

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

VERSION IV (ASSUMES DOC STANDARD OPERATING CAPACITY OF 26,303)

BILL NUMBER: HB 277 Committee Substitute

SHORT TITLE: Structured Sentencing-2

SPONSOR(S): Representative Barnes

FISCAL IMPACT: **Expenditures:** **Increase ()** **Decrease ()**
 Revenues: **Increase ()** **Decrease ()**
 No Impact (X) COMMITTEE SUBSTITUTE DOES NOT RESULT
IN ADDITIONAL IMPACT ABOVE THOSE EXPENDITURES ESTIMATED IN
PREVIOUS FISCAL NOTE.
 No Estimate Available ()

FUND AFFECTED: **General Fund ()** **Highway Fund ()** **Local Fund ()**
 Other Fund ()

BILL SUMMARY: House Committee Substitute amends the original bill by making the following changes. It adds a period of post release supervision that begins on the date equivalent to the prisoners maximum imposed prison term minus 10% of the minimum imposed term and minus any earned time. The period of post release supervision is equivalent to 10% of the minimum term imposed. The committee substitute also adds the sentencing possibility of parole after 25 years in capital cases; allows misdemeanor offenders to earn gain time at the rate of not more than 4 days a month; redefines "habitual felon;" removes the potential aggravating factor regarding offenses committed "because of the race, color, religion, nationality, or country of origin of another person;" adds mitigating factors 16 through 20; makes the attempt to commit a felony or misdemeanor punishable under the next lower classification than actual offense committed; and, decreases the maximum length of sentence that can be served in county jails from 180 days to 90 days.

EFFECTIVE DATE: January 1, 1994; applicable to all offenses committed after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Department of Correction

FISCAL IMPACT

FY 93-94 **FY** 94-95 **FY** 95-96 **FY** 96-97 **FY** 97-98

EXPENDITURES

RECURRING	No Additional Impact
NON-RECURRING	(See attached note dated 14-APR-93
REVENUES/RECEIPTS	for initial estimates)
RECURRING	
NON-RECURRING	

POSITIONS: N/A

ASSUMPTIONS AND METHODOLOGY: As explained in the initial note, Version IV of the fiscal note prepared on HB 277 is based on two initial assumptions. First, the 1994 operating capacity of the DOC will be 22,083. Secondly, construction resulting from the \$87.5 million in prison bond money will result in a total DOC standard operating capacity of 26,303. This total combined with the 2,740 jail beds estimated to be available for sentenced misdemeanants in FY 97-98 results in 29,043 beds. Since the N.C. Sentencing and Policy Advisory Commission estimated that 28,490 beds would be required in FY 97-98 as a result of this bill, no expenditures were estimated for additional capital or operating costs. Those expenditures that were estimated pertain to the additional cost of expanding community corrections.

The current committee substitute is not expected to significantly affect earlier estimates. In fact, the amendment to limit sentences served in local jail facilities from 180 to 90 days is necessary to prevent over crowding of jails. Under current law, those sentenced misdemeanants housed in jails comprise approximately 68% of the total misdemeanor population. If the amendment were not enacted, nearly 100% of the misdemeanor offenders would be expected to be incarcerated in the jail facilities. (This is because the proposed legislation mandates shorter but definite sentences.) The result would be extra prison beds and too few jail beds. Hence, by decreasing those sentences served in jails from 180 days to 90 days or less, a desired ratio (approximately 68% of sentenced misdemeanor again being incarcerated in local jails) is obtained. No additional costs are estimated.

SOURCES OF DATA: N.C. Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

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DATE: 24-MAY-93

[FRD#003]

H277CS

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

VERSION V (ASSUMES STANDARD OPERATING CAPACITY OF 25,802)

BILL NUMBER: HB 277 (House Committee Substitute 7/15/93)

SHORT TITLE: Structured Sentencing-2

SPONSOR(S): Representative Barnes

FISCAL IMPACT: **Expenditures:** **Increase (X)** **Decrease ()**
 Revenues: **Increase (X)** **Decrease ()**
 No Impact ()
 No Estimate Available ()

FUND AFFECTED: **General Fund (X)** **Highway Fund ()** **Local Fund ()**
 Other Fund (X) (Indigent Persons Attorney Fee Fund)

BILL SUMMARY: (From Institute of Government Summary)

This bill is substantially similar to HB 280, introduced 25 February. It differs primarily in that it establishes shorter periods of imprisonment for convicted criminal defendants, eliminates imprisonment as a punishment alternative for some combinations of prior record and level of committed offense, and allows for use of intermediate punishment in more cells of the punishment charts. Felony and misdemeanor punishment charts, when compared to previous bill, limit the impact of convictions and sentences on the capacity of the State prison system and local confinement facilities.

Prior record level, the horizontal scale in each punishment chart, is determined from past convictions, with point values based on severity of the offense. Greater values for prior convictions increase the likelihood of more severe punishment. This bill provides that more points are necessary to get into higher prior record categories than does H 280. Level III requires five points (four in H 280); Level IV requires nine points (seven in H 280); Level V requires 15 points (10 in H 280); and Level VI requires 19 points (13 in H 280).

COMMITTEE SUBSTITUTE: (Intro. 2/25) House committee substitute changes title to "AN ACT TO PROVIDE FOR STRUCTURED SENTENCING IN NORTH CAROLINA CONSISTENT WITH THE STANDARD OPERATING CAPACITY OF THE DEPARTMENT OF CORRECTIONS AND LOCAL CONFINEMENT FACILITIES AND TO REDEFINE STATE AND COUNTY RESPONSIBILITIES FOR THE CONFINEMENT OF MISDEMEANANTS." Makes various technical changes to original bill and increases maximum terms allowed for Class B through Class E felonies to accommodate the addition of a post-release supervision period for these offenses. Authorizes earned time credit for misdemeanants that may not exceed 4 days per month of confinement and specifies earned time credit for good behavior for impaired drivers. Attempted offense punishable under next lower classification as the offense itself, except attempt to commit Class 1 felony is a Class 1 misdemeanor and attempted Class 3 misdemeanor is a Class 3 misdemeanor.

Amends G.S. 15A-2002 to provide that in capital cases, along with death or life without parole, court may impose life with possibility of parole after 25 years. Mandates that judge instruct jury of these sentencing options.

