

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1291 (Second Edition)

SHORT TITLE: Amend CPA Criminal Punishment.

SPONSOR(S): Representative Allred

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
GENERAL FUND					
Correction			No significant impact anticipated.		
Recurring					
Nonrecurring					
Judicial			Possible fiscal impact; amount cannot be determined.		
Recurring			See "Assumptions and Methodology," p. 2		
Nonrecurring					
TOTAL			Amount cannot be determined.		
EXPENDITURES:					
ADDITIONAL					
PRISON BEDS*			None anticipated. Possible, small impact on local jails.		
POSITIONS:					
(cumulative)			None anticipated.		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments.					
EFFECTIVE DATE: December 1, 2006.					
<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: Bill rewrites G.S. 93-13 to make any violation of Chapter 93 (Certified Public Accountants) a Class 1 misdemeanor, and provide that each day a violation occurs constitutes a separate offense.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of a specific bill. For such 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.

H.B. 1291 would increase the penalty for violation of Chapter 93 (Certified Public Accountants) by two classes, from a Class 3 to a Class 1 misdemeanor. Presently, the AOC estimates Class 1 misdemeanor court-time costs of \$3,153 per trial and \$224 per plea. Based on estimated court-time costs for Class 3 misdemeanors, this penalty enhancement could increase court-costs by \$773 and \$16 per trial and plea, respectively. The AOC also anticipates that the increased penalty could be accompanied by a more rigorous defense and prosecution, thereby increasing court-time and the costs incurred for disposal of such cases.

However, the AOC currently does not have an offense code for any Chapter 93 offenses, indicating that few charges occur. Given this lack of data, the Administrative Office of the Courts cannot project the number of charges that would be subject to this penalty enhancement. *Fiscal Research does not anticipate a significant number of new charges as a result of this bill.*

Department of Correction – Division of Prisons

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. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available over the immediate five-year horizon, or beyond.*

In FY 2004-05, 19% of Class 1 misdemeanor convictions resulted in active sentences, with an average term served of 30.7 days; 79% of convictions resulted in community sentences and 2% resulted in intermediate sentences. It is not known how many convictions might result from this bill. *However, because offenders serving active sentences of 90 days or less are housed in local jails, additional convictions resulting from this bill would not have an impact on the State's prison population. The impact on the local jail population is not known.*

Department of Correction – Division of Community Corrections

Assuming additional convictions and some unknown amount of intermediate and community sentencing, additional costs for probation supervision could also be incurred. Presently, general supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs: intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender, per day (*includes daily probation cost*) and is for an average of six months; electronic house arrest costs \$6.71 (*plus daily probation cost*). Such costs are projected to begin in FY 2007-2008, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee. Those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

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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