

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1010 (Second Edition)

SHORT TITLE: Wilson County Hunting.

SPONSOR(S): Representatives Tolson and Farmer-Butterfield

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			Exact amount cannot be determined; no substantial impact anticipated.		
Judicial			Exact amount cannot be determined; no substantial impact anticipated.		
LOCAL GOVERNMENTS			Exact amount cannot be determined; no substantial impact anticipated.		
ADDITIONAL PRISON BEDS*			No additional prison beds anticipated.		
POSITIONS: (cumulative)			No additional positions anticipated.		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments					
EFFECTIVE DATE: October 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 prohibit hunting on another's property without signed and dated written permission of the landowner, lessee, or lessee's designee. This provision is limited to Wilson and Orange Counties. A first violation of this act would be a Class 3 misdemeanor; the second, and any subsequent violation, would be a Class 2 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

General

Because this bill would create a new offense, punishable as a Class 2 or Class 3 misdemeanor, for hunting on another's property in Wilson or Orange County without permission, additional charges and convictions would be expected to result from this legislation. However, because there are a relatively small number of charges for similar offenses under existing law and the new offense under this bill would apply only in Wilson and Orange Counties, few additional charges and convictions are anticipated to result from this bill, and the associated fiscal impact is not expected to be substantial.

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.*

Because this bill would create a new criminal offense, the Sentencing Commission has no historical data from which to estimate the number of additional Class 2 or 3 misdemeanor convictions that might result from this legislation.

- In FY 2003-04, 15 percent of Class 2 and 23 percent of Class 3 misdemeanors resulted in active sentences and the average active sentence lengths were 23 and 8 days, respectively.
- Offenders with active sentences of less than thirty days are housed in county jails at county expense.
- The remaining 85 and 77 percent of Class 2 and 3 misdemeanants, respectively, received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Correction (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Because Class 2 and 3 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation would not impact prison population.

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.

In calendar year 2004, 211 defendants were charged statewide with a misdemeanor under G.S. 113-285 for unauthorized hunting or fishing on posted property. As opposed to the provisions of G.S. 113-285, it would be a violation under this bill to hunt on another's land without permission irrespective of whether the land is posted. Because this bill creates a new offense and is applicable only in Wilson and Orange Counties we have no data from which to estimate the number of new Class 2 or Class 3 misdemeanor charges that would result from this legislation.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 or Class 3 misdemeanor via trial is \$2,322. This cost includes an estimated \$1,373 in jury fees, costs of time in court, and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 2 or 3 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 or \$268, respectively.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: April 12, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices