

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1096

SHORT TITLE: Carjacking

SPONSOR(S): Representative Cole

FISCAL IMPACT: Expenditures: Increase (X) Decrease ()
Revenues: Increase () Decrease ()
No Impact ()
No Estimate Available ()

FUND AFFECTED: General Fund (X) Highway Fund () Local Fund ()
Other Fund ()

BILL SUMMARY: Adds new G.S. 14-87.2 to make forcefully taking or attempting to take a vehicle occupied by a driver or another person without the driver's or occupant's consent a Class D felony. Requires the Div'n of Motor Vehicles to immediately suspend the drivers license of a person arrested for carjacking; suspension to remain effective until disposition of charge by dismissal, acquittal, or conviction. Conviction to result in revocation of license for at least eight years and a mandatory minimum five-year prison term.

AMENDMENT: Upon request of Representative Cole, the following note is prepared according to a planned amendment that would mandate a minimum seven-year prison term.

EFFECTIVE DATE: October 1, 1993

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department;
Department of Correction

JUDICIAL DEPARTMENT

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	0	0	0	0	0
NON-RECURRING					
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

POSITIONS: No new positions

ASSUMPTIONS AND METHODOLOGY: Based on the following analysis conducted by the Administrative Office of the Courts (AOC), this

bill is not expected to have a substantial impact on the Judicial branch. No new filings are anticipated as a result of this bill. Rather, carjacking charges will take the place of other charges district attorneys are currently bringing against defendants engaging in acts that are covered by this bill. No additional trials are expected since the numbers of cases prosecuted are small and the penalties specified in the proposed legislation (as it will be amended) are the same as for armed robbery, under which most current carjackings are being charged.

The above mentioned analysis as provided by the AOC is as follows:

"The State Bureau of Investigation does not currently collect data on carjacking, although plans are in process to do so in the future. Therefore, district attorney's offices in 14 districts (representing 44 counties of varying sizes statewide) were surveyed concerning the current incidence of carjackings, as well as the impact of the proposed legislation. District attorney representatives from these districts reported only 37 carjackings last year. Since these 44 counties represented 44% of the population, we extrapolated statewide to estimate that there were approximately 84 carjacking prosecutions last year (37/.44). District attorneys who actually have prosecuted carjackings (in 7 of the 14 districts contacted) estimated that weapons were involved approximately 92% of the time.

"District attorneys reported that when a carjacker is arrested, they may prosecute on one or more of any of the following charges, depending on the circumstances of the crime; armed robbery (if a weapon is used), common law robbery (if a threat is used), kidnapping, felonious restraint, attempted common law robbery or attempted robbery with a dangerous weapon, felonious larceny or larceny from person (if no threat or force was used), larceny of motor vehicle, breaking or entering a motor vehicle, possession of stolen goods, and/or various assaults.

"Since district attorneys estimated that a weapon was involved 92% of the time, we estimate that armed robbery would be charged, in addition to other charges, in 77 of the 84 cases. Since armed robbery is also a Class D felony with a mandatory minimum of seven years, there should be no impact in terms of increased trials for these 77 cases, since the defendant's minimum prison exposure would be the same.

"For situations in which no weapon was involved, about half of the district attorneys estimated that the defendants would request a jury trial slightly more often than they would under the current possible charges, since the seven-year mandatory minimum for carjacking is a longer sentence than they would likely have received before. The four district attorneys giving an estimate said that an average of 7% of such carjacking defendants would request a trial. At the current rates of this offense, 7% of the estimated seven cases where no weapons were involved would yield less than one additional trial per year.

"It is possible that incidents of carjacking will increase in the future. At least two police departments contacted said that the problem was growing, in part due to the media publicity, and in part because many were drug related. We have no way to estimate these future numbers, but given the analyses above, even with increasing numbers, the additional impact on the court system will probably not be substantial."

DEPARTMENT OF CORRECTION

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	\$39,828	\$67,156	\$316,199	\$491,779	\$594,008
RECURRING	16,041	43,369	173,477	325,270	451,286
NON-RECURRING	23,787	23,787	142,722	166,509	142,722
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

*** Expenditures would not be realized unless the current prison cap is removed. Under the existing prison cap, no additional expenditures would result within the Department of Correction.**

**** Recurring expenditures do not include salary or inflationary increases.**

[NOTE: The projected expenditures are shown each year as expansion needs beyond the current operating budget of the Department of Correction (DOC). As required, this note projects fiscal impact for the next five years. However, the full impact of this bill would not be realized until FY 2002-2003.]

