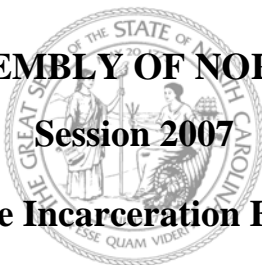


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 789 (Second Edition)

SHORT TITLE: Speeding to Elude Arrest/Aggravating Factors.

SPONSOR(S): Senator Hartsell

FISCAL IMPACT					
	Yes (xx)	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	Some potential impact, but the degree of fiscal impact on Corrections cannot be determined.				
Correction					
Recurring					
Nonrecurring					
Judicial	Some potential impact, but the degree of fiscal impact on Judicial cannot be determined.				
Recurring					
Nonrecurring					
TOTAL					
EXPENDITURES:					
ADDITIONAL PRISON BEDS:					
(cumulative)*					
POSITIONS:					
(cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch.				
EFFECTIVE DATE:	December 1, 2007				
<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:

Senate Bill 789 would amend the offense of "Speeding to elude arrest" by raising the age of a child passenger that may be considered to constitute an aggravating factor for the determination of the appropriate offense level for the charge. SB 789 would raise the age of a child to "under 16 years of age" from the current "under 12 years of age".

Source: Bill Analysis by Research Staff

ASSUMPTIONS AND METHODOLOGY:

General

Under current statute, speeding to elude arrest is punishable as a Class 1 misdemeanor, and it is a Class H felony if speeding to elude arrest results in the death of any person. In addition, the offense is punishable as a Class H felony if two or more aggravating factors are involved, and it is a Class E felony if this aggravated offense results in the death of any person. Senate Bill 789 amends the aggravating factor G.S. 20-141.5 (b) (8) by raising the age threshold to include any child under age 16.

Individuals, who are speeding to elude arrest, while having a child between 12-15 years of age, would have been charged with a misdemeanor but will now be charged with a Class H felony. Defendants would be charged with a Class E felony under the bill if they caused the death of another person.

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. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

There were 43 Class 1 misdemeanor convictions, under G.S. 20-141.5, and it is not known how many additional convictions may result from the proposed expansion. For example, if there were three Class 1 misdemeanors that became Class H felony convictions, then the combination of active sentences and probation revocations would result in the need for one additional bed in year one and two additional prison beds in year two.

The potential offenders, who would have been convicted of a Class H felony for speeding to elude arrest and the death of another person resulted, would be charged with a Class E felony. Last year there were no Class H felonies for speeding to elude arrest that resulted in a death. It is not known how many additional convictions would result from the potential expansion of the current statute.

For example, if there were three Class H felony convictions that became Class E felony convictions, then the combination of active sentences and probation revocations would result in the need for one additional bed in year one and two additional prison beds in year two.

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.*

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, and house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$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 ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

In calendar year 2006, AOC's data shows 1,143 defendants charged with misdemeanor speeding to elude arrest, and no defendants charged with speeding to elude arrest and causing death. It cannot be determined how many of these misdemeanor charges involved having a child between 12 and 15 years of age in a vehicle, in addition to another aggravating factor.

AOC data shows that in 2006 there were 2,222 defendants charged with aggravated speeding to elude arrest, and one charged with aggravated speeding to elude arrest result in death. There is no data to determine the number of new felony charges that would result from this bill.

Presently, the AOC estimates a cost of \$7,345 per trial for a charge of Class H and a cost per plea is an estimated \$325 for the same offense, AOC estimates a cost of \$10,551 per trial for a charge of Class E and a cost per plea is an estimated \$560 for the same offense AOC cost estimates account for indigent defense.

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

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

TECHNICAL CONSIDERATIONS: None

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