

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

BILL NUMBER: SB 208 1st Edition

SHORT TITLE: Sentence Lengths

SPONSOR(S): Senator Gulley

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	() denotes savings				
Correction					
Recurring (operating)	\$ -	\$180,000	\$1.3 M	\$500,000	(\$1.2 M)
Nonrecurring (construction)	\$3.2 M	(\$2.5 M)	(\$5.2 M)	(\$12.9 M)	(\$23.2 M)
Judicial	No substantial impact anticipated.				
<i>This bill will generate additional savings – recurring and nonrecurring – beyond the first five years. See Charts 2, 5, and 6 for details.</i>					
PRISON BEDS					
ADDED (SAVED)*		7	49	18	(43)
(Cumulative):					
POSITIONS					
ADDED (SAVED)		3	20	7	(17)
(Cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction (DOC); Judicial Branch					
EFFECTIVE DATE: December 1, 2003					
* <i>These figures are 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. See Charts 7 and 8 for the combined impact of this bill, SB 207, and SB 209. All three bills were based on alternatives included in the May 2002 Sentencing Commission report.</i>					

BILL SUMMARY:

This bill would make the increase in sentence lengths between prior record levels more proportionate using a set percentage (15%) increment. The current sentence lengths in Prior Record Level I in each offense class would remain unchanged, serving as an anchor, while the sentence lengths increase between each subsequent prior record level would be changed to 15 percent in all classes except Classes H and I, which would remain unchanged. As a result, sentence lengths in 47 percent of the Felony Punishment Chart grid cells would be reduced, sentence lengths in 45 percent of the cells would remain unchanged, and sentence lengths in 8 percent of the cells would increase.

ASSUMPTIONS AND METHODOLOGY:

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.

Because defendants will face the same charge (there is no change in the felony cases being charged), and overall appear to face sentences of the same type and similar magnitude, the AOC does not anticipate that this bill will have a substantial impact on court costs.

Department of Correction

The box on the front page shows a net savings from SB 208 each year. Although operating costs increase slightly in the first few years, they are outweighed by savings from foregone construction costs due to a decrease in the number of new beds that will have to be constructed each year to house the projected prison population. (See Chart 5 on page 6 for more details.)

The chart below (Chart 1) 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 is always equal to the projected additional inmates due to a bill. **The negative figures for additional inmates and beds needed in Year 5 (FY 2007-08) of the projection and later years reflect a long-term reduction in the number of beds needed due to this bill.**

Rows 4 and 5 in Chart 1 show the impact of this specific bill, SB 208. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation will reduce the inmate population in the prison system by 61 inmates by the end of FY 2007-08.

CHART 1	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 ¹	35,851	36,787	37,739	38,687	39,557
2. Projected No. of Prison Beds (DOC Expanded Capacity) ²	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 or Fewer Inmates/Beds Due to this Bill³ (Cumulative)		7	49	18	-43
5. Bed Deficit with Ratification of SB		-2,065	-3,059	-3,976	-4,785 (Cumulative)

¹ 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.

² 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.**

³ 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, by FY 2007-08, approximately 24 fewer positions would be needed to supervise the reduced number of inmates housed under this bill. 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.

PRISON BED COST SAVINGS: The cumulative effect of SB 208 is to reduce the number of prison beds needed by 948 beds by FY 2011-12. (There is a projected cumulative reduction of 354 beds by the end of FY 2014.)

