

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE (INCARCERATION NOTE G.S. 120-36.7)

BILL NUMBER: Senate Bill 745 (First Edition) **REVISED**

SHORT TITLE: Post-Release Supervision Changes/Sent. Comm.

SPONSOR(S): Senator Miller

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

(In millions)

	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
GENERAL FUND					
Correction					
Recurring	0	\$12,828	\$1,857,292	\$1,967,669	\$2,082,996
Nonrecurring					
Judicial					
Recurring	0	0	0	0	0
Nonrecurring					
TOTAL EXPENDITURES	<u>0</u>	<u>\$12,828</u>	<u>\$1,857,292</u>	<u>\$1,967,669</u>	<u>\$2,082,996</u>

POSITIONS: It is anticipated that approximately 30 positions would be needed to supervise the additional inmates housed under this bill. This is based on inmate to employee ratios, provided by the Division of Prisons, for close, medium, and minimum custody facilities. (These position totals include security, program, and administrative personnel). For 2001, it is recommended that a ratio of 2.5 inmates to one employee be used for each custody level.

It is anticipated that approximately 0 positions would be needed for the Judicial Department

PRINCIPAL DEPARTMENT & PROGRAM (S) AFFECTED: Dept. of Correction

EFFECTIVE DATE: December 1,2001 applies to offenses committed on or after that date.

NOTE: *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.*

BILL SUMMARY:

AN ACT TO AMEND THE STRUCTURED SENTENCING LAWS WITH REGARD TO POST-RELEASE SUPERVISION. This bill has two primary purposes. The first is to make procedural changes to post-release supervision, providing clarification and conforming language to make the law more consistent with current practices. The second primary purpose is to add Class F felonies to post-release supervision. SB 745 defines post-release supervision as “the time for which a sentenced prisoner is supervised in the community following termination of this maximum prison term.” The bill extends applicability of post-release supervision to include Class F felonies and drug trafficking offenses; removes the nine-month post-release supervision period from the maximum sentences for Class B1 through Class E felonies; adds a new section separating the post-release supervision period from the term of imprisonment, and expands to include Class F felony offenses. Additionally, the bill sets the terms of imprisonment upon revocation of post-release supervision at a minimum of seven months and a maximum of nine months. The bill permits revocation for violations of controlling conditions only. The bill allows the court discretion in imposing post-release supervision for offenders if it makes a finding of fact that post-release supervision would not be necessary and it allows that post-release supervision shall not be imposed for offenders convicted of a Class B1 felony and receiving life imprisonment without parole. Additionally, the bill states that the post-release supervision period is suspended if the court imposes an intermediate punishment on an offender who is required to receive post-release supervision and provides that the suspension of a term of imprisonment also suspends any period of post-release supervision that may be imposed for that offense. The bill gives the Post Release Supervision and Parole Commission, rather than the court, authority to make findings that would permit a supervisee to reside in a household with a minor child when the offense involved evidence of abuse of a minor. The bill deletes provisions for reduced periods of post-release supervision and for earned time.

ASSUMPTIONS AND METHODOLOGY: Department of Correction

The chart below compares the projected inmate population to prison bed capacity and shows whether there is adequate bed capacity for any population increases caused by a specific bill. 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.* That means the number of beds needed (Row 5) is always equal to the projected additional inmates due to a bill (Row 4).

Rows 4 and 5 in the chart show the impact of this specific Bill. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation will add 74 inmates to the prison system by the end of FY 2005-06.

	<u>June 30</u> <u>2002</u>	<u>June 30</u> <u>2003</u>	<u>June 30</u> <u>2004</u>	<u>June 30</u> <u>2005</u>	<u>June 30</u> <u>2006</u>
1. Projected No. Of Inmates Under Current Structured Sentencing Act ¹	33,141	33,954	34,738	35,682	36,590
2. Projected No. of Prison Beds (DOC Expanded Capacity) ²	32,544	32,712	32,712	32,712	32,712
3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	-597	-1,242	-2,026	-2970	-3,878
4. No. of Projected Additional Inmates Due to this Bill³	0	6	70	72	74
5. No. of Additional Beds Needed Each Fiscal Year <u>Due to this Bill</u>³	0	6	70	72	74

¹ The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January, 2001 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rates forecast 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.

² Projected number of prison beds is based on beds completed or funded and under construction as of 1/11/01. The number of beds assumes the Department of Correction will operate at an Expanded Operating Capacity (EOC), which is the number of beds above 100% or Standard Operating Capacity. The EOC is authorized by previous court consent decrees or departmental policy. **These bed capacity figures do not include the 3,000 new beds proposed by the Department of Correction for operation in 2003 and 04 nor the potential loss in bed capacity due to any proposals in the 2001 Session to eliminate prison beds or close prisons.**

³**Criminal Penalty bills effective December 1, 2001 will only affect inmate population for one month -- June of FY 2001-02 -- due to lag time between when an offense is committed and an offender is sentenced.**

FISCAL IMPACT BEYOND FIVE YEARS -- Fiscal Notes look at the impact of a bill through the year 2006. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>
Inmates Due to This Bill	74	77	77	81
Available Beds	-4,848	-5,771	-6,688	-7,597
New Beds Needed	74	77	77	81

