

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 600 (Second Edition)

SHORT TITLE: Crime to Falsify Highway Inspection Reports.-AB

SPONSOR(S): Senator Jenkins

FISCAL IMPACT					
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<b>GENERAL FUND</b>					
<b>Correction</b>					
<b>Judicial</b>					
<b>ADDITIONAL PRISON BEDS*</b>					
<b>POSITIONS: (cumulative)</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch					
<b>EFFECTIVE DATE:</b> December 1, 2005					
<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:** Current G.S. 136-13.2 provides that it is a Class H felony 1) for any employee or agent employed by the Department of Transportation (DOT) or by an engineering or consulting firm engaged by DOT to falsify any inspection report or test report required by DOT in connection with the construction of highways and, 2) for any employee, supervisor, or officer of DOT to direct a subordinate to falsify an inspection report or test report required by DOT in connection with the construction of highways. This bill would amend G.S. 136-13.2 to make these offenses applicable to any person who falsifies or directs another to falsify an inspection or test report required by DOT in relation to the construction of highways.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

Because this bill would make existing Class H felonies applicable to more individuals, additional charges and convictions would be expected to result from this legislation. However, the Administrative Office of the Courts (AOC) currently does not maintain a specific offense code for violations of G.S. 136-13.2, some indication that these offenses are infrequently charged and rarely result in convictions. As such, few additional charges and convictions are anticipated to result from this bill, and the associated fiscal impact is not expected to be substantial.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

### **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Due to the lack of an offense code for current violations of G.S. 136-13.2 (some indication that convictions are presently infrequent), the Sentencing Commission has no historical data from which to estimate the number of additional convictions that might result from applying these offenses to new individuals.

*Active Sentences:* In FY 2003-04, 37 percent of Class H felony convictions resulted in active sentences. If, for example, there were three additional Class H convictions per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

*Non-Active Sentences:* In FY 2003-04, 50 percent of Class H felony convictions resulted in intermediate sentences and 13 percent resulted in community sentences. Probation officers in the Division of Community Correction (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction. The estimated cost for a supervised community offender is \$1.87 per day.

### **Judicial Branch**

For most criminal penalty bills, the Administrative Office of the Courts (AOC) 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.

Data regarding the number of charges under G.S. 136-13.2 for falsifying or directing another to falsify a highway inspection or test report is unavailable because AOC does not maintain a specific offense code for this violation. As a result, we cannot estimate the number of additional charges that the Court system would handle due to this bill. Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class H felony via trial is \$6,196. This cost includes an estimated \$4,096 in jury fees, costs of time in court, and attorney costs and an additional \$2,100 in indigent defense. However, based on prior-year data, the majority of any new Class H felony charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$359 per plea.

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

**TECHNICAL CONSIDERATIONS:** None

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**Signed Copy Located in the NCGA Principal Clerk's Offices**