FISCAL IMPACT BEYOND FIVE YEARS: Fiscal Notes look at the impact of a bill for five years. 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. **As shown below, this bill would reduce the number of new beds needed by 948 beds by FY 2011-12. This reduction is sizable enough to impact the number of prisons constructed, and is shown in the box on the first page as a reduction in nonrecurring Correction expenditures due to foregone construction costs.**

CHART 2	First 5 Years 2003-2008	Next 4 Years 2008-2012	9-Year Horizon 2003-2012
Reduction in Inmates Due to This Bill	(43)	(905)	(948)
Available Beds	(4,828)	(2,856)	(7,684)
Available Beds with SB 208	(4,785)	(1,951)	(6,736)
Beds Saved	43	905	948
Positions Saved	17	362	379

DISTRIBUTION OF BEDS: After analyzing the proposed legislation, the Department of Correction estimates that the bed savings under this bill will be distributed over the three custody levels as follows:

- 13% Close Custody
- 46% Medium Custody
- 41% Minimum Custody

CONSTRUCTION: Construction costs for new prison beds, as listed in the following chart, are based on estimated 2001-02 costs for each custody level as provided by the Office of State Construction and an assumed inflation rate of 5% per year.

CHART 3	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
<u>Custody Level</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. For this bill, the reduction in inmates means that the State will not need as many new prisons as quickly. For this reason, the box on Page 1 shows a reduction in nonrecurring expenditures due to foregone construction costs. That reduction is due to a projected decrease in the need for prison beds by 483 beds by June 30, 2010:

- 49 beds added in 2005-06 (construction beginning in 2003-04)
- 31 beds saved in 2006-07 (construction beginning in 2004-05)
- 61 beds saved in 2007-08 (construction beginning in 2005-06)
- 144 beds saved in 2008-09 (construction beginning in 2006-07)
- 247 beds saved in 2009-10 (construction beginning in 2007-08)

The chart (Chart 5) on the following page illustrates the savings due to the reduction in prison beds. Beyond the five-year horizon shown in the box on the front page and in Chart 5, an additional 252 beds will be saved in FY 2011-12, and later years will see further reductions in prison beds needed. The State can therefore postpone construction of these 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

CHART 5

Savings in Prison Operating & Construction Expenditures from SB 208: 5-year Outlook

	2003-04	2004-05	2005-06	2006-07	2007-08
Total Operating Expenditures: All prison beds needed					
Current Statutes	\$892.7 M	\$943.5 M	\$996.9 M	\$1,052.6 M	\$1,108.6 M
SB 208	\$892.7 M	\$943.7 M	\$998.2 M	\$1,053.1 M	\$1,107.4 M
<i>Net Savings*</i>	\$ -	\$826,164	\$1,652,005	\$738,227	(\$738,639)
Total Construction Expenditures: All prison beds needed**					
Current Statutes	\$232.3 M	\$ 76.8 M	\$ 74.0 M	\$ 70.4 M	\$ 67.8 M
SB 208	\$ 235.5 M	\$ 74.3 M	\$ 68.8 M	\$ 57.5 M	\$ 44.6 M
<i>Net Savings*</i>	\$ 3.24 M	(\$ 2.5 M)	(\$ 3.9 M)	(\$ 12.9 M)	(\$ 23.2 M)
Total Savings*	\$ 3.24 M	(\$ 2.3 M)	(\$3.9 M)	(12.4 M)	(\$24.4 M)
Cum. Savings*	\$3.24 M	\$900,000	(\$3.0 M)	(\$15.4 M)	(\$39.7 M)

*Figures in () are savings. Figures not in parentheses are costs.

** Based on DOC's projected distribution of bed savings resulting from SB 207, 208, and 209, the analysis uses medium custody construction costs. Construction costs in each fiscal year reflect beds that will be needed three years later.