DISTRIBUTION OF BEDS: After analyzing the proposed legislation, the Department of Correction estimates the following distribution of beds as needed under this bill:

Close Custody - 18%
 Medium Custody -51%
 Minimum Custody -31%

NOTE: *The Department of Correction indicates that the prison system is under capacity in close custody beds only. However, in assigning the true cost of this bill, the Fiscal Research Division considered the number of beds needed at each custody level due to this bill.*

CONSTRUCTION: Construction costs are based on estimated 2000-01 costs for each custody level as provided by the Office of State Construction. Based on these costs, the following per bed/cell construction costs are used:

Custody Level	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Construction Cost Per Bed 2000-01	\$35,007	\$66,661	\$77,500

A 5% per year inflation rate has been added to the above capital costs to determine the non-recurring costs estimated in the Fiscal Impact Table on page 1. The Office of State Construction recommended this rate based on recent and anticipated state construction projects.

NOTE: *Construction costs will be excluded if the number of beds is anticipated to be less than 100 since it is not practical to assume a prison with a capacity of fewer than 100 beds would be constructed, as in this case.*

The non-recurring cost estimates in the Fiscal Impact Table on Page 1 also assume that funds to construct prison beds should be budgeted in advance. Based on previous prison construction projects we are assuming it will typically require three years for planning, design and construction of new beds. Operating costs would be included for the years after completion of construction. Any exceptions to this approach are summarized under “Operating Costs” in this Note.

OPERATING: Operating costs are based on actual 1999-2000 costs for each custody level as provided by the Department of Correction on November 1, 2000. A 3% per year inflationary rate has been added to these 99-2000 costs to determine the five-year recurring costs estimated in the Fiscal Impact Table on Page 1.

DAILY INMATE OPERATING COST 99-2000

Custody Level	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (99-2000)	\$52.52	\$68.13	\$75.32	\$63.65

These costs include security, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons.

NOTE: *Operating costs will be calculated as follows: number of offenders times daily cost per inmate for each custody level = total operating costs. For bills that increase inmate population in 2002 or 2003, only operating costs are included in the estimate of fiscal impact. This methodology is based on the following assumption.*

It is not practical to assume that Correction can build prisons quickly enough to house additional offenders before 2003-04. In practice, DOC will have to purchase additional beds out of state or in county jails or establish temporary beds until construction can be completed. Based on previous contract costs for purchasing beds, the DOC statewide average cost for 99-2000 will be the base cost of buying a prison bed.

METHODOLOGY FOR CALCULATING PRISON BED COSTS FOR S745

Sentencing Commission projections (pg.2) assume that 11% of offenders placed on post-release supervision will have their supervision revoked. This percentage was determined by pro-rating the probation revocation rate based on differences in length of sentence. Sentencing Commission projections and DOC estimates of custody levels (pg. 3) were the basis for calculating the number of beds needed each year. Due to the amount of time an offender must serve in prison for a Class F felony prior to release onto post-release supervision, the effective date for prison impact is estimated to be 6/1/2003. Given these assumptions, the impact for FY 2003 is only estimated for one month. FY 2004 represents the first full year of impact.

<u>Bed Type</u>	2002	2003	2004	2005	2006
Close	0	1	13	13	13
Medium	0	3	36	37	38
Minimum	0	2	22	22	23
TOTAL	0	6	70	72	74

Operating Costs

Close	-	\$ 2,693	\$ 389,885	\$ 413,056	\$ 437,265
Medium	-	\$ 6,902	\$ 999,195	\$ 1,058,576	\$ 1,120,620
Minimum	-	\$ 3,234	\$ 468,212	\$ 496,037	\$ 525,110
Total	-	\$ 12,828	\$ 1,857,292	\$ 1,967,669	\$ 2,082,996

ASSUMPTIONS AND METHODOLOGY:

Probation and Parole

The number of post-release supervisees will increase by approximately 672 by FY 2005-06. Given that the Division of Community Corrections has a staff of 694 regular probation officers, the additional supervisees would be less than one per officer. The impact of SB 745 would be insignificant to the caseloads of the supervising officer.

Judicial Branch

General

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 any expected increase in Judicial Branch workload is spread statewide while most personnel are assigned to a specific district, Fiscal Research assumes that AOC can absorb any workload increase that is less than 3600 hours (3600 hours = 2 fulltime positions). Therefore, there would be no fiscal impact due to workload in these situations. However, expenditures for jury fees and indigent defense are assumed to create a fiscal impact in every case where court time is increased since these expenditures cannot be absorbed.

SB 745

The Administrative Office of the Courts was unable to provide an estimate because data was not available on the number of hearings that might result due to revocations arising under the bill. While the Sentencing Commission expects an increase in revocations due to expanding post-release supervision to include Class F offenses other provisions in the bill may reduce the number of revocations and therefore balance off the increases. Using the Sentencing Commission's assumption that 11% of post-release supervisees will be revoked would mean minimal impact on the court system.

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

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910

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DATE: April 9, 2001



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