POSITIONS: 4 new positions

ASSUMPTIONS AND METHODOLOGY: Based on the analysis performed by the AOC, it not anticipated that the majority of the carjacking filings would impact upon the Department of Correction (DOC). As already stated, said offenses that involve a weapon are currently being prosecuted as armed robberies. Armed robberies are also Class D felonies that carry a seven year mandatory sentence. The offenses that would be expected to impact upon the DOC are the small number of projected convictions that do not involve a weapon. It has been noted by a representative of the AOC that currently, these offenses are most likely to result in common law robbery convictions. Common law robbery is a Class H felony punishable by up to 10 years. The average time served for these offenders is approximately 2.1 years under current law. The above cost estimates are calculated as a result of the proposed legislation that would require this small group of offenders to receive a mandatory 7 year sentence.

Added Inmate Population: The number of additional beds that would be required by the DOC was estimated by a representative of the N.C. Sentencing and Policy Advisory Commission using the Commission's

correctional population simulation model. (See Appendix IV of the Commission's "1993 Report to the General Assembly" for further explanation.) The projected increases in prison population are based on the following assumptions:

- 1) There would be no changes in charging practices or in plea negotiation practices resulting from this bill.
- 2) This bill would only result in increased sentence lengths for 8% of the projected number of carjackings (i.e., only those projected carjacking offenses that do not involve a weapon).
- 3) The growth rate for these crimes will match the growth rate used in the Commission's correctional population simulation model.

Based on the above assumptions, the Commission calculated the total number of DOC beds projected under current sentencing laws and practices and then projected the expected DOC population under the proposed mandatory sentencing laws prescribed in this bill. The following table illustrates the projected increases in prison populations for the next five years.

Fiscal Year	Added Inmate Population
1993/94	1
1994/95	2
1995/96	8
1996/97	15
1997/98	21

Additional Costs: Additional costs are realized only if it is assumed that the current prison cap is removed.

Recurring Expenditures - Recurring or operating costs have been estimated according to the expected classification (i.e., minimum, medium, or close custody) of the G.S. 90-95 offenders who would be sentenced to a mandatory seven years of imprisonment under this bill. Based on a telephone interview with Nevelle Jones, Chief of Classifications for the Division of Prisons, it is assumed that all of the relevant offenders would be initially placed in medium security confinement and would remain there until they were eligible for promotion to minimum security confinement. A majority of Class D felons serving a seven year mandatory sentence are not likely to be promoted to minimum security until after serving 4 years. Hence, for the purpose of calculating the above five year impact, operating costs are based on four initial years of medium security confinement followed by one year of minimum security confinement.

Operating costs are calculated as follows:

- For FY 93-94, 1 additional inmate x \$59.41 (operating cost per medium security bed per day) x 9 months (relevant period from this bill's 10/1/93 effective date) or 270 days = \$16,041

- For the remaining FYs, 94-95 through 97-98, # of additional inmates x \$59.41 **or** \$44.53 (operating cost per minimum security bed per day) x 1 year or 365 days

Non-Recurring Expenditures - Non-recurring or capital costs would be estimated to total \$499,527 over the five year period. As noted from the table on the preceding page, only 1 new bed would be required in FY 93-94 but 21 new beds would be required by FY 97-98. Costs to construct these beds are calculated according to the average cost per medium security bed (averages are based on costs for both beds constructed in a new facility and in an expanded facility) taken from page VI of the DOC Master Plan. For FY 93-94, 1 new medium security bed x \$23,787 (average cost per bed) yields an expenditure of \$23,787. Costs for the remaining years are calculated based on the number of beds required minus the number of new beds already constructed in the preceding year(s). [Note that only medium confinement costs are used for simplification purposes since there is only one inmate from FY 93-94 who would be likely to be promoted to minimum security and only after serving in medium custody for the first 3 month of FY 97-98.]

As noted above, the full impact of this bill will not be realized until FY 2002-2003. At that time the Sentencing and Policy Advisory Commission estimates that a total of 39 beds will be necessary as a result of this bill.

Additional Positions: Based on the 1992 recommendation of the Government Performance Audit Committee (GPAC), approximately 4 new positions would be required if the prison cap was removed and 21 additional beds were built. Page 8.15 of the Public Safety Section of the GPAC report entitled "Our State Our Future" recommends a staffing ratio of 1 to 5. The above noted operating costs could be lower if this ratio were in effect. (Note that the above GPAC recommendation/ratio has been used to calculate the number of additional positions because the Division of Prisons is unable to provide relevant information to otherwise calculate said positions.)

Additional Considerations: It was noted within the analysis for the Judicial Department that the number of projected carjackings are estimated to increase by some law enforcement officials. If said offenses do increase by 10% a year, the number of new beds that would be required in FY 2002-2003 (when the full impact of the proposed legislation is attained) is 58. [Note that 10% is an arbitrarily selected growth rate that is only slightly higher than normal growth projected by the Sentencing Commission in its simulation model for FY 93-94. However, 10% represents a more significant growth rate than than estimated by the Sentencing Commission in the remaining years prior to FY 2002-2003.]

SOURCES OF DATA: Administrative Office of the Courts - District Attorneys, Law Enforcement Agencies; State Bureau of Investigation; N.C. Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None.

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