

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: —HB 244—2nd Edition

SHORT TITLE: Arson Offenses-Sent. Commission-AB

SPONSOR(S): Representative Haire

	FISCAL IMPACT				
	Yes (<u>X</u> -)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction					
Recurring	=	<u>\$155,705</u>	<u>\$971,452</u>	<u>\$1,407,690</u>	<u>\$1,465,183</u>
Nonrecurring					
Judicial					
Recurring¹	<u>\$9,881</u>	<u>\$16,937</u>	<u>\$17,445</u>	<u>\$17,968</u>	<u>\$18,508</u>
TOTAL EXPENDITURES:	<u>\$9,8810</u>	<u>\$172,6420</u>	<u>\$988,897</u>	<u>\$1,425,6580</u>	<u>\$1,483,6910</u>
ADDITIONAL PRISON BEDS (Cumulative)*	=	<u>9</u>	<u>40</u>	<u>57</u>	<u>55</u>
POSITIONS:					
(cumulativeCumulative)	=	<u>4</u>	<u>16</u>	<u>23</u>	<u>22</u>
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction (<u>DOC</u>); Judicial Branch					
EFFECTIVE DATE: <u>December 1, 2003</u>					
<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:

¹ Assumes that a similar number of defendants will be charged with second-degree arson as in previous years.

HB 244 amends G.S. 14-58 to elevate the punishment for second-degree arson (where the dwelling burned was unoccupied at the time of the burning) to a Class E felony. Under current law, second-degree arson is punishable as a Class G felony. The bill also amends G.S. 90-21.20(b) to require physicians and hospitals- to report every case of burns covering approximately 10 percent or more of the patient's body if it appears to the physician or surgeon treating the case that a criminal act was involved.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides the Fiscal Research Division (FRD) 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.

For calendar year 2002, 102 defendants were charged with second-degree arson under G.S. 14-58. Based on disposition activity for G.S. 14-58 during FY 2001-2002, the AOC estimates a modest increase in the number of trials under this bill. AOC anticipates that the bill will create one additional trial for violations of G.S. 14-58. Furthermore, if the 102 defendants were charged with Class E felonies instead of Class G felonies, there would be an overall increase in court costs of \$10,124. *It is anticipated that overall court costs, based on in-court time, attorney preparation, and indigent defense, will increase by \$9,881 in 2003-2004, \$16,937 in 2004-2005, and by an additional three percent a year in 2005-2006 and subsequent years, if a similar number of defendants are charged with second degree arson each year.*

Department of Correction

The chart below compares the projected inmate population to prison bed capacity and shows whether there is adequate bed capacity for any population increases caused by a specific bill. 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.* That means the number of beds needed (Row 5) is always equal to the projected additional inmates due to a bill (Row 4).

Rows 4 and 5 in the chart show the impact of this specific Bill. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation will add ~~_____~~**55** inmates to the prison system by the end of FY 2007-08.

	June 30 2004	June 30 2005	June 30 2006	June 30 2007	June 30 2008
1. Projected No. Of Inmates Under Current Structured Sentencing Act ²	35,851	36,787	37,739	38,687	39,557
2. Projected No. of Prison Beds (DOC Expanded Capacity) ³	34,561	34,729	34,729	34,729	34,729
3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	-1,290	-2,058	-3,010	-3,958	-4,828
4. No. of Projected Additional Inmates <u>Due to this Bill⁴ (Cumulative)</u>	<u>0</u>	<u>9</u>	<u>40</u>	<u>57</u>	<u>55</u>
5. No. of Additional Beds Needed Each Fiscal Year <u>Due to this Bill³ (Cumulative)</u>	<u>0</u>	<u>9</u>	<u>40</u>	<u>57</u>	<u>55</u>

² The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

³ Projected number of prison beds is based on beds completed or funded and under construction as of 12/14/02. The number of beds assumes the Department of Correction will operate at an Expanded Operating Capacity (EOC), which is the number of beds above 100% or Standard Operating Capacity. The EOC is authorized by previous court consent decrees or departmental policy. **These bed capacity figures do not include the potential loss in bed capacity due to any proposals in the 2003 Session to eliminate prison beds or close prisons. Figures include three new prisons due to open in 2003-04.**

⁴ Criminal Penalty bills effective December 1, 2003 will only affect inmate population for one month of FY 2003-04, June 2004, due to the lag time between when an offense is committed and an offender is sentenced.

