

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 1081 (Second Edition PCS)
SHORT TITLE: Malicious Conduct by Prisoner
SPONSOR(S): Senator Harris

FISCAL IMPACT

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

FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06

REVENUES

EXPENDITURES (NO ESTIMATE AVAILABLE BUT ASSUME FISCAL IMPACT LIKELY)

POSITIONS: 0

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch, Dept. of Correction, and Department of Juvenile Justice & Delinquency Prevention

EFFECTIVE DATE: This act becomes effective Dec 1, 2001, and applies to offenses committed on or after that date.

BILL SUMMARY:

This bill enacts new G.S. 14-258.4 making it a Class F felony for any prisoner in the custody of the Department of Correction or the Department of Juvenile Justice, or any local confinement facility (as defined in GS 153A-217), pending trial, appellate review, or pre-sentence diagnostic evaluation, or any prisoner in the custody of any law enforcement officer for any lawful purpose, to knowingly and willfully throw, emit, or cause to be thrown, bodily fluids or excrement upon an employee who is in the performance of his/her duties.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction (DOC)

This bill covers conduct that is currently not a criminal offense, therefore it is unknown how many offenders might be sentenced under this bill. The conduct proscribed is typically dealt with by internal procedures or with assault charges. Any active sentence as a result of this bill would create the need for an additional prison bed and would have a fiscal impact on the Department of Correction because there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.

In FY 1999/2000, there were 7 convictions for assault resulting in serious injury on a law enforcement officer, probation officer, parole officer, or on a person employed at a State or

local detention facility, which is a Class F felony. Additionally, there were 1,848 convictions for assault on an officer or employee of the state, which is a Class A1 misdemeanor. The Sentencing Commission estimates that if there were two convictions for the proposed Class F offense per year, this would likely result in the need for one additional prison bed the first year and two additional prison beds the second year. If, for example, there were 10- convictions for the proposed offense per year, this would likely result in the need for 5 additional prison beds the first year and 9 additional prison beds the second year.

Judicial Branch

AOC assumes that should there be a desire to file charges for conduct proscribed by this bill, misdemeanor assault could be charged under current law. Current G.S. 14-33(c)(4) makes it a Class A1 misdemeanor, to assault an officer or employee of the State or any political subdivision. Assaults in general under G.S. 14-33 are Class 2 or Class 1 misdemeanors. Therefore, given the enhancement in punishment to a Class F felony, the proposed bill could invite a number of new charges and possibly have a significant fiscal impact on the courts.

According to AOC, data is unavailable to estimate the number of new or enhanced criminal charges as a result of this bill, or the impact on the court system.

Department of Juvenile Justice and Delinquency Prevention (DJJDP)

Per a discussion with DJJDP, they confirmed that these incidents occur frequently, but that they currently charge the prisoner with assault or handle with internal procedures.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Department of Juvenile Justice and Delinquency Prevention (DJJDP)

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: 733-4910

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DATE: June 25, 2001



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