

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

**BILL NUMBER:** SB 867 3rd Edition  
**SHORT TITLE:** Arson/Serious Injury to Firefighter  
**SPONSOR(S):** Senator Hagan

	<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</b>					
<b>PRISON BEDS*</b>					Unable to determine exact amount.
<b>POSITIONS:</b>					
<b>(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					
*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:** SB 867 creates the offense of arson or other unlawful burnings that result in serious injury to a firefighter, punishable by a Class E felony. Under current law, all of the arson and other burning offenses under Article 15 are punishable as Class H, G, F, E, or D felonies.

**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.

**Since the bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population.** In FY 2001-2002, there were 172 convictions under relevant arson statutes. The Sentencing Commission notes that it is not known whether any firefighters suffered bodily injury while discharging or attempting to discharge their duties in relation to the offenses for these convictions.

It is not known how many offenders might be sentenced for this offense. If, for example, there were two Class E convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

Under Structured Sentencing, offenders falling under Prior Record Levels I and II may receive intermediate or active sentences, while offenders falling under the remaining prior record levels receive only active sentences. In FY 2001-2002, 49 percent of Class E felons received intermediate punishment and 51 percent received active sentences. In 2001-2002, costs for intermediate sanctions ranged from \$1.83 to \$11.47 per offender per day, and the statewide average operating cost for one prison inmate was \$62.43/day (\$22,787/year). In addition, offenders who would have been convicted of felonies no greater than Class F, who serve active prison time for a Class E felony under this legislation, would now be supervised for nine months upon release from prison, at a cost of \$1.83 to \$11.47 per offender per day.

## **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.

Because SB 867 creates a new offense, the AOC has no data from which to estimate the number of charges that may arise as a result of this bill. However, data are available regarding the number of arson charges and other burning offenses as the AOC has offense codes for thirteen of the arson and other burning offenses under Article 15. AOC data for calendar year 2002 reveal that 756 defendants were charged with offenses under Article 15 (106 with first degree arson and 650 with other arson offenses). Currently, the only Class E felony offense under Article 15 (arson and other burnings) is for burning churches and certain other religious buildings. All the other arson and burning offenses under current law are punished as Class H, G, F, or D felonies. Data are not available on the number of defendants charged with these offenses who could be charged with the Class E felony offense involving serious injury to a firefighter under the bill.

Because the bill creates a Class E felony, the AOC anticipates that the defense would be vigorous and the litigation more time consuming. Trials and pleas would demand more court time and preparation time due to the stiffer penalties under the bill. For offenses that are brought to trial as Class E felonies, the estimated court cost per trial is \$8,532. For Class E felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$403.

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

**TECHNICAL CONSIDERATIONS:** It is unclear whether the intent of the bill is that persons be charged with the offense under the bill in addition to other arson and burning offenses under Article 15. The data from the Sentencing Commission assumes that the Class E felony charge is in addition to any charges under existing law.

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**DATE:** May 19, 2003



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