Creates new article 84A entitled "Post-Release Supervision" to replace parole provisions. Post-release supervision differs from

parole in that it does not permit discretionary early release of inmates by Post-Release Supervision and Parole Commission. All felons eligible for post-release supervision must serve their minimum imposed prison terms. Makes corresponding changes throughout statutes to reflect change of name of Parole Commission to Post-Release Supervision and Parole Commission and to reflect powers of commission to regulate and administer post-release supervision. Amends Article 85 to specify parole eligibility for persons convicted of impaired driving under G.S. 20-138.1 and for persons sentenced to life imprisonment with eligibility for parole after 25 years.

Amends G.S. 15A-1352 to specify that if commitment for commission of a misdemeanor is for 90 days or less (now 180 days), commitment must be to a facility other than one maintained by DOC.

COMMITTEE SUBSTITUTE: (Intro. 5/24/93) House committee substitute adds new G.S. 15A-1340.13(g), which provides that court may impose intermediate punishment for a class of offense requiring active sentence if court finds that: (1) extraordinary mitigating factors exist; (2) those factors substantially outweigh aggravating factors; and (3) it would be a manifest injustice to impose active punishment. Also adds new G.S. 15A-1340.13(g1) to preclude court from imposing intermediate punishment under new subsection (g) when the offense is a class A offense, the offense is a drug trafficking offense, or the defendant has five or more points under new G.S. 15A-1340.14. Also revises G.S. 15A-1445(a) to grant state right of appeal on ground that court imposed an intermediate punishment based on findings of extraordinary mitigating factors that are not supported by evidence or are insufficient as a matter of law to support deviation in sentencing.

Adds new G.S. 15A-1343.2 to establish special probation rules for persons sentenced to community and intermediate punishments under structured sentencing. Sets caseload goals for probation officers; establishes presumptive probation terms for misdemeanants and felons; delegates to probation officer, subject to judicial review on motion of offender, authority to require community punishment offender to perform additional community service, report more frequently to probation officer, and submit to substance abuse monitoring or treatment; delegates to probation officer, subject to judicial review on motion of offender, authority to require intermediate punishment offender to perform additional community service, submit to electronic monitoring, submit to substance abuse monitoring or treatment, and participate in educational or vocational skills program; and grants court power to hold intermediate punishment offender in contempt and imprison offender for up to 30 days for willfully failing to perform condition of probation. Amends current G.S. 15A-1344(a) to provide that if community punishment offender violates probation condition, court has authority to modify probation judgment by requiring offender to comply with probation conditions that would otherwise make the sentence an intermediate punishment.

AMENDMENT: House Committee Amendment makes the new effective date January 1, 1995.

EFFECTIVE DATE: January 1, 1995

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Department of Correction, Judicial Department

DEPARTMENT OF CORRECTION

**FISCAL IMPACT (POLICY ONLY)
(In Millions of Dollars)**

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>TOTAL EXPENDITURES</u> *	\$4.4	\$18.9	\$21.1	\$65.9	\$48.0
EXPEND. FOR NEW BEDS	\$0	\$0	\$0	\$44.0	\$25.3
RECURRING	0	0	0	0	25.3
NON-RECURRING	0	0	0	44.0	0
COMMUNITY PUNISHMENTS	4.4	18.9	21.1	21.9	22.7
RECURRING	4.1	18.5	21.0	21.9	22.7
NON-RECURRING	.3	.4	.1	.0	.0
RECEIPTS/REVENUES	0	0	0	0	0

* The above expenditures are shown each year as expansion needs beyond the current operating budget of the Department of Correction. Recurring or annual expansion needs, in response to this proposed bill, by the end of FY 98-99 are approximately \$48.0 million which would be added to the current budget of approximately \$522 million. **Note that these estimates do not include increases occurring as the result of expected growth rates within the community and intermediate punishments programs.**

The recurring expenditures do not include inflationary or salary increases. The following table estimates additional recurring costs assuming a 4.6% inflationary increase in operating expenses and only a 1% salary increase. (Note that the 1% salary increase is deemed to be low and should be adjusted accordingly when reliable projections are made available.)

**Inflationary Increases
(In Millions of Dollars)**

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
Recurring Expend.(Total)*.0	\$.3	\$.7	\$1.1	\$2.0	
1% Salary Increases	.0	.1	.3	.5	.9
Operating Costs	.0	.2	.4	.6	1.1

* Similar to the above table, the recurring expenditures are shown each year as expansion needs beyond the current operating budget of the Department of Correction. The total inflationary increases, in response to the proposed bill, by the end of FY 98-99 are

approximately \$2.0 million annually which would be added to the current budget of approximately \$522 million.

POSITIONS:

Division of Prisons: Unknown
 Division of Adult Probation and Parole: 205 Intensive Officers, 205 Surveillance Officers, 85 Regular Probation Officers, 41 Unit Supervisors and 41 Stenos.

DEPARTMENT OF CORRECTION

**FISCAL IMPACT (GROWTH AND POLICY)
 (In Millions of Dollars)**

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<u>TOTAL EXPENDITURES</u> *	\$5.8	\$25.5	\$30.1	\$77.2	\$60.8
EXPEND. FOR NEW BEDS	\$0	\$0	\$0	\$44.0	\$25.3
RECURRING	0	0	0	0	25.3
NON-RECURRING	0	0	0	44.0	0
COMMUNITY PUNISHMENTS	\$5.8	\$25.5	\$30.1	\$33.2	\$35.5
RECURRING	5.6	25.0	29.9	33.1	35.4
NON-RECURRING	.2	.5	.2	.1	.1
RECEIPTS/REVENUES	0	0	0	0	0

* The above expenditures are shown each year as expansion needs beyond the current operating budget of the Department of Correction. Recurring or annual expansion needs, in response to this proposed bill, by the end of FY 98-99 are approximately \$60.7 million which would be added to the current budget of approximately \$522 million. Note that these estimates include increases occurring as the result of expected growth rates within the community and intermediate punishments programs.

The recurring expenditures do not include inflationary or salary increases. The following table estimates additional recurring costs assuming a 4.6% inflationary increase in operating expenses and only a 1% salary increase. (Note that the 1% salary increase is deemed to be low and should be adjusted accordingly when reliable projections are made available.)

**Inflationary Increases
 (In Millions of Dollars)**

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
Recurring Expend. (Total)*	.0	\$.5	\$ 1.0	\$1.6	\$2.7
1% Salary Increases	.0	.2	.4	.7	1.2
Operating Costs	.0	.3	.6	.9	1.5

* Similar to the above table, the recurring expenditures are shown each year as expansion needs beyond the current operating budget of

the Department of Correction. The total inflationary increases, in response to the proposed bill, by the end of FY 98-99 are approximately \$2.7 million annually which would be added to the current budget of approximately \$522 million.

