

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

BILL NUMBER: House Bill 1536 (First Edition)
SHORT TITLE: Manufacture Meth/Endanger Children.
SPONSOR(S): Representatives Kiser and Haire

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
GENERAL FUND					
Correction	Amount cannot be determined – See Assumptions & Methodology				
There are no available prison beds in this time frame. This note assumes the use of contractual prison beds (\$57.92 per bed per day). In the long term, due to the limited availability of contractual beds, the State will need to construct new cells at \$69,500 per bed. Construction would have to begin in FY 2004-05 for beds to be available in FY 2007-08.					
Judicial	Amount cannot be determined – See "Assumptions & Methodology"				
ADDITIONAL PRISON BEDS*	Amount cannot be determined – See "Assumptions & Methodology"				
POSITIONS: (cumulative)	Amount cannot be determined – See "Assumptions & Methodology"				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 2004					
<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:

The bill would create an aggravated factor for the presence, exposure, or endangerment of a child as a result of methamphetamine manufacture. See "Technical Considerations" for impact in conjunction with other bills.

ASSUMPTIONS AND METHODOLOGY:

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

When legislation proposes to make changes to an existing offense, the Sentencing Commission and Administrative Office of the Courts (AOC) typically project court and prison impact based on the historic number of charges and convictions for the offense and the difference in average length of sentence, active sentence rate, and trial versus plea rate for the new offense compared to the old offense. However, this method is not necessarily appropriate for this particular legislation. First, we cannot identify the exact historic number of charges because methamphetamine manufacture cannot be separated out from the data on other non-cocaine Schedule II controlled substances. Second, there has been a rapid increase in the number of meth labs found each year – 98 labs in 2002, 177 labs in 2003, 350 to 375 labs projected for 2004, and 500 labs projected for 2005. Therefore, using the number of charges and convictions in 2002 may significantly underestimate the number of charges and convictions that will occur in 2005.

Rather than rely solely on historic court data, we have identified a range of possibilities. This range assumes that the number of charges and convictions will increase at the same rate as the number of meth labs found in the state. If, for example, 25 percent of the Schedule II manufacturing charges are for meth and there are 367 labs found in 2005, we would estimate 220 charges and 26 convictions. If 100 percent of Schedule II manufacturing charges are for meth and there are 500 labs found in 2005, we would estimate 1,200 charges and 132 convictions. The number of convictions does not take into account any convictions for a methamphetamine-related offense other than manufacturing due to plea bargains or other charges.

The State Bureau of Investigation estimates that children are present or reside in the home in 25 percent of methamphetamine labs it investigates. Therefore, we assume for the purposes of this fiscal note that the aggravating factor would be applied to 25 percent of the charges and convictions for methamphetamine manufacture.

Department of Correction

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 is always equal to the projected additional inmates due to a bill.

Based on the assumptions and estimates above, between 7 and 33 convictions could have this aggravating factor applied. In FY 2002-03, 35 percent of offenders convicted of Schedule II manufacturing served active sentences. For those offenders given an active sentence or revoked from probation to prison, the aggravating factor could add up to two to five months to their sentences, depending on prior record level. Due to the December 1 effective date, prison impact would begin in FY 2005-6, with an average daily cost per prison bed of \$61.45.¹

¹ Operating costs are based on actual 2002-03 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 is added each year.

Judicial Branch

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

The AOC estimates that, at a minimum, the aggravating factor would create two hours of additional work at the guilt/innocence and sentencing phases. Approximately one percent of Class H cases result in trials. If, for example, the aggravated factor added two hours per case to trials, there could be an additional one to six hours of court time required. In addition, if there were two additional hours per conviction for pleas, another 14 to 66 hours of court time could be required. Six hours of court time cost \$1,510, and six hours of indigent defense cost \$390. Court costs would increase by 5 percent each year.

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

TECHNICAL CONSIDERATIONS: In conjunction with HB 1537, offenders convicted of this offense with the aggravating factor would be sentenced in the aggravated range for Class C rather than the aggravated range for Class H. In Class C, the aggravated range adds up to 19 to 42 months to a sentence, depending on prior record level.

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Signed Copy Located in the NCGA Principal Clerk's Offices