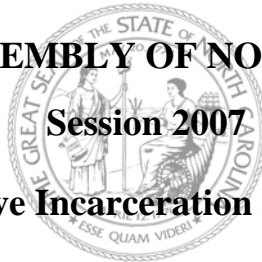


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1314 (Third Edition)

SHORT TITLE: Amend Massage & Bodywork Therapy Act.

SPONSOR(S): Senator Cowell

	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>
REVENUES:					
N.C. Board of Massage & Bodywork Therapy	\$ 493,020	\$ 542,270	\$ 592,968	\$ 645,156	\$ 698,880
Justice	Up to \$38,000 annually. See Assumptions and Methodology, Part II.				
EXPENDITURES:					
Justice	Up to \$45,500 annually. See Assumptions and Methodology, Part II.				
Correction					
Judicial					
Local Govt.	No significant impact anticipated.				
N.C. Board of Massage & Bodywork Therapy	See Assumptions and Methodology, pp. 2-5.				
TOTAL EXPENDITURES:					
ADDITIONAL PRISON BEDS: (cumulative)*	None. Possible, minimal impact on local jail population.				
POSITIONS: (cumulative)	Amount cannot be determined.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Board of Massage and Bodywork Therapy; Department of Justice; Judicial Branch; Department of Correction; and, Local Government.					
EFFECTIVE DATE: October 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: S.B. 1314 makes numerous amendments to the North Carolina Massage and Bodywork Therapy Practice Act, Article 36 of G.S. Chapter 90. Principally, the bill: 1) increases maximum fee amounts and authorizes new fees for licensure, approval, and related activities, which may be imposed by the N.C. Massage and Bodywork Therapy Board (see Assumptions and Methodology, Part I); 2) amends licensure requirements and authorizes licensure by endorsement for individuals licensed by, or lawfully practicing in, other jurisdictions; 3) revises continuing education requirements for license renewal; 4) makes it a Class 3 misdemeanor offense for an un-approved entity to open, operate, or advertise a massage and bodywork therapy school (see Assumptions and Methodology, Part III); 5) authorizes the Board to approve and regulate massage and bodywork therapy schools; and, 6) requires criminal history record checks for all applicants for licensure, to be conducted through the Department of Justice (see Assumptions and Methodology, Part II).

The third edition (Senate committee substitute) corrects terminology in proposed G.S. 90-629(6) and G.S. 90-638(b).

ASSUMPTIONS AND METHODOLOGY:

PART I: APPLICANT LICENSURE & SCHOOL APPROVAL FEES

S.B. 1314 increases maximum fee amounts and authorizes new fees for licensure, school approval, and related activities, which may be imposed by the N.C. Massage and Bodywork Therapy Board. These fee changes and estimated impact on Board receipts are detailed in the following tables.

Table I. Current and Proposed Fee Schedule

APPLICANTS	Current	New	2007-08 #
Application for Exam*	\$ 200	\$ 300	200
Application Packet	\$ -	\$ 25	900
Initial Licenses	\$ 150	\$ 300	800
Renewal (2 Year)	\$ 100	\$ 200	2500
Late Renewal	\$ -	\$ 75	300
License by Endorsement*	\$ 50	\$ 300	200
SCHOOLS			
New School	\$ -	\$ 2,020	1
Renewal	\$ -	\$ 1,000	6

*Apply to applicants who did not attend massage therapy school in NC

Table II. Fiscal Impact Due to Change in Fees

APPLICANTS	2007-08	2008-09	2009-10	2010-11	2011-12
# of New Applicants	800	824	849	874	900
# of License Holders	5,000	5,824	6,673	7,547	8,447
Application for Exam	\$ 20,000	\$ 20,600	\$ 21,218	\$ 21,855	\$ 22,510
Application Packet	\$ 22,500	\$ 23,175	\$ 23,870	\$ 24,586	\$ 25,324
Initial Licenses	\$ 120,000	\$ 123,600	\$ 127,308	\$ 131,127	\$ 135,061
Renewal	\$ 250,000	\$ 291,200	\$ 333,636	\$ 377,345	\$ 422,365
Late Renewal	\$ 22,500	\$ 23,175	\$ 23,870	\$ 24,586	\$ 25,324
License by Endorsement	\$ 50,000	\$ 51,500	\$ 53,045	\$ 54,636	\$ 56,275
SCHOOLS					
New School	\$ 2,020	\$ 2,020	\$ 2,020	\$ 2,020	\$ 2,020
Renewal	\$ 6,000	\$ 7,000	\$ 8,000	\$ 9,000	\$ 10,000
TOTAL	\$ 493,020	\$ 542,270	\$ 592,968	\$ 645,156	\$ 698,880

Growth in applicants is anticipated to follow an average rate of 3% per year. The same growth rate was used in all categories pertaining to the number of applicants. Since the license renewal is on a 2 year basis only half of the number of license holders in a given fiscal year is subject to the renewal fee. It is anticipated that one new school will open each fiscal year which will be subject to new school fee and subsequently increasing the number subject to the renewal fee by one each year as well.

