting, the carrying of concealed handguns on municipal and county playgrounds, athletic fields, swimming pools, and athletic facilities. A permittee may nonetheless secure a handgun within a closed compartment or area within or on a locked motor vehicle (Amended G.S. 14-415.23).

These changes may affect the number of Class 2 misdemeanor convictions under G.S. 14-415.2 for violations of Article 54B. However, it is not known how many additional or fewer convictions, if any, will result. In FY 2009-10, there were three Class 2 convictions for violating a provision of Article 54B (Concealed Handgun Permit) in G.S. 14-415.21.

Impact: In FY 2009-10, 25 percent of Class 2 misdemeanor convictions resulted in active sentences. The average sentence imposed for Class 2 convictions was 21 days. Offenders who receive an active sentence of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Department of Correction – Division of Community Corrections

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). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and

drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.49 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.93 to \$14.96, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.96 for the initial six-month intensive duration, and \$2.49 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, potential costs to DCC cannot be determined.

Judicial Branch

The Administrative Office of the Courts 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: The proposed legislation makes several statutory changes that expand the conditions required for use of defensive force by an individual.

Impact: These changes may result in fewer or less serious charges than would otherwise occur. However, it is not possible to estimate any potential change in the number of charges or change in the workload impact on court resources.

Section 3: The act reduces the scope of potential charges of violation of G.S. 14-269, Carrying a concealed weapon, by allowing a person to carry a deadly weapon concealed on his person in accordance with the scope of a concealed handgun permit, and authorizing a district attorney, assistant district attorney or an investigator for a district attorney's office and who has a concealed carry permit to carry the weapon concealed. These persons may not carry the weapon in a courtroom or while consuming alcohol or a controlled substance.

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

Impact: This change may result in fewer charges of violation of G.S. 14-269 and thus, a marginal decrease in workload demands on court resources. However, it is not possible to estimate any potential change in the number of charges or change in the workload impact on court resources.

Sections 4-6: The act would allow a person who has a valid concealed handgun permit to carry a concealed handgun on the grounds or waters of a park within the State Parks System. The act also allows local governments to adopt ordinances that prohibit carrying concealed handguns on certain types of municipal and county property/facilities, and allows a DA, ADA, or DA investigator who has a valid concealed handgun permit to carry a concealed handgun in areas where it would be otherwise prohibited, unless also prohibited by federal law.

Impact: It is not possible to estimate any potential change in the number of charges or change in the workload impact on court resources arising from these sections of the proposed bill.

Overall, in FY 2009-10, a typical felony case took approximately 216 days to dispose in Superior Court. A typical misdemeanor case took approximately 91 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Sarah Poteat Stone and John Poteat

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

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Signed Copy Located in the NCGA Principal Clerk's Offices