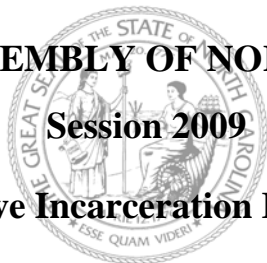


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1256 (Fourth Edition)

SHORT TITLE: Larceny of a Motor Vehicle Part.

SPONSOR(S): Representatives Holloway, Tillis, and Braxton

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available (X)		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES					
GENERAL FUND					
Correction			Indeterminate fiscal impact		
Probation			Indeterminate fiscal impact		
Judicial			Indeterminate fiscal impact, substantial impact anticipated		
ADDITIONAL PRISON BEDS:					
(cumulative)*			Indeterminate prison bed impact		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: December 1, 2009					
<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 enacts new G.S. 14-72.8 to create a new offense, Felony larceny of motor vehicle parts. Under current larceny statutes (G.S. 14-72), larceny of an item valued at \$1,000 or less is a Class 1 misdemeanor. If the item's value is greater than \$1,000, the offense is a Class H felony. Under this bill, unless the Class H felony under G.S. 14-72 or another law providing greater punishment is applicable, larceny of a motor vehicle part is a Class I felony if the cost of repair is \$1,000 or more. Effective date is December 1, 2009.

ASSUMPTIONS AND METHODOLOGY:

General

The North Carolina 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

This bill creates a new offense by adding G.S. 14-72.8, Larceny of motor vehicle parts, to Article 16 to Chapter 14 of the General Statutes. G.S. 14-72.8, would make larceny of a motor part resulting in the cost of repair to the motor vehicle \$1,000 or more a Class I felony, unless the conduct is covered under some other provision of law providing greater punishment.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed section. The following estimate of the impact is provided for violations of the proposed section.

In FY 2007-08, 16% of Class I felony convictions resulted in active sentences, with an average estimated time served of 7 months. If, for example, there were twelve Class I felony convictions for this proposed offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and four additional prison beds the second year.

Persons eligible for conviction under the proposed section may currently be convicted of misdemeanor larceny of goods valued at \$1,000 or less under G.S. 14-72(a) (a Class 1 misdemeanor) or willful and wanton injury to personal property under G.S. 14-160 (a Class 2 misdemeanor if the damage is \$200 or less/a Class 1 misdemeanor if the damage is more than \$200). (See Table 1.) It is unknown how many of the 16,819 misdemeanor larceny or injury to personal property convictions involved a motor vehicle part and resulted in the cost of repair to the motor vehicle at more than \$1,000. Impact would occur if any of the 16,819 misdemeanor larceny or injury to personal property convictions met the elements of the proposed Class I felony.

Table 1: Potential Eligible Pool for Proposed G.S. 14-72.8

G.S Reference	Offense Description	Offense Class	Number of Convictions
G.S. 14-72	Misd. Larceny of Motor Vehicle	Class 1 misdemeanor	28
	Misd. Larceny	Class 1 misdemeanor	14,458
	Aid & Abet Misd. Larceny	Class 1 misdemeanor	77
	Attempt Misd. Larceny	Class 2 misdemeanor	236
G.S. 14-160(a)	Injury to Personal Property (\leq \$200)	Class 2 misdemeanor	2,020 ¹
G.S. 14-160(b)	Injury to Personal Property ($>$ \$200)	Class 1 misdemeanor	
		Misdemeanor Total:	16,819

Source: NC Sentencing and Policy Advisory Commission, FY 2007-08 Felony and Misdemeanor Simulation Data

¹ The AOC offense codes do not provide a monetary distinction for the value of injury to personal property; however, 9% (n=180) of the 2,020 offenders convicted of injury to personal property were ordered to pay restitution of \$1,000 or more at sentencing.

