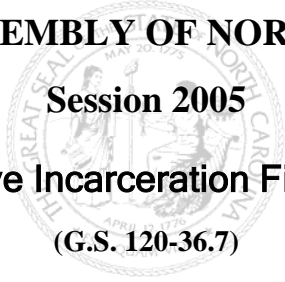


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1517 (Fourth Edition)

SHORT TITLE: Clarify Definition of Child Care.

SPONSOR(S): Representatives Carney and Vinson

		FISCAL IMPACT				
		Yes ()	No ()	No Estimate Available ()		
		<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND						
Correction		Exact amount cannot be determined – see p. 4				
Judicial		Exact amount cannot be determined – see p. 4				
DHHS		No fiscal impact – see p. 5				
ADDITIONAL PRISON BEDS*		Exact amount cannot be determined				
POSITIONS: (cumulative)		Exact amount cannot be determined				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch, Department of Health & Human Services.						
EFFECTIVE DATE: Section 4 becomes effective December 1, 2005, and applies to offenses committed on or after that date. The remainder is effective when it becomes law						
<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:

The bill excludes certain drop-in or short-term care provided by an employer for its part-time employees from the definition of the term “child care” in GS 110-86(2) and requires study and reporting by the Director of the Division of Child Development on drop-in and short-term care.

The third edition moved the requirement for certain employer-based drop-in or short-term child care to register with the Division of Child Development from GS 110-86 to GS 110-99(b) and made technical changes.

The fourth edition includes technical changes and makes it a Class 1 misdemeanor for a first offense and Class H felony for any subsequent offense for a registered sex offender to provide or offer baby sitting services effective for offenses committed on or after December 1, 2005.

ASSUMPTIONS AND METHODOLOGY:

Criminal Penalties - General

As this bill creates a new Class 1 misdemeanor and Class H felony, it would be expected to result in some additional charges and convictions and would consequently incur a fiscal impact. Because the offenses are new, there is no historical data from which to estimate the numbers of charges and convictions that would occur under the bill.

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.*

Because this bill would create new criminal offenses, the Sentencing Commission has no historical data from which to estimate how the legislation would impact prison population. It is not known how many offenders might be sentenced for these offenses. It is also not known how many offenders may be repeat offenders under the proposed statute.

Active Sentences: In FY 2003-04, 19% of Class 1 misdemeanor convictions resulted in active sentences. The average time served was 31.2 days. Offenders serving active sentences of 90 days or less are housed in county jails at county expense and DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per day per offender.

The following table outlines for Class H felony convictions in FY 2003-04 the active sentence rate, average active sentence length, and the number of convictions annually that would necessitate one additional prison bed in the first year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Felony Class	Offense Rate	Average Sentence Length (min – max)	Active Length	Threshold Prison Bed Impact
Class H	37%	10 – 12 months		If, for example, there were three Class H felony convictions per year, one additional prison bed would be needed in the first year and two beds in the second year.

Non-Active Sentences: In FY 2003-04, 50 percent of Class H felony convictions resulted in intermediate sanctions; 13 percent of Class H convictions resulted in community sanctions. Probation officers in the Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

Also in FY 2003-04, 81% of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (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.

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.

Because the bill provides for new Class 1 misdemeanor and Class H felony offenses, AOC is unable to estimate the number of new charges that may result from this bill. For any misdemeanor or felony charge due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing superior court workload. AOC estimates the cost per charge based on offense class as shown in the table below.

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	
Class 1 Misdemeanor	\$1,880	\$1,333	\$3,213	\$284
Class H Felony	\$4,096	\$2,100	\$6,196	\$359

Department of Health and Human Services

Under current law, providers of drop-in or short-term child care are required to notify the Department of Health and Human Services that they are providing these services. The proposed legislation will require the providers of drop-in or short-term child care to register with the Department of Health and Human Services. The Department of Health and Human Services has determined that there will be no the fiscal impact from changing the wording of the statute from “notify“ to “register with”.

The proposed legislation requires the Department of Health and Human Services to study the current policies, practices, and laws related to drop-in and short-term care and baby sitting services and shall make recommendations to ensure the health and safety of children who utilize this type of care. The Department has determined that the Child Care Commission and the staff of the Division of Child Development can do this study within existing funds.

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

TECHNICAL CONSIDERATIONS: None

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Signed Copy Located in the NCGA Principal Clerk's Offices