POSITIONS: It is anticipated that approximately ~~22~~ positions would be needed to supervise the additional inmates housed under this bill by 2007-08. These position totals include security, program, and administrative personnel at a ratio of one employee for every 2.5 inmates. This ratio is the combined average of the last three prisons opened by DOC and the three new prisons under construction.

FISCAL IMPACT BEYOND FIVE YEARS: Fiscal ~~Notes~~ notes look at the impact of a bill through ~~the year~~ FY 2008. - However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Inmates Due to This Bill (Cumulative)	<u>56</u>	<u>57</u>	<u>58</u>	<u>58</u>
Available Beds (over/under)	-5,616	-6,339	-7,039	-7,684
New Beds Needed (Cumulative)	<u>-5,672</u>	<u>-6,396</u>	<u>-7,097</u>	<u>-7,742</u>

DISTRIBUTION OF BEDS: After analyzing the proposed legislation, the Department of Correction estimates the following distribution of beds as needed under this bill:

~~16% Close Custody~~
~~66% Medium Custody~~
~~19% Minimum Custody~~

CONSTRUCTION: Construction costs for new prison beds, as listed in the following chart, are based on estimated 2002-03 costs for each custody level as provided by the Office of State Construction and an assumed inflation rate of 5% per year.

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Construction Cost Per Bed -2002-03	\$38,595	\$73,494	\$85,444

Construction costs, where applicable, are shown as non-recurring costs in the Fiscal Impact Table on Page 1 of this note. These costs assume that funds to construct prison beds should be budgeted in advance. Based on previous prison construction projects we are assuming it will typically require three years for planning, design and construction of new beds.

OPERATING: Operating costs are based on actual 2001-02 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate will be added each year to the base costs for FY 2002 shown below and included in the recurring costs estimated in the Fiscal Impact Table on Page 1.

Daily Inmate Operating Cost 2001-02

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (2001-02)	\$50.04	\$65.17	\$80.19	\$62.43

Only operating costs of new prison beds, not construction costs, will be included in the fiscal estimate under the following circumstances: (1) when a bill increases the inmate population in the first two years of the fiscal note horizon, FY 2004 and 2005, this is based on the assumption assumes that Correction cannot build prisons quickly enough to house additional offenders before 2005-06 and, (2) if the number of beds is anticipated to be less than 400 beds total since it is not practical to assume DOC would construct a general population prison with fewer than 400 beds.

In practice under these circumstances, DOC will have to take all or one of several actions: purchase additional beds out of state or in county jails; pay counties to increase jail backlog; or, establish temporary beds in the State system. For these circumstances, FRD will use the DOC statewide average operating cost, plus 3% annually, to calculate the prison bed cost.

While total expenditures as a result of HB 244 are relatively moderate in the first few years, they begin to increase steadily starting in 2005-2006. In 2005-2006, the state will need \$971,452 for prison operating costs. In 2006-2007 and subsequent years, the state will need approximately \$1.4 million per year for prison operating costs resulting from this bill.

By 2007-2008, the state will have spent \$4,080,770, cumulative, on prison and AOC operating costs as a result of this bill.

Operating costs were calculated by using the daily operating costs adjusted for inflation for each custody level, multiplied by 365 days, and then multiplied by the number of beds projected for each custody level. For example, to calculate Department of Correction operating costs for FY 2004-2005, the daily cost per close custody inmate (\$80.19 + inflation) was multiplied by 365 days and then was multiplied by the number of additional close custody beds needed (9). Similar methodology was used to calculate costs for additional medium (8) and minimum custody (-5) beds. DOC operating costs were calculated for each custody level and then were summed for the total DOC operating cost for 2004-2005 as a result of this bill. Out years were calculated in the same manner. Operating costs for prisons were then added to operating costs for the judicial branch (projected by AOC) to equal total expenditures for FY 2004-2005.

Bed projections were provided by the NC Sentencing and Policy Advisory Commission's FY 2001-2002 Felony Simulation Data. Using the felony simulation data model, offenders convicted of second degree arson in Glass G were moved to Class E and re-sentenced to the midpoint of the presumptive range, maintaining their prior record level. The Sentencing Commission assumptions for the number of active sentences and number of probation revocations assume the same percentages as found in 2001-2002. It assumes no change in judicial or prosecutorial behavior regarding convictions for this offense. Furthermore, their projections assume no deterrent or incapacitative effects.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

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SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and, Office of State Construction.

TECHNICAL CONSIDERATIONS: ~~None~~

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DATE: April 101, 2003



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