

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 862 (First Edition)

SHORT TITLE: Prohibit Removal of Electronic Collars.

SPONSOR(S): Representative Wilson

FISCAL IMPACT					
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
<b>GENERAL FUND</b>					
<b>Correction</b>					
<b>Judicial</b>					
<b>LOCAL GOVERNMENTS</b>					
<b>ADDITIONAL PRISON BEDS*</b>					
<b>POSITIONS: (cumulative)</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch; Local Governments					
<b>EFFECTIVE DATE:</b> December 1, 2005					
<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:** Current G.S. 14-401.17 prohibits the removal of electronic collars from dogs in 38 counties. This bill would amend G.S. 14-401.17 to make the offense applicable statewide. A first conviction for this offense is a Class 3 misdemeanor; the second, and any subsequent conviction, is a Class 2 misdemeanor.

## ASSUMPTIONS AND METHODOLOGY:

### **General**

Because this bill would extend the offense under G.S. 14-401.17 for removing an electronic collar from a dog to the entire state, additional charges and convictions would be expected to result from this legislation. However, the Administrative Office of the Courts (AOC) does not maintain a specific offense code for current violations of G.S. 14-401.17, which is some indication that the existing offense is infrequently charged and rarely result in convictions. As such, few additional charges and convictions are anticipated to result from this bill, and the associated fiscal impact is not expected to be substantial.

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 does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

### **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, 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.*

Due to the lack of an offense code for current violations of G.S. 14-401.17 (some indication that convictions are presently infrequent), the Sentencing Commission has no historical data from which to estimate the number of additional convictions that might result from applying the offense statewide.

- In FY 2003-04, 15 percent of Class 2 and 23 percent of Class 3 misdemeanors resulted in active sentences and the average active sentence lengths were 23 and 8 days, respectively.
- Offenders with active sentences of less than thirty days are housed in county jails at county expense.
- The remaining 85 and 77 percent of Class 2 and 3 misdemeanants, respectively, received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Correction (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Because Class 2 and 3 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation would not impact prison population.

## **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.

Data regarding the number of charges for unlawfully removing an electronic collar from a dog is unavailable because AOC does not maintain a specific offense code for this violation. As a result, we cannot estimate the number of additional charges that the Court system would handle due to this bill. Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 or Class 3 misdemeanor via trial is \$2,322. This cost includes an estimated \$1,373 in jury fees, costs of time in court, and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 2 or 3 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 or \$268, respectively.

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

**TECHNICAL CONSIDERATIONS:** None

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**Signed Copy Located in the NCGA Principal Clerk's Offices**