

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 972 (Third Edition)

SHORT TITLE: Break Into Place of Worship.

SPONSOR(S): Senator Smith

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. Convictions elevated to Class G felonies due to this bill could lead to an increase in prison population and the need for more prison beds, but the exact number of beds needed and therefore the cost cannot be determined (see pg. 2 for details).				
Judicial	Exact amount cannot be determined (see pg. 2 for details).				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined (see pg. 2 for details).				
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: This bill would enact new G.S. 14-56.4 to make breaking or entering a place of worship (including a church, chapel, meetinghouse, synagogue, temple, longhouse, or mosque) a Class G felony, unless either a) the offense involves breaking or entering two or more buildings or, b) it is the offender's second or subsequent conviction for the offense, in which case it is a Class F felony.

The second edition specifies that 1) the offender must have the intent to commit a felony or larceny within the building, and 2) that the building must be a place of *religious* worship and

would include buildings other than those specified that are regularly used, and clearly identifiable, as a place for religious worship.

The third edition eliminates the proposed Class F felony for breaking into two or more places of religious worship in one incident or for a second or subsequent offense.

ASSUMPTIONS AND METHODOLOGY:

General

Depending upon the nature of the offense, Breaking or Entering is presently a Class H or I felony, or a Class 1 or 2 misdemeanor. This bill would elevate any present felony Breaking or Entering offense involving a place of religious worship to a Class G felony and would therefore be expected to increase prison bed needs (thus, the cost to incarcerate the affected offenders) and the cost to the Courts of disposing the related charges. As we have no data on the number of felony Breaking or Entering offenses that involve a place of religious worship, we are unable to estimate the number of charges and convictions that would be elevated by this bill and the resulting costs to the Department of Correction and the Courts.

Eliminating the Class F offense as proposed in the third edition of the bill would reduce the bill's impact on prison population and Court and prison costs. As the number of violations that would have been elevated to Class F felonies is unknown, the exact magnitude of any reduction cannot be determined.

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.*

Offenders eligible for conviction under this bill would be convicted currently of felony Breaking or Entering or Attempted Breaking or Entering under G.S. 14-54 (Class H and Class I offenses, respectively). Table 1 below lists the number of convictions for these offenses in FY 2003-04.

Table 1: FY 2003-04 Convictions for Breaking or Entering

Offense Class	Offense	Convictions
Felony H	<i>Felony Breaking or Entering.</i>	2,690
Felony I	<i>Attempted Felony Breaking or Entering.</i>	60
Total		2,750

It is not known how many of these convictions involved breaking or entering a church, chapel, meetinghouse, synagogue, temple, longhouse, mosque, or other building regularly used for religious worship and would thus be enhanced to Class G felonies by this bill.

Class G Felonies: In FY 2003-04, 44 percent of Class G felony convictions resulted in active sentences. If, for example, three Class H felony convictions were elevated to Class G convictions due to this bill, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and one additional prison bed the second year.

Non-Active Sentences: Due to the decrease in non-active sentence rate from felony Class H to Class G, convictions elevated from Class H felonies because of this bill would be expected to result in fewer non-active sentences and, consequently, cost savings to the Division of Community Corrections (DCC). In FY 2003-04, 50 percent of Class H convictions resulted in intermediate sanctions and 13 percent resulted in community sentences. In contrast, felony Class G carried an intermediate sentence rate of 56 percent (the remainder were active). 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.

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.

The following table lists the CY 2004 charges for Breaking or Entering and Attempted Breaking or Entering.

Table 2: CY 2004 Charges for Breaking or Entering

Offense Class	Offense	Charges
Felony H	<i>Felony Breaking or Entering.</i>	9,841
Felony I	<i>Attempted Felony Breaking or Entering.</i>	400
Total		10,241

No data is available with respect to how many of these charges involved breaking or entering a place of worship and would be elevated to Class G felonies due to this bill. For any charge elevated to a Class G felony due to this bill, AOC anticipates that additional court and preparation time would be needed to dispose of the charge, thus increasing superior court workload. AOC estimates the average *increase* in cost to process one charge elevated from a Class H to a Class G felony as shown in Table 3 below.

Table 3: Estimated Average Increase in Per Charge Settlement Costs

Offense Class	Settled via Trial			Settled via Guilty Plea
	<i>Court/Attorney Costs</i>	<i>Indigent Defense</i>	<i>Total</i>	
<i>Class H → Class G</i>	\$996	\$429	\$1,425	\$20

If, for example, five percent (or 492) of the 9,841 Class H felony charges were enhanced to Class G felonies as a result of this bill, AOC estimates that the cost to the Courts to dispose of those charges would be \$67,409 in the first full year. This estimate is based on the settlement costs shown in Table 3, in addition to estimated trial, plea, and indigency rates. While AOC has provided this scenario to illustrate the potential costs to the Courts, the actual cost cannot be determined due to lack of data on the number of Breaking or Entering charges that would be affected by this bill.

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