

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE FISCAL NOTE  
(INCARCERATION NOTE G.S. 120-36.7)**

**BILL NUMBER:** HB 327 2nd Edition  
**SHORT TITLE:** Increase Penalties/Bomb Offenses  
**SPONSOR(S):** Representative Goodwin

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>
<b>GENERAL FUND</b>					
<b>Correction</b>					
<b>Recurring</b>			Unable to determine exact amount.		
<b>Judicial</b>					
<b>Recurring</b>			Unable to determine exact amount.		
<b>TOTAL</b>					
<b>EXPENDITURES:</b>			Unable to determine exact amount.		
<b>ADDITIONAL PRISON BEDS*</b>			Unable to determine exact amount.		
<b>POSITIONS: (cumulative)</b>			Unable to determine exact amount.		
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction (DOC); Judicial Branch					
<b>EFFECTIVE DATE:</b> December 1, 2003					
<p><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></p>					

**BILL SUMMARY<sup>1</sup>:** HB 327 (2<sup>nd</sup> Edition) amends G.S. 14-49 to make it a Class E felony for any person to willfully and maliciously damage, aid, counsel, or procure the damage by use of any explosive or incendiary device or material of the State Capitol, the Legislative Building, the Justice Building or any building owned or occupied by the State or any of its agencies, institutions or subdivisions or by any county, incorporated city or town or other governmental entity. Under current G.S. 14-49, it is a Class G felony for any person to willfully and maliciously damage any real or personal property of any kind or nature belonging to another by use of any explosive or incendiary device or material. Thus, some defendants who are currently charged with Class G felonies could be charged with Class E felonies under the bill.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division (FRD) does not assume savings due to deterrent effects for this bill or other criminal penalty bills.

### **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts 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. 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.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

In FY 2001-2002 there was one conviction under G.S. 14-49(b), willful or malicious damage to real or personal property belonging to another by use of an explosive or incendiary device or material. If, for example, there were five convictions each year that would be reclassified as Class E offenses, this would result in the need for one additional prison bed the first year and two additional prison beds the second year. In FY 2001-2002, 49 percent of Class E felony offenders received intermediate punishment and 51 percent received an active sentence. The average sentenced imposed ranged from a minimum of 31 to a maximum of 47 months. In 2001-2002, the statewide average operating cost for one inmate was \$62.43/day or \$22,786.95/year.

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<sup>1</sup> AOC Research and Planning Division

## **Judicial Branch**

For most criminal penalty bills, the Administrative Office of the Courts (AOC) 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.

AOC data reveal 41 defendants were charged with the Class G felony under G.S. 14-49. Although, data are not available on the number of these defendants who could be charged for using explosive devices to damage governmental buildings as proscribed under the bill, it is plausible that some of these charges involved damage to governmental buildings. As a result, some of the 41 defendants charged with a Class G felony would be subject to the enhanced penalty (Class E felony). The AOC anticipates that some court workload would increase under this bill. Trials and pleas would demand more court time and preparation time due to the stiffer penalties under the bill.

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

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** April 23, 2003



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