POSITIONS:

Division of Prisons: Unknown
Department of Adult Probation and Parole: 265 Intensive Officers, 265 Surveillance Officers, 248 Regular Probation Officers, 73 Unit Supervisors and 73 Stenos.

ASSUMPTIONS AND METHODOLOGY:

ASSUMES CONSTRUCTION FROM 87.5 MILLION IN PRISON BOND MONEY AND MODIFICATION OF SMALL V. MARTIN LAWSUIT WILL RESULT IN A STANDARD OPERATING CAPACITY OF 25,802

I. COSTS ASSOCIATED WITH PRISON CONSTRUCTION

A. PROJECTED STATEWIDE SENTENCED INMATE POPULATIONS: Inmate population projections were prepared by the North Carolina Sentencing and Policy Advisory Commission using its Correctional Population Simulation Model. The assumptions for these projections are outlined in the Commission report to the General Assembly. Projections reflect both the impact of the Commission's recommendations and an expected 20% increase in the volume of convictions over the next five years. (Note that calculations contained within both fiscal impact tables, pages 4 and 6, include the projected conviction growth rate. The Commission's recommendations would allow for greater numbers of offenders to be incarcerated whereas, presently, the current prison cap would not. Growth in the community punishment programs is excluded in the fiscal impact table shown on page 4. This is because such growth is expected to occur regardless of the proposed bill. The table on page 6 shows the combined impact of the Commission's recommendations and expected growth within community punishments.)

PRISON AND JAIL POPULATION ESTIMATES:

FY 94/95	24,779
FY 95/96	27,428
FY 96/97	27,777
FY 97/98	28,858
FY 98/99	30,135

B. OFFENDERS SENTENCED IN COUNTY JAILS: The projections assume that counties will hold sentenced misdemeanants receiving a 90 day sentence or less. The maximum length of sentence that can be served in county jails was changed from 180 days to 90 days in order to prevent over crowding of jails. Under current law, those misdemeanants housed in county jails comprise approximately 68% of the total misdemeanant population. The reduced cut off seeks to maintain this desired ratio under the structured sentencing plan. Based on current county construction plans, it is estimated that

counties will have capacity to hold the following number of inmates receiving a 90 day sentence or less.

JAILS-ONLY POPULATION ESTIMATES:

FY 94/95	2,616
FY 95/96	2,792
FY 96/97	2,910
FY 97/98	3,023
FY 98/99	3,114

C.ADDITIONAL IMPACT OF COMMISSION PROPOSALS: Assuming the standard operating capacity of the DOC will be 25,802 and assuming that any additional population can only be absorbed through new construction, it is estimated that the following new beds will need to be constructed each year under the Commission's recommendations:

FY 94/95	0
FY 95/96	*62
FY 96/97	* 3
FY 97/98	0
FY 98/99	*1,154

* Although present projected estimates indicate that 65 additional beds would be required for FY 95/96 and FY 96/97, costs have not been calculated for new bed construction in those years since the projected inmate population may be overestimated by up to 100 inmates. Costs for the construction of a total of 1,219 beds have been calculated to come on line in FY 98-99.

D. TYPE OF BEDS TO BE CONSTRUCTED: The Commission provided the DOC with five year population projections disaggregated by offense class, age, and sex. Based on this information and using "1986 Security Level Percentages", the DOC estimated the type of beds needed to support the increase in population resulting from the Commission's recommendations. The distribution of beds (derived from page 39 of the DOC Master Plan) is as follows:

Close Custody	26%
Medium Custody	35%
Minimum Custody	39%

The DOC is currently considering revising its security level classification system, and any such revisions could affect the type of beds needed to support the Commission's recommendations.

E.CONSTRUCTION COSTS: Based on information provided by the DOC on March 3, 1993, the following per bed/cell construction costs were used:

Close Custody	\$47,050*
Medium Custody	\$28,500*
Minimum Custody	\$22,983*

* A 5% per year inflation rate was added to capital/non-recurring costs estimated in the Fiscal Impact tables on pages 4 and 6.

NOTE THAT CONSTRUCTION COSTS FOR ADDITIONAL BEDS REQUIRED IN FY 98-99 HAVE BEEN INCLUDED IN THE EXPENDITURES FOR THE PREVIOUS YEAR TO ALLOW TIME FOR REQUIRED CONSTRUCTION.

F. OPERATING COSTS: Based on information provided by the DOC on March 3, 1993, the following annual operating costs per inmate were used:

Close Custody	\$27,192
Medium Custody	\$20,800
Minimum Custody	\$16,425

II. COSTS ASSOCIATED WITH EXPANSION OF INTERMEDIATE AND COMMUNITY

PUNISHMENTS Cost estimates have been provided by the Department of Correction (DOC) based on the number of new admissions to intermediate and community punishments as projected by the Sentencing Commission. The cost estimates assume (1) that all offenders who receive intermediate punishments will be sentenced to either electronic house arrest (EHA) or intensive supervision probation, and (2) that all offenders sentenced to community punishments will be sentenced to regular supervised probation. It is further assumed that EHA offenders will be supervised by regular probation officers as is the current practice within the Division of Adult Probation and Parole (DAPP). It is estimated that the average EHA offender will complete four months of EHA supervision before being promoted to regular supervision. The DAPP estimates that 1500 additional EHA slots per year will be utilized by intermediate offenders by the end of FY 98-99.

