

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

BILL NUMBER: SB 144 1st Edition
SHORT TITLE: Unauthorized Practice of Medicine/Felony
SPONSOR(S): Senator Forrester

FISCAL IMPACT					
	Yes (X)	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	Unable to determine exact amount; no substantial impact anticipated.				
Nonrecurring					
Judicial					
Recurring	Unable to determine exact amount; no substantial impact anticipated.				
Nonrecurring					
TOTAL EXPENDITURES:	Unable to determine exact amount; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*	Unable to determine exact number of beds; no substantial impact anticipated				
POSITIONS: (cumulative)	Unable to determine exact amount; additional positions not anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch				
EFFECTIVE DATE:					
<p><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></p>					

BILL SUMMARY: SB 144 amends G.S. 90-18(a) to make the unlicensed practice of medicine a Class I felony instead of a Class 1 misdemeanor as provided under current law.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos 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. 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.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

While some Class 1 misdemeanants serve active sentences in state prisons, most receive non-active sentences or active sentences that are served in local jails. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days.) In contrast, Class I felons serve active state prison sentences, receive intermediate sanctions, or receive community punishment. In 2001-2002, 9 percent of Class I felony offenders were sentenced to active sentences, 37 percent were sentenced to intermediate sanctions, and 54 percent were sentenced to community punishment. On average, offenders served between seven and nine months. Convictions that increase Class 1 misdemeanors to Class I felonies will result in more frequent, longer active sentences served in state prisons rather than local jails.

There have been no convictions for practicing medicine without a license during the past three fiscal years (FY 1999-2000 through FY 2001-2002). Therefore, the North Carolina Sentencing and Policy Advisory Commission does not anticipate that the proposed reclassification would have a substantial impact on the prison system. If there were ten convictions that moved from a Class 1 misdemeanor to a Class I felony, the combination of active sentences and probation revocations would result in the need for one prison bed the first year and three prison beds the second year. In 2001-2002, the statewide average operating cost for one inmate was \$62.43/day or \$22,786.95 a year.

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.

For calendar year 2002, AOC data show that three defendants were charged with the misdemeanor offense of unlicensed practice of medicine. Two were dispositions and one case went to Superior

Court on a superceding indictment.¹ While the number of felony cases that could result under the bill is relatively low, trials would be jury trials in superior court rather than misdemeanor cases in district court, and total processing and position costs would also increase. For offenses that are brought to trial as Class I felonies, the estimated court cost per trial is \$4,637. For Class I felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$255.

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

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¹ AOC notes that the dispositions and charges are not necessarily the same cases.