

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 486 (Second Edition)

SHORT TITLE: Rachel's Law.

SPONSOR(S): Senator Allran

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. Each conviction will cost \$24,740 in the first year and \$50,964 in the second year. Costs will begin in 06-07.				
Judicial	Exact amount cannot be determined (see pg. 2 for details).				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined. Each conviction will require one prison bed in the first year and two beds in the second year.				
POSITIONS: (cumulative)	Exact amount cannot be determined (see pg. 2 for details).				
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: Current G.S. 14-34.1 makes it a Class E felony to discharge a specified barreled weapon or firearm into occupied property. This bill amends the statute to provide that if the property is (1) a dwelling or (2) a conveyance traveling on a public road, highway, vehicular area, railroad track, waterway, or in any airspace, then the offense is a Class B2 felony if serious injury to any person results, and is otherwise a Class C felony. *Source: Adapted from Bill Digest S.B. 486 (03/14/2005).*

ASSUMPTIONS AND METHODOLOGY:

General

Under current law, the offenses created by this bill would likely be charged as Class E felonies, either under present G.S. 14-31.1 for discharging certain barreled weapons or firearms into occupied property, or under G.S. 14-32(b) for Assault with a Deadly Weapon Inflicting Serious Injury.

Any conviction elevated from felony Class E to Class C or B2 due to this bill would carry a longer sentence and require that the sentence be active (Class E convictions in Prior Record Levels I and II may result in intermediate sanctions). These enhanced penalties are projected to increase prison bed needs and therefore prison costs. In addition, increased court workload and costs are anticipated due to a more vigorous defense and prosecution.

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 creates two new criminal offenses (a Class C and Class B2 felony), the Sentencing Commission has no data from which to project the number of convictions that might result from this legislation. Except in the event of extraordinary mitigation, all felony Class C and Class B2 offenders must receive active sentences. Due to the length of sentences imposed, the number of prison beds required for these offenders will build over time, as new offenders enter the system prior to the release of existing offenders. As a result, convictions under this bill would have a long-term prison impact. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Felony Class C: During FY 2003-04, there were 89 convictions under current G.S. 14-34.1 for discharging certain barreled weapons or a firearm into occupied property, a Class E felony. It is unknown how many of these convictions involved a dwelling or vehicle in operation and would thus be elevated to Class C felonies under this legislation. If, for example, there were one conviction for this offense per year, this bill would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average time served for a Class C felony in FY 2003-04 was 95 months.

Felony Class B2: During FY 2003-04, there were 453 convictions under G.S. 14-32(b) for assault with a deadly weapon inflicting serious injury, a Class E felony. It is unknown how many of these convictions involved the willful or wanton discharge of a firearm or specified barreled weapon into a dwelling or vehicle in operation and would thus become Class B2 felonies under this legislation. It is also not known how many of the 89 convictions under G.S. 14-24.1 inflicted serious injury and would, therefore, also be elevated to Class B2 felonies under this bill. If, for example, there was one conviction for this offense per year, this bill would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average time served for a Class B2 felony in FY 2003-04 was 189 months.

Non-Active Sentences: Under current law, some individuals convicted of the Class E felonies affected by this bill may receive intermediate sanctions and be supervised by the Division of Community Corrections (DCC). Because felony Class C and B2 offenders cannot receive intermediate sanctions, there would be short-term cost savings to DCC for any offenders who receive active rather than intermediate sanctions due to this bill. However, in the long term DCC would incur the cost of post-release supervision for Class C and B2 offenders upon their release from prison.

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.

AOC data for calendar year 2004 show 688 defendants charged with Class E felonies under current G.S. 14-34.1 for discharging a weapon into occupied property. AOC does not have data on how many of these violations involved shooting into a dwelling or a traveling vehicle. Under this bill, these offenses would be charged as Class C felonies, or Class B2 felonies if serious injury resulted.

AOC data additionally show 2,074 defendants charged during calendar year 2004 under G.S. 14-32(b) for Assault with a Deadly Weapon Inflicting Serious Injury, also a Class E felony. No data is available on the number of these charges that involved the discharge of a firearm or specified barreled weapon into occupied property and would, therefore, be elevated to Class B2 felonies due to this bill. AOC notes that charges under G.S. 14-32(c) for Assault with a Deadly Weapon with Intent to Kill (felony Class E) and G.S. 14-32(a) for Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury (felony Class C) could also potentially be elevated to felony Class C and B2, respectively, as a result of this bill.

For any felony charge with an elevated offense classification due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing superior court workload. As shown in Table 1 on the following page, the estimated increase in cost to dispose of a single charge that is elevated from felony Class E to Class C is \$3,513 per trial and \$84 per guilty plea.

Table 1: Average Estimated Per Charge Felony Class C Settlement Costs

Felony Class	Settled via Trial			Settled via Guilty Plea
	<i>Court/Attorney Costs</i>	<i>Indigent Defense</i>	<i>Total</i>	-
<i>Class E</i>	\$5,847	\$2,912	\$8,759	\$414
<i>Class C</i>	\$7,179	\$3,653	\$10,832	\$498
<i>Increased Cost</i>	\$2,531	\$982	\$3,513	\$84

As shown in Table 2 below, the estimated increase in cost to dispose of a single charge that is elevated from felony Class E to Class B2 is \$4,472 per trial and \$622 per guilty plea.

Table 2: Average Estimated Per Charge Felony Class B2 Settlement Costs

Felony Class	Settled via Trial			Settled via Guilty Plea
	<i>Court/Attorney Costs</i>	<i>Indigent Defense</i>	<i>Total</i>	-
<i>Class E</i>	\$5,847	\$2,912	\$8,759	\$414
<i>Class B2</i>	\$8,752	\$4,479	\$13,231	\$1,036
<i>Increased Cost</i>	\$2,905	\$1,567	\$4,472	\$622

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

TECHNICAL CONSIDERATIONS: None

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DATE: April 12, 2005

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