

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 176

**SHORT TITLE:** Up Penalty for Misdemeanor Assault

**SPONSOR(S):** Representative Barnes

**FISCAL IMPACT:**

Expenditures:	Increase (X)	Decrease (
)		)
Revenues:	Increase ( )	Decrease (
)		)

**FUNDS AFFECTED:**      **General Fund (X)**      **Highway Fund ( )**  
                                  **Other Fund (X)** Indigent Persons Attorney Fee  
 Fund

**BILL SUMMARY:** "TO CREATE A NEW OFFENSE CLASS AND PUNISHMENT ROW FOR MISDEMEANOR ASSAULTS." Amends G.S. 15A-1340.23 (Structured Sentencing provisions regarding misdemeanors) to add Class 0, with punishment ranges as follows: Level 1, 1-60 days C/I/A; Level II, 1-75 days C/I/A; and Level III, 1-150 days C/I/A. Fine also authorized in discretion of court. Amends G.S. 14-33 to reclassify following assaults as Class 0 (now, Class 1): any assault, battery, or affray where offender inflicts serious injury or uses deadly weapon; assaults female (where offender is male 18 or older); assaults child under 12; or assaults officer or employee of state or its subdivisions when discharging official duties. Amends G.S. 14-34 to reclassify assault by pointing gun as Class 0 (now, Class 1). Amends G.S. 15A-1332(c) to authorize persistence commitment for study on charge or conviction of Class 0 misdemeanor. Amends G.S. 15A-1340.14(b), regarding prior conviction points for felony sentencing, to assign one point to Class 0 misdemeanor. Amends G.S. 15A-1343.1 to add Class 0 misdemeanor as one of the charges qualifying a youthful offender for sentencing to IMPACT (boot camp) program.

**EFFECTIVE DATE:** December 1, 1995; applies to offenses committed on or after that date.

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

**FISCAL IMPACT:** JUDICIAL BRANCH

	Indigent Defense	Other State Funds	Total
FY 95-96	\$10,591	\$50,847	\$ 61,438
FY 96-97	\$18,291	\$90,203	\$108,494
FY 97-98	\$19,571	\$92,909	\$112,480
FY 98-99	\$20,941	\$95,696	\$116,637

FY 99-00

\$22,407

\$98,567

\$120,974

**ASSUMPTIONS AND METHODOLOGY: JUDICIAL BRANCH**

The proposed legislation raises some serious misdemeanor assaults from Class 1 misdemeanors to a new Class 0 offense class, while dropping simple assaults to Class 2 misdemeanors. The Administrative Office of the Courts believes that the defendants most likely to be concerned about their elevation to Class 0 misdemeanants would be those who had not been eligible for active sentences before. The Administrative Office of the Courts assumes that these defendants would have more motivation than in the past to contest their charges.

The Administrative Office of the Courts estimates that these defendants who would receive new active terms would be subsets of a group of 2,538 defendants in FY 95-96 and 4,414 defendants in FY 96-97 who would have their cases disposed. Of these defendants, if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), the Administrative Office of the Courts would expect 157 extra trials in district court in FY 95-96 and 274 extra trials in FY 96-97 as a result of the new Class 0 punishment enhancement for defendants in these categories.

Each trial would last approximately one hour, at an estimated cost of \$123 each. In FY 95-96, the additional district court trial costs would be \$19,311 and indigent defense costs would be \$2,574. In FY 96-97, trial costs would be \$34,713 and indigent defense costs would be \$4,808. These estimates would understate the actual impact if defendants who already face active time under current law decide to contest their cases when faced with longer sentences.

**APPEALS:** Using Sentencing Commission figures, the Administrative Office of the Courts estimates that 2.4% of the sentenced defendants would appeal to superior court. Based on this information, there would be 32 additional appeals to superior court in FY 95-96 and 55 additional appeals in FY 96-97.

The Administrative Office of the Courts estimates that 3/4 of those who appeal will go to trial and that each of these trials would last 1 day, at a cost of \$1,314 per trial, excluding indigent defense costs. In superior court, the Administrative Office of the Courts estimates that 70% of these defendants would be found indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In FY 95-96, superior court trial costs (excluding public defender costs) would be \$31,536 and defense costs (assigned counsel and public defender) would be \$8,017. In FY 96-97, trial costs would be \$55,490 and defense costs would be \$13,483.

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

Two alternative are provided for the possible fiscal impact on the Department of Correction. Alternative 1 assumes that the current beds available could be utilized to fulfill the requirements of the proposed legislation. Alternative 2 assumes that all of the beds required by the proposed legislation would have to be supplied by the construction and operation of new facilities or the utilization of private provider beds.

**ALTERNATIVE 1: FISCAL IMPACT: DEPARTMENT OF CORRECTION  
NO FISCAL IMPACT**

**ALTERNATIVE 1** - assumes that the current beds available could be utilized to fulfill the requirements of this proposed bill.

With present beds, beds that have been funded but not completed, and beds retained by renovating the existing Polk Youth Center, enough beds are projected to be available at 130% capacity of 50 square feet per inmate until June 30, 2000, for inmates incarcerated under the Structured Sentencing Act which became effective October 1, 1994.