CHART 6

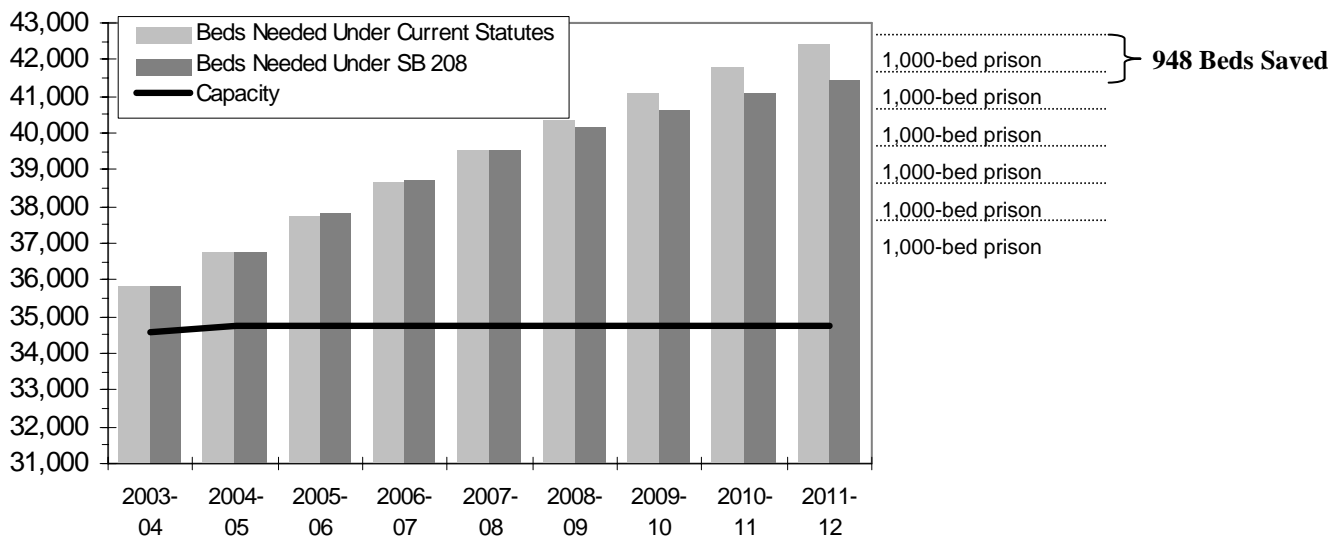
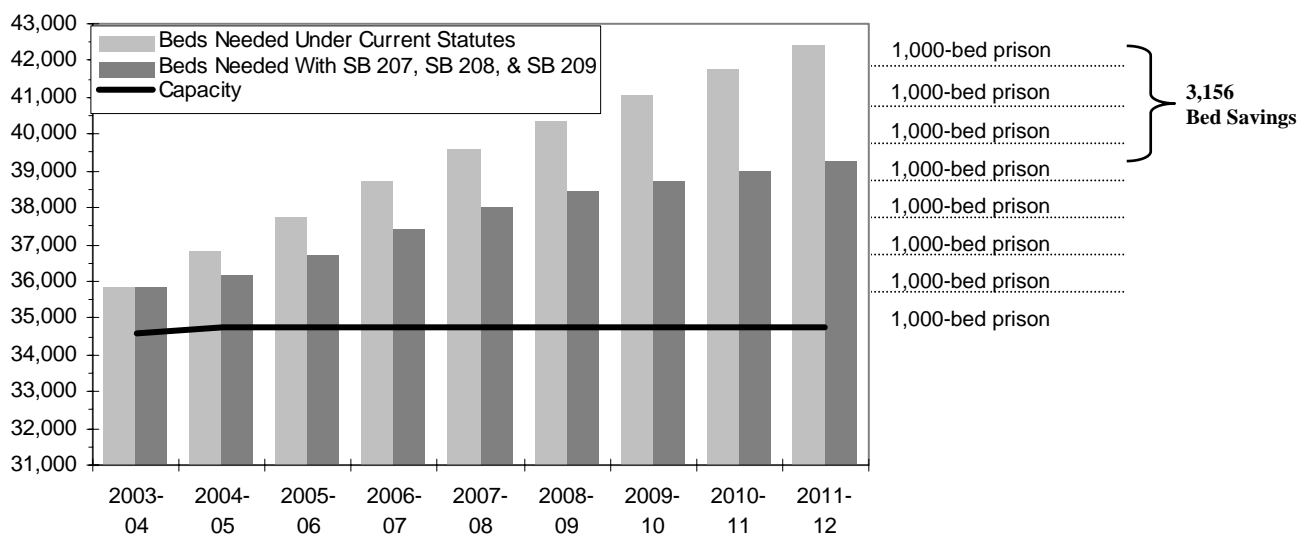


