

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

**BILL NUMBER:** HB 1037 3rd Edition

**SHORT TITLE:** Amend Juvenile Law

**SPONSOR(S):** Representative Luebke

	<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; no significant impact anticipated.				
<b>Nonrecurring</b>					
<b>Judicial</b>					
<b>Recurring</b>	Unable to determine exact amount; no significant impact anticipated.				
<b>Nonrecurring</b>					
<b>TOTAL</b>					
<b>EXPENDITURES:</b>	Unable to determine exact amount; no significant impact anticipated.				
<b>ADDITIONAL PRISON BEDS*</b>	It is likely that most misdemeanants sentenced to an active sentence under this bill would be housed in local jails at a cost of \$18/day. The exception is Class 1 offenders falling in Prior Record Level III who may receive active sentences that might be served in the state prison system.				
<b>POSITIONS: (cumulative)</b>	Unable to determine exact amount; additional positions not anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction (DOC); Judicial Branch; Department of Juvenile Justice and Delinquency Prevention (DJJDP); Other Custodial Personnel				
<b>EFFECTIVE DATE:</b>	Section 1 is effective December 1, 2003. The remainder of the act becomes effective October 1, 2003.				
	<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<sup>1</sup>:** The bill expands current G.S. 14-239 pertaining to the escape of prisoners by extending the applicability of the statute to a broader group of custodial personnel as well as juveniles in the custody of the Department of Juvenile Justice and Delinquency Prevention. Current G.S. 14-239 provides that it is a Class 1 misdemeanor for any sheriff, deputy sheriff, or jailer to willfully or wantonly allows the escape of a person charged with a crime or a person sentenced by the court upon conviction of any offense. This bill expands current G.S. 14-239 in two ways. First, it broadens the pool of defendants who could be subject to charges under this statute by adding “other custodial personnel.” Second, it broadens the category of prisoners by adding juveniles committed to the Department of Juvenile Justice and Delinquency Prevention. This bill does not modify the current Class 1 misdemeanor punishment for this offense.

This bill also expands current G.S. 7B-2101 governing the photographing of juveniles by providing that a county juvenile detention facility can photograph a juvenile and can release the photograph to the public if the juvenile escapes. Current G.S. 7B-2102 provides, in pertinent part, that when a juvenile is in custody of law enforcement or the Department of Juvenile Justice and Delinquency Prevention, a law enforcement officer or agency must fingerprint and photograph a juvenile who was age 10 years or older at the time of the non-divertible offense. These fingerprints and photographs are not public records under Chapter 132 and must be withheld from public inspection. This bill expands current G.S. 7B-2102 in two ways. First, it provides that a county juvenile detention facility may photograph a committed juvenile who is at least 10 years of age and has allegedly committed a non-divertible offense. Second, it allows the court to order that photographs of a juvenile be released to the public if the juvenile escapes from such a facility or escapes from the custody of juvenile personnel or a local law enforcement officer.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

The Sentencing and Policy Advisory 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.

The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 14-239. The Sentencing Commission notes that the lack of an AOC offense

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

code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Thus, it is not known how many additional convictions would result by expanding the current offense to include “other custodial personnel” who willfully or wantonly allow the escape of any person committed to their custody and to include persons committed to the Department of Juvenile Justice and Delinquency Prevention.

In FY 2001-2002, 15.8 percent of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served was 35.2 days. It is likely that misdemeanants sentenced under this bill would be housed in local jails but paid for by the State at a cost of \$18/day. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because only Class 1 offenders falling in Prior Record Level III receive active sentences that might be served in the state prison system, 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.

### **Judicial Branch**

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.

The AOC currently does not have an offense code for G.S. 14-239. Since this bill broadens the category of prisoners and broadens the pool of defendants who could be subject to charges under G.S. 14-239, there may be an increase in the number of charges as a result of this bill. However, there is no data from which to estimate the number of additional misdemeanor charges that would occur as a result of this bill. Fiscal Research believes there will be few charges as a result of this bill and there will likely be little impact on the judicial branch.

Under current procedure, Department of Juvenile Justice and Delinquency Prevention (DJJDP) is permitted to reveal to the media the circumstances surrounding a juvenile’s escape from a juvenile detention facility, but it is not permitted to disclose the name or photograph of the juvenile.<sup>2</sup> A judge may order the release of such information if it serves the public interest. This bill permits the public release of a photograph to aid in the apprehension of a juvenile who has escaped, but does not provide a punishment for the unlawful release of photographs under any other circumstances. The AOC does not expect an increase in court workload as a result of this provision.

### **Department of Juvenile Justice and Delinquency Prevention**

DJJDP may incur some expense related to the purchase of photography equipment and supplies for the four (4) county juvenile detention facilities. DJJDP reimburses the counties for 50 percent of juvenile detention center operating costs. The photography equipment and supply costs are expected to be minimal and can be supported within DJJDP’s existing continuation budget for equipment and supplies.

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<sup>2</sup> AOC Research and Planning

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

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**DATE:** June 10, 2003



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