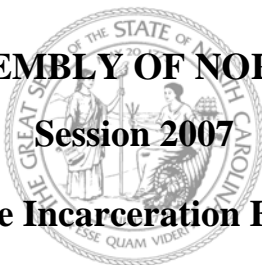


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 517 (Third Edition)
SHORT TITLE: Fleeing Accident Scene/Increase Penalty.
SPONSOR(S): Representative Moore

		FISCAL IMPACT				
		Yes (X)	No ()	No Estimate Available ()		
		<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>
GENERAL FUND						
Correction: Prisons	Assumes minimum prison capital and operating costs if 15% of current # of Class H convictions increased to Class G. See Assumptions and Methodology.					
Recurring*	-	\$ 59,595	\$ 92,075	\$ 94,837	\$ 97,682	
Capital*	\$ 220,450	-	-	-	-	
<i>*Assumes prison bed construction within a stand-alone facility (p. 3-4). Additional prison population (bed) Impact, capital and operating costs cannot be projected beyond the two year window (pp. 2-3).</i>						
Correction: DCC	Amount cannot be determined.					
Judicial	Assumes 15% of prior year charges. See Assumptions and Methodology.					
Recurring	\$13,509	\$23,159	\$23,159	\$23,159	\$23,159	
Nonrecurring	-	-	-	-	-	
TOTAL EXPENDITURES:	Exact amount cannot be determined. Based on 15% scenario, total costs could approach \$233,959 for FY 2008-09; \$82,754 for FY 09-10; and \$115,234 for FY 10-11. Actual costs could vary from this scenario example.					
ADDITIONAL PRISON BEDS: (cumulative)*	-	2	3	3	3	
POSITIONS: (cumulative)						
Correction: Prisons	-	1	1	1	1	
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.						
EFFECTIVE DATE: December 1, 2008.						
<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: G.S. 20-166(a) currently prohibits the driver of a vehicle, who knows or reasonably should know that his or her vehicle has been involved in an accident and that the accident has resulted in injury or death to any person, from willfully leaving the scene before a law enforcement officer so authorizes, or before an investigation is completed. The driver is also prohibited from removing or facilitating/attempting to remove the involved vehicle from the scene, prior to completion of the investigation. A driver is permitted to temporarily leave the scene to secure emergency assistance and/or to promote his personal and others' safety; however, he must return the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by law enforcement. Willful violation of G.S. 20-166(a) is a Class H felony offense.

The second edition of H.B. 517 amends G.S. 20-166(a) to create the enhanced offense of fleeing/failing to remain at the scene of an accident if any person involved suffers death or "serious bodily injury," as defined by G.S. 14-32.4(a). Willful violation is a Class G felony offense (was Class F felony in first edition).

The third edition only changes the effective date. The bill becomes effective December 1, 2008, and applies to offenses committed on or after that date.

ASSUMPTIONS AND METHODOLOGY:

General

Offense data for G.S. 20-166(a) does not distinguish the number of offenses involving "serious bodily injury" (G.S. 14-32.4(a)); therefore, there is no reliable basis upon which to project the number of future charges and/or convictions for the enhanced offense. However, because affected charges and/or convictions would only be enhanced by one offense class (Class H to Class G), Fiscal Research does not assume this legislation will generate a significant fiscal impact.

The assumptions outlined in the following paragraphs identify the *potential* costs of the proposal for the state's justice system. As shown, the total cost of implementation *by FY 2009-10* is an estimated \$233,959 (Fiscal Impact Table, p.1).

Department of Correction – Division of Prisons

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.*¹ Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

While it is not known how many convictions for the enhanced offense might occur, any additional conviction and resultant active sentence will increase the demand for prison beds. This increased demand will be driven largely by a higher active sentencing rate and longer sentence length for Class G felony convictions, relative to Class H. In FY 2006-07, 35% of Class H felony convictions resulted in active sentences, with an average estimated time served of 10 months; *conversely, 41% of Class G felony convictions resulted in active sentences, with an average estimated time served of 16 months.*

Though a projection of future convictions for the enhanced offense is unavailable, prior year conviction data provides some indication of potential impact. In FY 2006-07, there were 98 Class H

¹ The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Accordingly, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

felony convictions for violation G.S. 20-166(a). From this conviction total, the Sentencing and Policy Advisory Commission was asked to estimate potential prison bed needs based on several scenarios (Table 1).² Each scenario assumes that a certain percentage of the 98 Class H felony convictions would become Class G felony convictions under this proposal. These estimates demonstrate only two-year impact, and assume FY 2006-07 sentencing and revocation patterns for Classes G and H felonies. Actual convictions, active sentencing rates, and revocation rates could exceed or fall short of these assumptions.