In addition, persons eligible for convictions under the proposed section may currently be convicted of felony larceny of goods valued at more than \$1,000 under G.S. 14-72(a) (a Class H felony). (See Table 2.) It is unknown how many of the 1,444 felony convictions were for larceny of a motor vehicle part resulting in the cost of repair to the motor vehicle at more than \$1,000. There would be no impact if any of the 1,444 felony larceny convictions met the elements of the proposed Class I felony.

Table 2: Potential Eligible Pool for Proposed G.S. 14-72.8			
G.S Reference	Offense Description	Offense Class	Number of Convictions
G.S. 14-72	Felony Larceny of Motor Vehicle	Class H felony	361
	Felony Larceny	Class H felony	993
	Aid & Abet Felony Larceny	Class H felony	11
	Attempt Felony Larceny	Class I felony	79
		Felony Total:	1,444

Source: NC Sentencing and Policy Advisory Commission, FY 2007-08 Felony and Misdemeanor Simulation Data

It is important to note that 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 and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

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, 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.²

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 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 \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 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.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined.*

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.

² 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.

The conduct covered under this bill currently falls under G.S. 14-72 (see offenses listed in table below). By changing the threshold from the value of the item to the repair cost, some offenses that currently qualify as Class 1 misdemeanors due to the value of the item stolen would instead be charged as Class I felonies due to the combined cost of the replacement item and its installation. The overall impact would be to elevate some offenses of larceny by Class 1 misdemeanors to Class I felonies, thus shifting some charges from misdemeanor offenses handled in District Court to felony offenses in Superior Court. In 2008, there were 38,906 defendants charged with relevant Class 1 misdemeanor larceny offenses. AOC cannot identify the number of larceny charges that were specifically related to motor vehicle parts, but the number may be substantial.

Some of the conduct that falls under this bill could also be charged in addition to current G.S. 14-160 injury to personal property (Class 1 or Class 2 misdemeanor) and G.S. 14-56 breaking or entering a motor vehicle (Class I felony). In 2008, there were 15,220 defendants charged with the Class 1 or Class 2 misdemeanor offenses of injury to personal property (damage of \$200 or less is a Class 2 misdemeanor, more than \$200 is a Class 1 misdemeanor). AOC cannot identify the number of those charges that involved motor vehicles.

Also in 2008, there were 4,108 defendants charged with breaking or entering a motor vehicle, a Class I felony. It is likely that some of those defendants were also charged with misdemeanor larceny, and a subset of those could be elevated to felony larceny of motor vehicle parts under this bill. Those defendants charged with Class I felonies under G.S. 14-56 would already be handled in Superior Court rather than District Court, so that the impact of elevating the additional misdemeanor charge to a Class I felony likely would not be substantial.

Offense	Class	2008 Charges
Misd. Larceny of Motor Vehicle	1	201
Misd. Larceny	1	38,249
Aid & Abet Misd. Larceny	1	456
Attempted Misd. Larceny	2	681
Injury to Personal Property	1 / 2	15,220
Breaking or Entering Motor Vehicles	1	4,108

For example, if 100 defendants currently charged with misdemeanor larceny (for theft of a motor vehicle part) were instead charged with felony larceny of a motor vehicle part, there would be 100 cases elevated from Class 1 misdemeanors to Class I felonies. Increased costs for these cases would be as follows:

	FY 2009-10 (eff. Dec. 1)	FY 2010-11
NC AOC	\$38,318	\$40,234
Indigent Defense	\$15,300	\$16,065
Total	\$53,618	\$56,299

For each elevated charge, costs would vary depending on the mode of disposition of the case (trial, plea, etc.) and on indigency (Office of Indigent Defense – OIDS). Increased costs to AOC would range from \$306 (plea disposition) to \$6,334 (trial) per case. Increased costs to OIDS would average \$143 per indigent defendant. Indigent defense costs are based on the average hours billed for indigent defendants in an offense class, regardless of how the case was disposed, at \$75 per hour.

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

TECHNICAL CONSIDERATIONS: None

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