

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 888 (Second Edition)

SHORT TITLE: Cockfighting/Increase Penalty.

SPONSOR(S): Representative Allred

FISCAL IMPACT					
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<b>EXPENDITURES:</b>					
<b>GENERAL FUND:</b>					
<b>Correction:</b>	Exact amount cannot be determined.				
<b>Judicial:</b>	\$3,575	\$6,313	\$6,502	\$6,697	\$6,898
<b>ADDITIONAL PRISON BEDS*</b>	Exact amount cannot be determined; no substantial impact anticipated.				
<b>POSITIONS: (cumulative)</b>	No additional positions anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch				
<b>EFFECTIVE DATE:</b>	December 1, 2005				
<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: This bill would amend G.S. 14-362 to reclassify offenses related to cockfighting from Class 2 misdemeanors to Class I felonies.

## ASSUMPTIONS AND METHODOLOGY:

### **General**

Convictions for offenses related to cockfighting are likely to result in longer sentences and a greater proportion of intermediate rather than community sentences if these violations are classified as Class I felonies rather than Class 2 misdemeanors. Due to the increased length of supervised non-active sentences and the greater cost of intermediate sanctions, the Division of Community Corrections in the Department of Correction would incur greater costs as a result of this bill. Costs to the Courts to process charges for these offenses would also be expected to increase due to more vigorous defense and prosecution as a result of the more severe penalty. Due to the small number of charges and convictions under current G.S. 14-362, the fiscal impact associated with this bill is not expected to be substantial.

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

### **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, 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.*

During fiscal year 2003-04 there were ten Class 2 misdemeanor convictions for cockfighting. The Sentencing Commission is unable to model the prison population impact that would result from reclassifying this offense as a Class I felony. Of all Class 2 misdemeanants in FY 2003-04, 84 percent received community sentences, 15 percent received active sentences, and the remaining one percent received an intermediate punishment. Based on the overall sentence disposition rates for felony Class I, more offenders are likely to receive intermediate sanctions if cockfighting is reclassified as a Class I felony. In FY 2003-04, 49 percent of Class I felony convictions resulted in intermediate sanctions, 40 percent in community sanctions, and 11 percent active sentences.

*Non-Active Sentences:* Probation officers in the Division of Community Correction (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction. The estimated cost for a supervised community offender is \$1.87 per day.

*Active Sentences:* If, for example, ten convictions were moved from Class 2 misdemeanors to Class I felonies, the combination of active sentences and probation revocations would result in the need for one additional prison bed in the first year and three prison beds in the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

## **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 2004, AOC data indicates that 20 individuals were charged with a Class 2 misdemeanor in relation to cockfighting. As a result of this legislation, these violations would be charged as Class I felonies. The estimated increase in cost to process these twenty charges as Class I felonies instead of Class 2 misdemeanors would be \$6,313 in the first complete year. This cost includes \$4,029 for court and attorney costs and \$2,284 for indigent defense and reflects anticipated increases in trial rates, trial length, attorney preparation time, indigency rates, and time to handle pleas. The figures in the box on the front page reflect this cost inflated at a rate of three percent annually and adjusted in fiscal year 2005-06 to reflect only the seven months for which the bill would be effective.

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

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** April 6, 2005

**Signed Copy Located in the NCGA Principal Clerk's Offices**