A. PROJECTED STATEWIDE ADMISSIONS TO INTERMEDIATE AND COMMUNITY PUNISHMENTS: Admissions projections were prepared by the North Carolina Sentencing and Policy Advisory Commission using its Correctional Population Simulation Model. The assumptions for these projections are outlined in the Commission report to the General Assembly. The increases are shown below to reflect both the impact of the policy recommendations contained within HB 277 and an expected 20% increase in the volume of convictions over the next five years. Increases in projected admissions (over FY 93-94) are as follows:

INCREASES IN ADMISSIONS TO INTERMEDIATE AND COMMUNITY PUNISHMENTS

	<u>Policy Only</u>	<u>Growth and Policy</u>
FY 94/95	3,601	5,321
FY 95/96	7,358	10,606
FY 96/97	7,623	12,449
FY 97/98	7,851	14,303
FY 98/99	8,087	14,730

INCREASES IN ADMISSIONS TO INTERMEDIATE PUNISHMENTS ONLY

FY 94/95	3,467	3,803
FY 95/96	7,012	7,672
FY 96/97	7,222	8,202
FY 97/98	7,439	8,749
FY 98/99	7,662	9,011

B. CASELOADS, EXPENDITURES, AND LENGTH OF TERM: The DOC used the following cost figures, caseloads, and average lengths of stay to estimate expenditures:

Regular Probation:

- 90:1 Caseload per regular officer
- 7:1 Officers per supervisor/steno
- \$35,138 Operating costs per regular officer per year
- \$306 Non-recurring (first year) costs per regular officer
- \$67,131 Operating costs per supervisor and steno per year
- \$10,563 Non-recurring (first year) costs per supervisor/steno
- *- 22.9 months average term per regular probation offender

Intensive Supervision Probation:

- 25:1 Caseload per intensive team (team includes 1 intensive officer and 1 surveillance officer)
- 7:1 Intensive teams per supervisor/steno
- \$82,214 Operating costs per intensive team per year
- \$1,833 Non-recurring (first year) costs per team
- \$67,131 Operating costs per supervisor and steno per year
- \$10,563 Non-recurring (first year) costs per supervisor/steno
- *- 10 month average intensive term per intermediate sanctions offender (excluding EHA offenders) prior to promotion to regular probation caseload.

* Note that the current committee substitute specifies a recommended range for which the term of misdemeanor and felony offenders sentenced to community or intermediate sanctions should fall. The court may deviate from the suggested term upon making specific findings that longer or shorter periods of probation are necessary. The court may also extend the original term of probation with the consent of the offender. It is uncertain how this provision will affect current sentencing practices. However, data provided by the DOC and Sentencing Commission indicates that the provision is unlikely to require significant additional expenditure.

C. OPTIONAL EXPENDITURES

The current committee substitute states:

"It is the goal of the General Assembly that, subject to the availability of funds, caseloads for probation officers supervising persons sentenced to community punishment should not exceed an average of 90 offenders per officer, and caseloads for offenders sentenced to intermediate punishments should not exceed an average of 60 offenders per officer by July 1, 1998 ."

The impact tables on pages 4 and 6 include the necessary expenditures to achieve the recommended 90:1 ratio for the increased admissions to community sanctions punishment (i.e., regular probation) under HB 277. However, to achieve the recommended ratio systemwide, an additional 183 regular probation officers, 43 unit supervisors, and 43 stenos would be required. (Note that 26 unit supervisors/stenos would be required to manage the 183 new officers and 17 supervisors/stenos would be required to satisfy present shortages.) These new positions would require a recurring operating expenditure of **\$9,316,887** as well as a non-recurring (first year) expenditure of **\$510,207**. These expenditures are not contained in the impact tables on pages 4 and 6.

The DOC is unable to provide data pertaining the proposed 60:1 caseload ratio for intermediate sanctioned offenders. Under current policy, intermediate offenders who receive intensive probation are supervised on caseloads of 25:1. Offenders sentenced to intermediate punishments other than intensive supervision (i.e., EHA) are supervised as "high risk" offenders within regular caseloads. Regular probation officers are required to maintain an elevated level of supervision for these probationers. **It is unclear if the proposed legislation intends to restructure the current supervision framework by implementing a new probation officer position responsible for the supervision of all non-intensive intermediate sanctions offenders. If so, additional expenditure would be required.**

However, it is unknown how many offenders would fall within the non-intensive intermediate sanctions category. EHA sentenced offenders (as estimated by the DOC) would be placed in these caseloads, but a representative of DAPP notes that a 60:1 caseload of EHA offenders is not plausible due to an impossible workload for the officer. Since there is no data to indicate the number of other intermediate offenders who may be sentenced according to a community penalties plan or alternative intermediate punishment as listed in Section 15A-1340.11 of the proposed legislation, no estimate is available.

III. ADDITIONAL CONSIDERATIONS

A. CONTEMPT OF COURT: The legislation states that an... "offender sentenced to an intermediate punishment who willfully fails to comply with a condition of probation commits an act of criminal contempt..." The offender may be incarcerated for up to 30 days and then returned to probation. There is no data to suggest how this provision may affect incarceration costs. As noted by the

Honorable Thomas W. Ross (a Superior Court Judge and Chairman of the Sentencing Commission), this option is presently available to the court but seldom used. There is no data to suggest how frequently judges might sentence offenders for criminal contempt upon passage of this legislation. In addition, there is no data to suggest if this provision would be effective in deterring future violations and possibly decreasing current revocation rates. Also, it is unclear how this provision would interact with the present split-sentence option available to the court. (A split-sentence condition of probation allows for an offender to be placed or continued on probation while also serving up to 180 days of incarceration.) In the absence of the above mentioned data, no estimate is available.

B. AGENCY REQUESTS TO SUPPORT HB 277 The following estimates of expenditure are not required by HB 277. The costs estimated on pages 4, 5, and 14 of this note include minimum expenditures that would be needed to implement structured sentencing. However, once implemented it is likely that the structured sentencing plan would place additional demands on the Community Service program, TASC services, and the Community Penalties programs. The following estimates have been provided by the relevant agencies in order to project potential agency requests for expenditures to support the proposed legislation.

1. Dept. Of Crime Control and Public Safety - Increased

Admissions to Community Service The Department of Crime Control and Public Safety estimates that there will be approximately 12,823 additional admissions to the Community Service program per year by FY 98-99 if HB 277 is enacted. This projection is based on the Sentencing Commission's estimate of the number of new misdemeanor and felony admissions to regular and intensive probation. (The Department notes that this increase would be somewhat offset by the removal of community service parole offenders in the years following FY 98-99.)

Assuming ideal caseloads of 250 offenders per coordinator, the department estimates that the following additional expenditures would be required. Additional expenditures for program managers and administrative support (calculated at a ratio of 7 coordinators per program manager/secretary) have been included. **Assuming that each additional offender who is ordered to complete community service pays a \$100 mandatory community service fee, potential revenues are estimated as follows.**

COMMUNITY SERVICE

FISCAL IMPACT

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
EXPENDITURES	\$281,276	\$1,232,895	\$1,551,138	\$1,860,787	\$2,170,436
RECURRING	281,276	1,232,895	1,551,138	1,860,787	2,170,436
NON-RECURRING	0	0	0	0	0

RECEIPTS/REVENUES*	\$226,200	\$764,800	\$939,600	\$1,119,500	\$1,282,300
RECURRING	226,200	764,800	939,600	1,119,500	1,282,300
NON-RECURRING	0	0	0	0	0
NET EXPENDITURES	\$55,076	\$468,095	\$611,538	\$741,287	\$888,136

* Note: There is currently no data to estimate the number of offenders who will actually pay the court ordered community service fee. Hence, actual revenues are likely to be less than those estimated above. Net expenditures are likely to be greater.