N.C. Massage and Bodywork Therapy Board: Although some expansion of duties and additional personnel workload may result from this legislation, future fee receipts should offset additional costs incurred by the Board.

PART II: CRIMINAL HISTORY RECORD CHECKS

Proposed G.S. 90-638 (and G.S. 114-19.11B) requires that all applicants for licensure submit to state and national criminal history record checks conducted through the State Bureau of Investigation (SBI) of the Department of Justice (DOJ). To initiate the check, the Board must forward the covered person’s fingerprints and consent form to the SBI, and request that person’s criminal record. The applicant must bear the costs of fingerprinting and the background check.

The Department charges the following fees to non-criminal justice agencies for state and national fingerprint checks, which largely offset the costs of conducting the checks:

- N.C. Fingerprint Check: \$14 (\$14 retained by DOJ)
- N.C. & National Fingerprint Check: \$38 (\$16 retained by DOJ, \$22 remitted to the FBI)

According to the Board, the method of fingerprinting, and associated costs, has yet to be determined. Therefore, the overall cost to the applicant is unknown.

Department of Justice: Assuming up to 1,000 state and national fingerprint checks each year, DOJ’s annual receipts could approach \$38,000. However, annual expenditures could range from \$36,540 to \$45,500, contingent upon the type of check performed. Presently, the estimated unit costs for conducting national and criminal record checks via fingerprint card and live-scan are \$23.50 and \$14.54, respectively (costs include overhead and equipment). Each staff member in the fingerprint identification section can perform, on average, 8,000 - 10,000 checks per year. As implied, the costs incurred for criminal record checks are largely offset by fee collections, and existing personnel will absorb the additional workload.

Record Check	Agency Fee	DOJ Total Cost*
Fingerprint Card Check <i>(NC and FBI data)</i>	\$ 38.00	\$ 45.50
Live-Scan Fingerprint Check <i>(NC and FBI data)</i>	\$ 38.00	\$ 36.54
<i>*2005 unit costs are derived from OSBM “Study of the Cost of Providing Criminal Record Checks;” costs include an equipment allowance and 12.5% overhead rate Cost for state and federal record checks includes \$22 remittance per check to the Federal Bureau of Investigation</i>		

N.C. Massage and Bodywork Therapy Board: It is assumed that any additional workload resulting from requisite record checks (e.g. fingerprinting, record-keeping, etc.) will be accommodated by current Board resources.

PART III: CRIMINAL & CIVIL LIABILITY

S.B. 1314 creates a new Class 3 misdemeanor offense for an entity or individual to open, operate, or advertise a massage and bodywork therapy school without having obtained the requisite Board approval. Because this offense is new, there is no historical data from which to project the incidence of future charges and/or convictions. However, given the limited offender pool and applicable penalty level, minimal fiscal impact is anticipated.

Department of Correction: Since Class 3 misdemeanants serve their designated terms of incarceration within local jails, there is no anticipated impact on the state prison population.¹ The potential impact on the local jail population is unknown.

In FY 2005-06, 23% of Class 3 misdemeanor convictions resulted in active sentences, with an average estimated time served of 8.5 days. Per Structured Sentencing, Class 3 active sentences may range from one to twenty days in length. Consequently, the Department of Correction would not incur any additional costs for county reimbursement.

The remaining 77% of Class 3 misdemeanants in FY 2005-06 received non-active, intermediate or community punishments. Thus, if new convictions were to occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision. Included below is a brief overview of DCC sanction costs, per offender:

- 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. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program.
- 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: Though the number of resultant Class 3 misdemeanor charges is indeterminate, 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 3 misdemeanor trial and plea are \$2,770 and \$226, respectively.² Based on the proposed penalty level, *it is assumed that the majority of new Class 3 misdemeanor charges, which are not dismissed, will be settled via guilty plea.*

Furthermore, additional workload could be incurred for resultant civil penalty appeals and petitions for injunctive relief. However, the Board expects few appeals or petitions to result from this legislation.

SOURCES OF DATA: N.C. Board of Massage and Bodywork Therapy; Department of Correction; Judicial Branch.

¹ Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

² Cost estimates account for indigent defense; however, actual costs may vary with time requirements and disposition.

TECHNICAL CONSIDERATIONS: None

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