The following chart shows, for the end of each fiscal year, the above-noted projected beds to be available, the number of inmates projected under Structured Sentencing effective October 1, 1994, the surplus beds, and the additional beds needed as a result of this bill:

	June 30 <u>1996</u>	June 30 <u>1997</u>	June 30 <u>1998</u>	June 30 <u>1999</u>	June <u>2000</u>
No. of Inmates Under Structured Sentencing Effective 10/1/94	25,822 27,694	25,936	26,143	26,738	
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate*	29,854 31,870	31,870	31,870	31,870	
No. of Beds Over/(Under)		4,032 4,176	5,934	5,727	5,132
No. of Inmates Due to Structured Sentencing					
<b>No. of Projected Additional Inmates</b>	317	436	446	462	493

**Due to this Bill**

**No. of Additional Beds**                    0                    0                    0                    0                    0  
**Needed Due to this Bill**

\* The projected prison bed capacity also includes 656 beds likely to be funded by the 1995 General Assembly that will be added due to double-bunking in selected single cells, and 827 beds gained through the most recent modification of Small v. Martin.

Alternative 1: It is not anticipated that the proposed legislation would have a significant fiscal impact on the Department of Correction. Based on the North Carolina Sentencing and Policy Advisory Commission projections of prison population, including the impact of the proposed legislation, and the Department of Correction estimated prison bed capacity, the Fiscal Research Division believes that the proposed legislation would not have any fiscal impact on the Department of Correction at this time.

**Other Assumptions:**

This fiscal note does not account for the Repeal Prison Cap legislation and its related potential use of many of the currently available prison beds. The effect of repealing the cap is not considered since no decision has been made by the General Assembly as to the effective date of the legislation. It is necessary to have an effective date prior to incorporating the related bed utilization into the fiscal analysis of 1995 Session proposed legislation.

These projections do not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget at a cost of \$86,000,000 in 1995-96 and \$14,000,000 in 1996-97. The estimated annualized operating costs for these beds is \$50,000,000.

**ALTERNATIVE 2** - assumes that all of the beds required by the proposed legislation would have to be provided through the construction and operation of new facilities.

**ALTERNATIVE 2: FISCAL IMPACT: DEPARTMENT OF CORRECTION**

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$6,301,294	\$3,280,354	\$ 9,581,648

FY 96/97	\$8,526,356	\$ 292,200	\$ 8,818,556
FY 97/98	\$8,741,071	\$ 492,688	\$ 9,233,759
FY 98/99	\$9,075,144	\$1,017,761	\$10,092,905
FY 99/00	\$9,706,894	\$ 661,219	\$10,368,113

Fiscal Year	Total Beds	Annual Bed Increase
FY 95-96	317	317
FY 96-97	436	119
FY 97-98	446	10
FY 98-99	462	16
FY 99-00	493	31

ALTERNATIVE 2 - COST ANALYSIS

It is assumed that minimum security beds could be utilized to house these inmates. The time required to site and design and construct a minimum security facility is 21 months. The state would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, the beds required in FY 95/96 are costed out at the private provider rate of \$54.46 per inmate/per day. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95-96 would remain in private facilities throughout the time-period covered by this fiscal note.

**FY 95/96:** 317 Inmates would be housed by private providers at a cost of \$54.46 per day/inmate.

Minimum Security:

\$45 per day/inmate  
 \$ 3.56 administrative cost  
 \$ 4.84 extraordinary medical  
 \$ .88 day/clothing  
 \$ .18 SIPs for employees/office supplies  
**\$54.46 Total per day**

\$6,301,294	Per Diem Rate(*): FY 95/96: \$54.46 X 317 X 365 =
\$6,301,294	FY 96/97: \$54.46 X 317 X 365 =
\$6,301,294	FY 97/98: \$54.46 X 317 X 365 =
\$6,301,294	FY 98/99: \$54.46 X 317 X 365 =
\$6,301,294	FY 99/00: \$54.46 X 317 X 365 =

(\* ) - No inflationary cost is included in these costs.

**FY 96/97:** 119 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 95/96:	\$27,566	X	119	=	\$3,280,354
Operating:	FY 96/97:	\$18,698	X	119	=	\$2,225,062
	FY 97/98:	\$18,913	X	119	=	\$2,250,647
	FY 98/99:	\$19,130	X	119	=	\$2,276,470
	FY 99/00:	\$19,350	X	119	=	\$2,302,650

**FY 97/98:** 10 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 96/97:	\$29,220 X 10 = \$	292,200
Operating:	FY 97/98:	\$18,913 X 10 = \$	189,130
	FY 98/99:	\$19,130 X 10 = \$	191,300
	FY 99/00:	\$19,350 X 10 = \$	193,500

**FY 98/99:** 16 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 97/98:	\$30,973 X 16 = \$	492,688
Operating:	FY 98/99:	\$19,130 X 16 = \$	306,080
	FY 99/00:	\$19,350 X 16 = \$	309,600

**FY 99/00:** 31 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 98/99:	\$32,831 X 31 = \$	1,017,761
Operation:	FY 99/00:	\$19,350 X 31 = \$	599,850

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION (733-4910)**

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**DATE:** May 4, 1995

**[FRD#003]**



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