NEW POSITIONS:

COORDINATORS	6	21	8	7	7
PROGRAM MANAG.	1	3	1	1	1
SECRETARIES	1	3	1	1	1

2. Dept. of Human Resources - Enhanced T.A.S.C. The following estimates of potential expenditure to support HB 277 have been provided by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (Department of Human Resources). Estimates include the resources that the Division deems necessary in order to provide substance abuse treatment services to additional offenders sentenced to community or intermediate punishments under the proposed legislation. The Division does not attempt to target all offenders who meet the national diagnostic criteria for drug dependence but only those offenders who will have used drugs daily for the past 30 days prior to their offense.

Based on the number of additional community and intermediate sanctions offenders projected by the Sentencing Commission, the Division estimates that 43% of all felons and 26% of all misdemeanor offenders will have used drugs daily for the past 30 days prior to their offense. Cost estimates are based on a unit cost of \$636 per offender x the increased number of felons and misdemeanants supervised within the community. The Division estimates an additional recurring expenditure of approximately \$2.32 million would be necessary to serve 3,640 offenders in FY 94-95 based on a 01-01-95 effective date. Increased recurring expenditure to support HB 277 through FY 98-99 is shown in the table below.

ENHANCED T.A.S.C.

FISCAL IMPACT
(In millions of Dollars)

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
EXPENDITURES	\$2.32	\$5.49	\$6.59	\$6.96	\$7.34
RECURRING	2.32	5.49	6.59	6.96	7.34
NON-RECURRING	0	0	0	0	0

RECEIPTS/REVENUES 0 0 0 0 0
RECURRING
NON-RECURRING

3. Administrative Office of the Courts (AOC)- Expand Community Penalties Programs The following narrative has been provided by the AOC:

"In order to adequately serve all felons under the Structured Sentencing legislation, the expansion of Community Penalties programs (CPP statewide would be highly desirable. Currently, CPP programs are established in districts with approximately 69.5% of the Class H, I, and J felon population. New programs would need to be established to cover the remaining areas without programs. Many of these areas are more rural, and programs would be somewhat more difficult to set up. Additional administrative staff would be required at the state level to implement and monitor these new programs.

"The most logical offenders for CPP to target under structured sentencing would be those in all A/I cells (active/intermediate sanctions), which range from Class E through I felons and certain misdemeanants with long records. However, currently by statute, CPP can target only certain misdemeanants and Class H I and J felons "who are facing an imminent and substantial threat of imprisonment" [G.S. 7A-771(5)]. Without the accompanying legislation expanding their target group, CPP would continue to serve some misdemeanants and Class H and I felons only (Class J is eliminated under structured sentencing). Therefore, the below projected fiscal requirements are for CPP's grants to local programs only targeting H and I felons.

"The Sentencing Commission provided the AOC with estimates of the numbers of felony offenders falling within each of the sentencing grid cells, based on projections using 1991 data. (No estimates were provided for misdemeanants since it is assumed that CPP will work primarily with felons.)

"The following table gives the estimated additional appropriations needed to implement this legislation for felony offenders [above the current operating budget (for grants to programs) of \$1,518,912 plus the \$400,000 approved this session] with an effective date of January 1, 1995. These figures represent total estimated state funds that would be required. The amounts shown below would provide for program expansion statewide, additional personnel in the field to prepare sentencing plans, and four positions in the AOC (three field staff and one administrator).

AOC - EXPAND COMMUNITY PENALTY PROGRAMS

FISCAL IMPACT *

	<u>FY 94-95</u>	<u>FY 95-96</u>	<u>FY 96-97</u>	<u>FY 97-98</u>	<u>FY 98-99</u>
EXPENDITURES	\$643,064	\$1,477,342	\$1,817,278	\$2,420,059	\$3,055,483
RECURRING	643,064	1,477,342	1,817,278	2,420,059	3,055,483
NON-RECURRING	0	0	0	0	0
RECEIPTS/REVENUES	0	0	0	0	0
RECURRING					
NON-RECURRING					

* NOTE: New programs are normally required to provide a 10% local fund match until the end of their first fiscal year, and a 15% match thereafter. No local fund figures are provided here (i.e., only state requirements are presented). As CPP programs are expanded into economically disadvantaged areas, the General Assembly may need to reconsider the matching requirements. Therefore, the above expenditures could reflect only 85-90% of the amounts actually needed to expand CPP.

JUDICIAL DEPARTMENT

FISCAL IMPACT

	<u>FY 94-95</u>	<u>FY 95-96</u>	<u>FY 96-97</u>	<u>FY 97-98</u>	<u>FY 98-99</u>
EXPENDITURES	\$1,393,800	\$2,053,655	\$2,056,015	\$2,169,787	\$2,290,366
INDIGENT DEFENSE	\$373,750	871,325	898,568	954,468	1,014,281
OTHER STATE FUNDS	1,020,050	1,182,330	1,157,447	1,215,319	1,276,085

NOTE: See summary table page 25, and the notes there regarding certain items not included in the figures above and regarding other details.

RECEIPTS/FEES	\$16,048	\$33,700	\$35,385	\$37,154	\$39,012
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POSITIONS: 37 Legal Assistant II positions

ASSUMPTIONS AND METHODOLOGY:

Major Assumptions:

* Prior Record information will not be routinely prepared for the sentencing of convicted misdemeanants.

* There will be no additional increases in jury trials other than those estimated as a result of the 17 misdemeanor offenses being raised to felonies.

Methodology:

Cost estimates are discussed below in two principal categories. First, the proposed Sentencing Commission legislation makes the defendant's prior criminal record central to sentencing decisions. There will be additional costs to provide judges with prior record

information more often and in more detail than at present. Second, there will be changes in the way some cases are processed and disposed of. Additional costs will be associated with some of those changes.

