

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1514 (First Edition)

SHORT TITLE: Reckless Endangerment.

SPONSOR(S): Representative Ray

		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>
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*						
It is likely that most offenders receiving active sentences under this bill would be housed in local jails at a cost to the state of \$18/day. The exception would be Class 1 misdemeanants falling in Prior Record Level III, who are eligible for active sentences long enough to be served in state prison.						
POSITIONS: (cumulative)						
Exact amount cannot be determined; no additional positions anticipated.						
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments						
EFFECTIVE DATE: 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 create a new Class 1 misdemeanor for engaging in any conduct that creates a substantial risk of serious physical injury or death to another person.

ASSUMPTIONS AND METHODOLOGY:

Summary

As the offense of reckless endangerment would be entirely new, no historical data exists from which to project the number of individuals that might be charged or convicted. To some extent, the conduct prohibited by this offense could be punished under existing statutes involving acts committed in a negligent manner or with wanton disregard of the rights or safety of others (e.g. negligently setting fire to woods, reckless driving, etc.). However, because this bill proscribes an extensive range of behavior, it would likely apply to conduct not prohibited under current law, and would, therefore, be expected to result in additional Class 1 misdemeanor charges and convictions.

Offenders sentenced to active time for this offense would principally impact local jail populations and costs but would also be likely to increase payments by the Department of Correction to local jails for housing some offenders. Additionally, new Class 1 misdemeanor charges would increase workload in district court and result in an associated cost to the Court system.

General

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.*

Because this bill would create a new Class 1 misdemeanor, the Sentencing Commission has no historical data from which to project the impact that this legislation would have on prison population.

- In FY 2003-04, 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (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.
- The remaining 19 percent of Class 1 misdemeanors resulted in active sentences and the average estimated time served was 31 days.
- Offenders with active sentences of less than ninety days are housed in county jails.
- DOC reimburses counties for housing offenders between thirty and ninety days at a rate of \$18 per day per offender.

Because most Class 1 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation is not expected to significantly impact prison population.

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 this bill would create new criminal offenses and no estimate is available regarding the number of instances in which individuals recklessly engage in behavior that creates a substantial risk of serious physical injury or death to another person, we cannot estimate the number of new Class 1 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 1 misdemeanor is \$3,213 per trial and \$284 per guilty plea. The trial cost includes an estimated \$1,880 in jury fees, costs of time in court, and attorney costs and an additional \$1,333 in indigent defense. Based on prior-year data, the majority of any new Class 1 misdemeanor charges that are not dismissed are likely to be settled by plea.

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

TECHNICAL CONSIDERATIONS: None

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