

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 428 (Third Edition)

SHORT TITLE: No Lasers Pointed at Planes.

SPONSOR(S): Senator Rand

FISCAL IMPACT					
	Yes (X)	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; no substantial impact anticipated.				
Judicial	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined; no substantial impact anticipated.				
POSITIONS: (cumulative)	Exact amount cannot be determined; no substantial impact anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: 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: This bill would enact new G.S. 14-280.2, creating a new Class H felony for intentionally illuminating an aircraft with a laser during takeoff, landing, or flight.

The second edition rephrased the offense to prohibit the discharge of a laser at an aircraft rather than the illumination of an aircraft with a laser. This modification does not affect the fiscal impact as assessed for the first edition of the bill.

The third edition makes clarifying and technical changes only.

ASSUMPTIONS AND METHODOLOGY:

General

Because this legislation creates a new criminal penalty and there is no data on the frequency with which the behavior prohibited by this bill has occurred or will occur in North Carolina, we are unable to estimate the number of charges and convictions that would result from this legislation. Assuming that at least one individual is charged with this new Class H felony, this bill would have some fiscal impact. Due to the small number of charges and convictions occurring under similar provisions of existing law, that impact is not expected to be substantial.¹

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 a new Class H felony, the Sentencing Commission has no historical data from which to estimate the impact that this bill would have on prison population. During fiscal year 2003-04, 37 percent of Class H felony convictions resulted in active sentences, 50 percent in intermediate sanctions, and 13 percent in community punishment.

Active Sentences: If, for example, there were three additional convictions for Class H felonies per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Non-Active Sentences: 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. Community offenders given supervised probation would cost an estimated \$1.87 per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

¹ Under current G.S. 14-282.1, it is an infraction to intentionally point a laser device that is emitting a beam at a law enforcement officer or at the head or face of another individual. During calendar year 2004, AOC data indicates that one individual was charged with a violation of G.S. 14-282.1.

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.

As this legislation would create a new criminal offense, AOC is unable to estimate the number of new Class H felony charges that would result from this bill. Under current G.S. 14-282.1, it is an infraction to intentionally point a laser device that is emitting a beam at a law enforcement officer or at the head or face of another individual. During calendar year 2004, AOC data indicates that one individual was charged with a violation of G.S. 14-282.1.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class H felony via trial is \$6,196. This figure includes \$4,096 for court and attorney preparation costs and \$2,100 for indigent defense. However, based on prior-year data, the majority of any Class H felony charges resulting from this bill that are not dismissed are likely to be settled by guilty plea at a cost of \$359 per plea.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: July 11, 2005

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