The Commission does not anticipate that information about prior convictions will be prepared routinely for sentencing of convicted misdemeanants. Rather, it is anticipated that District Attorneys will identify misdemeanor cases where an active sentence will be requested and prepare any necessary information about prior convictions for those cases. Further, it is anticipated that the number of cases in which this occurs would not be unduly great, and that the additional personnel and computer resources discussed below could accommodate the need for providing prior conviction information in such misdemeanor cases. To the extent that the foregoing assumptions are incorrect, resource requirements could be much greater, as is discussed at the end of this note.

CONCLUSIONS:

I. PROVIDING PRIOR RECORD INFORMATION TO JUDGES

Under the Commission's proposals, to fix the length of every felony sentence, the judge would use a grid that prescribes ranges of sentences based on the severity of the current offense and the defendant's prior criminal record. Although a defendant's prior record is relevant under current felony sentencing law, the Commission's proposals would result in substantial additional reporting burdens.

Under present law, the presumptive sentence that is specified for each crime can be aggravated when a defendant has "a prior conviction or convictions for criminal offenses punishable by more than 60 days' confinement." G.S. 15A-1340.4(o). However, beyond the requirement that the prior crime be punishable by more than 60 days, neither the number nor the nature of prior convictions is necessary for the aggravating circumstance to apply. In contrast, under the Commission's proposals for felony sentencing, a defendant's "Prior Record Level" (a specific number of points) depends on both the number of prior convictions and on the specific severity of the prior crimes. Thus, under the Commission's proposals, prior record information must be provided more often and in more detail.

The additional reporting requirements would impact several aspects of Judicial Department operations. The two sections that follow give cost estimates for additional personnel and computer resources needed for District Attorney offices, and for modifications necessary to the Court Information System (CIS).

A. Additional Personnel and Computer Resources for District Attorneys

The Commission recommends that District Attorneys have primary responsibility for providing prior record information. In a survey that the Commission sent to

District Attorneys, prosecutors overwhelmingly reported that additional resources would be necessary.

To aid in gathering information for the sentencing of felons, it is estimated that 37 additional full-time Legal Assistant II positions would be needed in District Attorney offices across the state. (Some of the 37 prosecutorial districts may require more than one position, whereas others may require less than a full-time position.) The present annualized position cost for 1994-95 is \$28,532 per position, including non-recurring, first-year costs. For the 37 positions, the total annualized 1994-95 personnel cost would be \$1,055,684. For the effective date of January 1, 1995 (half year), the position cost would be \$15,797, or \$584,489 for 37 positions. These position costs include a 2% salary increase for FY 93-94, but no additional salary increase for 94-95. Position costs do not include costs for facilities and furniture which would be county responsibilities.

For sentencing of felons, each District Attorney would also need hardware and software necessary to access prior record information on the State Bureau of Investigation's Division of Criminal Information (DCI) systems. According to a representative of DCI, the first year set-up cost for terminals, printers, software, basic service units, installation and training would be approximately \$6,103 per unit. In addition, DCI charges for lines and user fees would be \$2,700 per year (as of 1993-94). There would be need for at least one such DCI system in each of the 37 District Attorney Offices, for a total set-up cost of \$225,811, plus annual line and user fees of \$99,900.

[As the Administrative Office of the Courts' Court Information System (CIS) is modified and enhanced over the next several years, the need for DCI terminals may decrease. Some counties were added to the AOC database recently; therefore, the prior record information available for defendants in those counties reflects only about the last two years. The DCI database is necessary to supplement information available in those counties. The DCI system also provides ready statewide and interstate conviction information for cases in which there was a fingerprinted arrest. As the AOC's CIS further develops its links and sharing of information with DCI, and as enough time passes for the prior record information to accumulate within the counties recently added to the CIS, the need for the DCI terminals is expected to lessen.]

Provision of DCI terminals for each District Attorney Office would ensure readily available information for only 37 of the 100 counties (that is, the 37 counties where the District Attorneys maintain their principal offices, where the DCI terminals would be located). Prior record information is needed for sentencing in every felony case; therefore, for the vast majority of cases it can be expected that the

information can be generated in advance in the District Attorney's principal office, and simply brought to outlying counties for sentencing hearings.

However, circumstances can be expected where additional or unanticipated information may be necessary. The need for unanticipated information may arise for misdemeanor cases more often than for felonies. Under the Commission's proposals for misdemeanors, there is no expectation that information about prior convictions will be prepared routinely for every defendant. Rather, the Commission's expectation appears to be that district Attorneys will identify the cases where an active sentence will be requested, and have information about prior convictions ready in advance for those cases. However, given the great numbers of misdemeanor cases (629,589 criminal non-motor vehicle cases filed in 1991-92), at the request of the judge or for other reasons, there may well be a small percentage, but potentially significant number, of misdemeanor cases where unanticipated information about prior convictions will be needed.

To implement a sentencing structure that attaches such great importance to a defendant's prior criminal record, the costs of delay or potential injustice seem to warrant reasonable expenditure to ensure the availability of timely information in all 100 counties. Provision of facsimile machines in Clerks' offices would be highly desirable. The proposed legislation (e.g., new Sections 15A-1340.14(f) and 15A-1340.21(c) of SB 402), would allow proof of prior convictions, among other ways, by use of a facsimile copy of DCI (or certain other) records. At a set-up cost of approximately \$2,500 per facsimile machine, plus an annual cost of \$755 for telephone line and maintenance, the set-up cost for up to 100 facsimile machines would total \$250,000, and annual costs would total \$75,500. (A request for 100 facsimile machines for the 100 clerks' offices is in the Judicial Department's 1993-95 expansion budget. If funding were provided for that request, no additional expenditures for facsimile machines would be required here.)

B. Additional Resources for AOC Data Processing Systems

The Administrative Office of the Courts' Information Services Division (ISD) analyzed the Commission's recommendations and provided estimates of additional data processing costs necessary to implement the Commission's proposals. Some programming changes to the AOC's automated Court Information System criminal module will be required to add data fields needed for additional information on dispositions and classes of crimes. The criminal module currently has fields to record information on the following: charged, arraigned, and convicted offenses; plea, verdict, and method of disposition for each offense; attorney type, existence of a plea bargain; and sentence length. Any additional information about the sentence, such as orders for community service, electronic

surveillance, felony class, or intensive probation, is captured in an unstructured and unformatted area known as "special conditions."

The Sentencing Commission desires to have reliable statistics about sentencing. To be responsive to that need, the CIS criminal module would require some programming changes to re-tool existing fields and add additional data entry fields to capture needed information in a reliable and structured format. ISD estimates that it will take three analyst/programmers nine months to complete the needed programming changes. At \$50 per contractor hour, the present market rate now being paid by AOC, the re-programming cost would be \$240,000 (3 programmers x 1,600 hours x \$50). The programming would require nine months. For the effective date of January 1, 1995, this is allocated as six months (\$160,000) in FY 94-95 and three months (\$80,000) in 95-96.

