

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1347 (Second Edition)
SHORT TITLE: False Report/Mass Violence at School.
SPONSOR(S): Representatives Faison, Folwell, and Holloway

	FISCAL IMPACT				
	Yes (X)	No ()		No Estimate Available ()	
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND					
Correction	No significant impact anticipated; exact amount cannot be determined.				
Judicial	No significant impact anticipated; exact amount cannot be determined.				
TOTAL EXPENDITURES:	Amount cannot be determined.				
ADDITIONAL PRISON BEDS: (cumulative)*	Amount cannot be determined.				
POSITIONS: (cumulative)	Amount cannot be determined.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: December 1, 2007.					
*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.					

BILL SUMMARY: Enacts new G.S. 14-277.5, which makes it a Class H felony offense for a person to knowingly, or having reason to know, communicate a *false report* that an act of mass violence is *going to occur* on educational property or at a curricular or extracurricular activity sponsored by a school (as defined by G.S. 14-269.2). Defines “mass violence” as “physical injury that a reasonable person would conclude could lead to permanent injury (including mental or emotional injury) *or* death to two or more people.” Provides that the court may order a person convicted under this act to pay restitution, including costs and consequential damages. Effective for offenses committed on or after December 1, 2007.

Source: Adapted from Bill Digest H.B. 1347 (04/05/0200) – emphasis added by Fiscal Research.

ASSUMPTIONS AND METHODOLOGY:

General

Based on current Courts and Corrections resources, any new charge and/or conviction for the proposed offense will generate some additional fiscal impact. However, because the offense is new, there is no historical data from which to accurately project future charge and conviction rates, and therefore the impact of this proposal. Nonetheless, *the nature of the offense does not suggest this proposal will have a significant fiscal impact* (e.g. FRD does not anticipate a significant number of new charges and convictions resulting). For comparison, there were only five convictions in FY 2005-06 for the similar offense of *making a false report of a destructive device*, under G.S. 14-69.1(c) (also a Class H felony offense).

Department of Correction – Division of Prisons

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.

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. Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

Because this is a new offense, there is no historical data from which to estimate its potential impact on the prison population. In FY 2005/06, 34% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. For illustration, if three Class H convictions occur for the proposed offense annually, *the combination of active sentences and probation revocations would require one additional prison bed in the first applicable year; two additional beds in the second year; and one new employee in the second year.*

Assuming these thresholds and inmate assignment to medium custody, the construction of two additional prison beds within a new, stand alone facility could cost the State \$136,080 in FY 2007-08; conversely, bed construction within an add-on facility could cost approximately \$84,240.¹ These costs are attributed to FY 2007-08 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 \$58,196 by FY 2009-10.²

Department of Correction – Division of Community Corrections

¹ 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).

² Impact on incarcerated population is assumed for FY 2008-09, given the effective date of December 1, 2007 and typical lag time between charge and conviction (6 months).

In FY 2005-06, 66% of Class H felony convictions resulted in either intermediate or community punishments, predominately special, intensive, or general supervision probation. *Thus, assuming that future convictions for the proposed offense occur, the Division of Community Corrections could assume some additional costs for offenders placed under its supervision.* It is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

General supervision of intermediate and community offenders by a probation officer costs \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

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.

There is no historical data from which to estimate the number of charges that might occur for the proposed offense. However, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Presently, the estimated costs per Class H felony trial and plea are \$7,345 and \$325, respectively.

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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