➤ *An annual inflation rate of 3% is applied to FY 2010/11 prison bed operating costs beyond the initial two-year window. **These construction and operating costs (15% scenario) are depicted in the Fiscal Impact Table (p. 1).** However, it is not known exactly how bed demand and construction/operating costs might be distributed over the five-year note horizon.*

Table 1. Projected Convictions and Prison Bed Impact			
<i>Projected Convictions</i>		<i>Prison Beds Required</i>	
Scenarios	Convictions	FY 09/10	FY 10/11
10%	10	2	2
15%	15	2	3
20%	20	3	5

As shown, if 15% (15) of the 98 Class H felony convictions were to become Class G convictions under this proposal, two additional prison beds would be required by the first applicable year; three additional beds by the second; and one additional position by the second year.³ Assuming inmate assignment to medium custody, the construction of three prison beds within a new, stand alone facility could cost the State \$220,450 in FY 2008/09; bed construction within an add-on facility could cost approximately \$136,469.⁴ These costs are attributed to FY 2008/09 since the construction of additional prison beds, whether within an add-on or stand-alone facility, requires budgeting at least three years in advance. Potential operating costs could total \$59,595 in FY 2009/10, and \$92,075 in FY 2010/11.⁵

Table 2. Estimated Prison Bed Construction and Operation Costs				
<i>Prison Bed Construction Alternatives & Costs</i>			<i>Operating Costs</i>	
Scenarios	Stand Alone: FY 08/09	Add-On: FY 08/09	FY 09/10	FY 10/11
10%	\$146,966	\$90,979	\$59,595	\$61,383
15%	\$220,450	\$136,469	\$59,595	\$92,075
20%	\$367,416	\$227,448	\$89,393	\$153,458

² *Because the proposed offense criteria are new, a more detailed impact projection could not reliably be computed using the Structured Sentencing Simulation Model. Threshold scenarios only represent potential two-year impact.*

³ Position total includes security, program, and administrative personnel at a ratio of approximately one employee for every 2.5 inmates. This ratio is the combined average of the last seven prisons opened by DOC – two of the prisons were medium custody and five were close custody.

⁴ New, “stand alone” institution built for Expanded Operating Capacity (EOC); single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC).

“Add-on” facilities (close and medium custody) are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody “add-on” is built adjacent to an existing perimeter. “Add-on” facilities employ the same EOC custody configurations as “stand alone” (i.e. single cells for close custody, and dorms for medium and minimum custody levels).

⁵ Impact on incarcerated population is assumed for FY 2009/10, given the effective date of December 1, 2008 and typical lag time between charge and conviction (6 months).

Department of Correction – Division of Community Corrections

Per structured sentencing, Classes G and H felony offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). For Class H felons, community sentencing is authorized only for those without a prior record, whereas intermediate punishment is authorized up to prior record level V. In contrast, only intermediate punishment is authorized (prior record levels I-III) for non-active, Class G felony sentences. Accordingly, resultant non-active sentences for the enhanced offense could potentially increase the demand for DCC intermediate sanction resources; however, given the higher rate of active sentencing for Class G felony convictions, no significant impact is assumed.

In FY 2006-07, 58% of Class G felony convictions resulted in intermediate punishments, predominantly intensive supervision and special probation; 63% of Class H felony convictions resulted in non-active, intermediate or community sentences. It is not known how many additional or fewer offenders would be sentenced to intermediate or community punishments under this proposal, nor is it known to which type, or for how long. Thus, the potential fiscal impact for DCC is indeterminate.

Judicial Branch

Though it is not known how many charges might occur for the enhanced offense, the Administrative Office of the Courts expects that any penalty enhancement would be accompanied by more vigorous defense and prosecution, and would thereby increase court-time requirements and the associated costs of case disposal. Specifically, the AOC anticipates that more cases would be prosecuted, resulting in increased jury involvement and workloads for district attorneys, superior court judges, clerks, court reporters, and indigent defense counsel.

Data for calendar year 2007 indicates that approximately 632 defendants were charged under G.S. 20-166(a). Assuming that 15% (approx. 95) of these 632 prior year cases occur annually for the enhanced offense, it is estimated that the difference in court-time, jury, and indigent defense costs for case disposal would be approximately \$23,159 per year. As shown, it is assumed that a higher percentage of Class G felony cases would result in trial (2%) and guilty plea (54%), relative to Class H felony cases – 1% trial and 50% plea. Actual costs may vary from this example, contingent upon court-time and workload requirements, as well as the type of case disposition.

Table 3. Estimated Court-Time & Indigent Defense Costs							
<i>Trial</i>	<i>Court-Time, District Attorney Preparation, and Jury Costs</i>					<i>Indigent Defense Costs</i>	
Offense Class	# Cases	Court-Time*	DA Prep.*	Jury*	Court Costs	# Cases	Defense Cost
Class H felony	1	\$3,288	\$1,658	\$640	\$5,587	1	\$2,345
Class G felony	2	\$4,134	\$2,072	\$920	\$14,252	2	\$5,836
<i>* Estimated costs per case</i>			<i>Difference: \$8,667</i>			<i>Difference: \$3,491</i>	
<i>Plea</i>	<i>Court-Time, District Attorney Preparation, and Jury Costs</i>					<i>Indigent Defense Costs</i>	
Offense Class	# Cases	Court-Time*	DA Prep.*	Jury*	Court Costs	# Cases	Defense Cost
Class H felony	47	\$144	\$104	0	\$11,656	35	\$2,726
Class G felony	51	\$170	\$207	0	\$19,227	38	\$6,156
<i>* Estimated costs per case</i>			<i>Difference: \$7,571</i>			<i>Difference: \$3,430</i>	

➤ *Fiscal research has revised AOC cost estimates to reflect the 15% percent illustration used for prison bed impact, as well as the proposed penalty reduction in the second edition of the bill. As shown in the Fiscal Impact Table (p.1), estimated costs are adjusted for the 7 month effective period in FY 2008/09.*

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

TECHNICAL CONSIDERATIONS: None

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