II. COSTS RELATING TO CHANGES IN CASE PROCESSING

Section V of the Commission's report summarizes the expected impacts of the proposals. Overall, the prediction is that fewer offenders will receive active sentences, but that those who receive active sentences will serve longer terms. The proposals are expected to lead to increases in prison and jail populations.

The impact on the processing of criminal cases will be determined in part by the response of defendants. The predictable response to stricter punishment would be more vigorous defense. That response, as well as other increases in the complexity of litigation, would have cost implications for the courts. The following sections examine areas where changes proposed by the Commission seem likely to lead to increased complexities in the processing of criminal cases.

A. Costs of Changing Offenses from Misdemeanors to Felonies

Under the Commission's proposals, sixteen current misdemeanor offenses would be raised to Class I felonies, and one current misdemeanor offense would be raised to a Class H felony. The elevation of these misdemeanors to felonies imposes significant additional costs upon the superior court. The Commission's database estimates that in 1991 there were approximately 6,062 sentencing "episodes" involving these 17 offenses. Using the AOC's database, it is estimated that these sentencing episodes represent nearly 16,000 case filings. The District Attorneys interviewed estimated that approximately 10,000 of these cases would actually be sent to superior court. If this number is reduced by 8.3% to account for the number of these misdemeanors likely to have been appealed to superior court for trial de novo in any event, there will be 9,170 new felony cases in superior court. It is estimated that these cases represent approximately 6,113 defendants. **(These figures are based on 1991 data; the figures for subsequent years will likely be higher.)**

In fiscal year 1991-92, 2.8% of all felony cases in superior court were disposed by jury trial. However, 8.4% of felonious assault cases were disposed by jury trial. Taking a rough average of the two figures, it is estimated that 5% (306) of the new felony defendants would request a jury trial, which would require approximately 1.5 days of court time each, or 459 days total. Taking into account attorney type (public defender, assigned counsel, or retained) and the average costs of a day in superior court with a jury, and deducting the costs of court time formerly needed to dispose these cases in district court, these additional trials would cost \$696,716. At an estimated \$500 per case, less the estimated \$150 formerly required to dispose these cases in district court, additional assigned counsel fees alone would cost \$107,100.

The District Attorneys estimated the remaining 95% of the defendants' cases could be disposed of in approximately 45 minutes, for a total of 726 court days. The cost for court time and indigent defense for the disposition of these 5,807 defendants' cases is \$651,723, after deducting the costs of court time formerly needed in district court. At an estimated \$250 per case, less the estimated \$150 formerly required to dispose these cases in district court, additional assigned counsel fees alone would come to \$290,400. (The indigent defense cost is based on half of the 5,807 cases being assigned to private counsel and, unlike the cost above for court time, includes the cost for the entire case, both in court and preparation time.)

Elevation of the misdemeanors to felonies would result in some increased revenue because under G.S. 7A-304(a)(4) the court costs for support of the General Court of Justice are greater in superior court (\$48) than in district court (\$41). The additional \$7 per case, for the 9,170 new felony cases, would come to \$64,190. However, not of all the amounts would be collected and, under the statute, costs are not always assessed (for example, when an active sentence is imposed, costs are assessed only if the judgment so provides). Estimating collection in half the cases, the additional revenue would total \$32,095.

In summary, the total additional cost for these new felony cases is estimated at \$1,348,439. Assigned counsel fees alone would cost an estimated additional \$397,500 or \$198,750 for the initial half-year. This is a conservative estimate as it is based on 1991 data. Caseloads and costs are likely to increase. Also, these costs are in addition to those required for the public defender and the prosecution to prepare the cases, the clerks to process the cases, and the victim/witness assistants to provide services to the new felony victims. To the extent that additional personnel are not provided to handle this additional caseload, a slowing of case processing in superior court would be expected.

(Additional personnel are included in the Judicial Department's expansion budget requests.)

B. Increased Complexity in Sentencing Hearings

Under the Commission's proposals, as under present law, either the defendant or the State may introduce evidence of mitigating or aggravating circumstances. The proposals elevate the defendant's prior criminal record from its present status as one of several possible aggravating circumstances, to a central, determinative position in the sentencing structure. The heightened importance of the prior record will, in some cases, lead to increased scrutiny into the many legal and factual issues relating to the nature and validity of prior convictions. In some sentencing hearings, the proposals will lead to increased time and, therefore, expense.

The question, of course, is how many sentencing hearings will be more complex and time-consuming. Pending actual experience under a new law, there would seem to be no totally satisfactory way to make estimates. However, the question is probably most pressing for the indigent defense budget, which in recent years has experienced shortages. If an average of fifteen additional minutes were needed for the sentencing hearings in 10,000 indigency cases statewide (which is about half the number of felony sentences in 1991), then at \$40 per hour the additional cost for private assigned counsel would be \$100,000. If, in addition, an average of 30 extra minutes were needed for the defense to prepare for these sentencing hearings, the additional cost for private assigned counsel for these 10,000 cases would be \$200,000, for a total of \$300,000 or \$150,000 for the initial half year.

The additional fifteen minutes for sentencing hearings in 10,000 assigned counsel cases represent 417 days of court time, at an estimated cost of \$493,605 for costs in addition to indigent defense. Any additional time required for sentencing of misdemeanants would require additional resources. To the extent that additional personnel were not provided to handle the additional work, case processing would be delayed.

C. Additional Appeals

There seems to be consensus among defense attorneys and prosecutors that, at least in early years, there would be a significant number of additional appeals seeking interpretations of the new law and its application. The Appellate Defender estimated that there would be "hundreds" of appeals. A provision in the draft legislation, proposing amendments to G.S. 15A-1445, would give the state a right to appeal on the ground that the sentence results from "an incorrect determination of the defendant's prior record level." Appeals by the state would be in addition to appeals by defendants.

It is estimated that there would be an intense period of early appeals to the Court of Appeals during the first twelve to eighteen months following the effective date of the legislation. For indigent defense alone, provision for 100 such appeals would require \$150,000, at an average cost of \$1,500 per appeal for private assigned counsel. It is estimated that of this, around \$25,000 would be incurred in the first half-year following enactment of the legislation, and that the remaining \$25,000 would be incurred in the following year. In addition to the costs for this rash of early appeals, many appeals will work their way through the Supreme Court by the second year, and there will be additional, ongoing appeals to the Court of Appeals. It is estimated that additional indigent defense costs for appeals, beginning in the second year, will average \$100,000 per year for the next several years.