Chart 6 (above) illustrates the long-term savings in beds with SB 208. “Beds needed under current statutes” refers to the projected prison population under the status quo. “Beds needed under SB 208” refers to the revised projections for the prison population if SB 208 is enacted. “Capacity” is the total number of beds available (34,729) once the three new prisons authorized in 2001 are complete. With current costs and projections, by 2011-12 the State will have saved \$68.8 million, cumulative, in operating costs. The State will have saved \$95.03 million, cumulative, in foregone construction costs by 2009-10 (projections for construction costs cannot extend beyond 2009-10).

Combined Impact of SB 208 and Other Sentencing Bills Introduced in the NC Senate in 2003

In addition to SB 208, two other bills introduced in the North Carolina Senate address the NC Sentencing and Policy Advisory Commission alternatives for slowing prison population growth consistent with the principles of structured sentencing and public safety. These bills are SB 207 (Restructure Prior Criminal Record Points) and SB 209 (Adjust Penalties B1 to E Offenses). Because the sentencing provisions of these bills interact, the combined impact of the three bills is different from the sum of their individual impact. **The combined impact of SB 207, SB 208, and SB 209 is to save 3,156 prison beds by 2011-2012.** Chart 7 displays the combined impact of SB 207, SB 208, and SB 209.

CHART 7



The cumulative effect of the combined sentencing bills is to save the need to save 3,156 prison beds by 2011-2012. With current costs and projections, by 2011-2012, the State will have saved \$432.2 million, cumulative, in operating costs. The State will have saved \$281.24 million, cumulative, in forgone construction costs by 2009-2010 (projections for construction costs cannot extend beyond 2009-2010).

CHART 8

Combined Prison Savings from Sentencing Bills

	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Prison Beds Saved (Cumulative)	-	-651	-1037	-1274	-1535	-1911	-2369	-2786	-3156
Positions Saved (Cumulative)	-	-260	-415	-510	-614	-764	-948	-1114	-1262
Operating Expenditures Saved if SB 207, 208, and 209 are Ratified (Mil)	-	(\$16.70)	(\$27.39)	(\$34.66)	(\$43.02)	(\$55.16)	(\$70.43)	(\$85.32)	(\$99.55)
Construction Expenditures* Saved if SB 207, 208, and 209 are Ratified (Mil)	(\$80.02)	(\$19.20)	(\$22.05)	(\$33.59)	(\$42.96)	(\$41.07)	(\$42.18)	Unable to project**	Unable to project**

* Based on DOC's projected distribution of bed savings resulting from SB 207, 208, and 209, the analysis uses medium custody construction costs. Construction costs in each fiscal year reflect beds that will be needed three years later.

**Unable to project construction expenditures; prison population projections are only available through 2011-2012.

Methodology

Operating costs were calculated by multiplying the statewide average operating cost, adjusted for inflation, by the number of beds added to the prison system each year by the bill(s). Negative operating costs reflect a reduction in the number of beds needed due to the bill(s).

Based on current prison population projections, the State will need to construct an additional 3,010 beds by FY 2005-06. Assuming that beds take three years to construct, construction expenditures for these beds would be budgeted in FY 2003-04. Because these bills reduce the prison population by 2005-06, the State will be able to begin construction of fewer beds in 2003-04. Beyond FY 2005-06, current projections indicate that the State will need to construct more than 700 new beds each year. Foregone construction expenditures were calculated by multiplying the cost of constructing a medium custody bed, adjusted for inflation, times the number of beds that would not be needed due to this bill. Construction *savings* each year reflect the reduction in beds needed three years later.

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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