The following page contains a table that summarizes the costs discussed above. Thereafter is a discussion of additional resources that would be needed in the event that (1) prior record information were to be prepared routinely for sentencing in misdemeanor cases and (2) additional jury trials resulted from misdemeanor cases.

**COST SUMMARY OF IMPACT OF SENTENCING COMMISSION'S RECOMMENDATIONS
UPON THE JUDICIAL DEPARTMENT**

1994-95 Cost Requirements: (Assumes that there will not be significant increases in prior record checks in misdemeanor cases. See note below regarding estimates for subsequent years.)

1. 37 full-time Legal Assist. II pos. 1st yr. (6 mos. salary)(includes some non-recurring costs)		\$584,489
2. 37 DCI terminal systems Line & user fees/ full yr. = 99,900	Set-up(non-recurring) (recurring)	\$225,811 \$49,750
3. CIS crim. module programming changes 3 programmers x 1,600 hours x \$50 hour 1st yr.-6 mos./2nd yr.-3 mos.:	(non-recurring) (non-recurring)	\$160,000 \$80,000
4. Add. costs for private assigned counsel in misd. cases that would be felonies - full yr. = \$397,500	(recurring)	\$198,750
5. Add. assigned counsel costs for more complex sentencing hearings	(half-yr.) (recurring)	\$150,000
6. Costs for indigent defense in additional appealed cases	(1st half-yr.) (recurring)	\$25,000
GRAND TOTAL	(1st half-yr.)	\$1,393,800

Optional Cost Requirement:
(Equip. highly desirable, but not essential)

100 fax machines	Hardware(1st yr., non-recurring)	\$250,000
	(recurring)	\$75,500

Revenues:

(Estimated additional revenues from additional court costs from cases disposed in Superior Court rather than District Court)	(1/2 year)	\$16,048
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NOTES:

Item 1: The first year cost for Legal Assistants includes non-recurring costs for equipment. It is based on 6 months of salary at a position cost of \$15,797. (The estimated first year annualized position cost, for twelve months of salary would be \$28,532.) The 1994-95 position costs include a 2% salary increase authorized for 1993-94 but no additional increase for 1994-95. For 1995-96 and subsequent years, the totals shown on page 17 are limited to recurring costs and build in increases of 5%. The totals come to \$997,435 for FY 1995-96, \$1,047,307 for 1996-97, \$1,099,672 for 1997-98, and \$1,154,656 for 1998-99.

Item 2: It is estimated that the recurring costs for DCI terminal line and user fees will increase by 5% each year after 1994-95, to \$104,895 in 1995-96, \$110,140 in 1996-97, \$115,647 in 1997-98 and \$121,429 in 1998-99..

Items 4 & 5: The estimates shown for 1994-95 are explained on pages 21 to 23. The estimates on page 17 for 1995-96 and subsequent years assume increases of 7% each year for these indigent defense costs.

Item 6: As explained on page 23, estimates are \$125,000 for 1995-96 and 100,000 for subsequent years.

NOTE:No specific figures are included above for the total costs related to most part, these costs are dispersed across the state (for judges, clerks, district attorneys, public defenders, private assigned counsel, etc.). Additional cost resulting from extra court time necessary for disposition of the new felony cases is estimated to be approximately \$1,348,439. Additional cost for extra court time necessary for the more complex sentencing hearings is \$493,605. Since these costs are dispersed across the state, no direct appropriation is anticipated. Instead, these costs are expected to be absorbed within existing resources. Additional cost requirements for indigent defense resulting from the new felony cases and more complex sentencing hearings will require appropriations and are identified in the table above.

III. RELATED CONSIDERATIONS

A. Possible Changes in Disposition Method: More Jury Trials?

At this time it is assumed that there will be no additional increase in jury trials (other than for the new felony cases specified above). Based substantially on advice from the Sentencing Commission, experience in other states appears to indicate that jury trials do not increase due to implementation

of structured sentencing and that, in general, systems tend to adjust in ways that maximize continuity with existing practices. To the extent that this experience does not hold true in North Carolina, the need for additional resources will need to be revisited in the next biennium's budget request.

B. Additional Resources For Sentencing of Misdemeanants

The foregoing estimates focused primarily on impacts for sentencing of felons. As previously noted, the Commission does not anticipate that information about prior convictions will be prepared routinely for sentencing of defendants convicted only of misdemeanors. To the extent that the foregoing assumption is incorrect, personnel and data processing resource requirements could be substantially greater, as outlined in the following sections. (See page 17 for initial assumption.)

1. Additional Personnel

At a minimum, additional clerk personnel would be necessary to handle the increases in workload. Potentially most time-consuming, it is expected that District Attorneys and defense counsel will have questions about the details of defendants' prior records and about the procedures in the prior cases. The clerks will likely confront many requests for information about and copies of court documents, necessitating review of individual case files, potentially from years back. If the volume of additional prior record checks were to involve both misdemeanor and felony cases, the current clerk staff could not be expected to absorb the additional workload entailed by these proposed bills.

2. Additional Hardware and Software

The AOC plans to archive some criminal records by the end of 1993 to save computer disk storage. The archiving system designed for the on-line criminal module will always retain a shortened, summary record of each case, such that essential case information will be readily at hand to perform a record check. Archived automated criminal records would still be available as needed, for post-disposition matters such as reinstatements, calendaring, etc. Clerks can request that a complete criminal archived record be re-loaded for update and calendaring.

If record checks for misdemeanor defendants are routinely requested before sentencing, the total number of criminal record checks will increase significantly. To ensure speedy response, AOC will need to move towards optical disk data storage, instead of the presently used magnetic cartridge tapes. It is estimated that the cost of an optical disk storage system to be between \$250,000 and \$500,000.

3. Facsimile Machines

If prior record information were routinely required for misdemeanor cases, the 100 facsimile machines noted above as highly desirable would be deemed essential.

SOURCES OF DATA: Department of Correction; Sentencing and Policy Advisory Commission; Administrative Office of the Courts; District Attorneys, State Bureau of Investigation's Division of Criminal Information, the Appellate Defender, (AOC) Information Services, Court Services

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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Signed Copy Located in the NCGA Principal Clerk's Offices