

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

BILL NUMBER: Senate Bill 176 (First Edition)

SHORT TITLE: Protection of Historic Monuments.

SPONSOR(S): Senator Horton

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*	Exact amount cannot be determined; no substantial impact anticipated.				
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 legislation would amend Chapter 121 of the General Statutes to prohibit disturbing or defacing any monument, marker, plaque, memorial, or flag display of historic significance. The bill would furthermore prohibit the relocation, removal, or alteration of any of the preceding objects unless approved by a two-thirds vote of either the General Assembly or the North Carolina Historical Commission. Any historic monument or marker moved without the required approval of the General Assembly or Historical Commission for the purpose of protection, preservation, upkeep, or care would have to be returned to its original location upon completion of the maintenance activity. A violation of the act would be a Class A1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

General

This bill is expected to have some fiscal impact as a result of the following:

- The penalty for defacing, moving, or altering a historic monument would be enhanced from misdemeanor Class 2 to Class A1.
- New charges and convictions (for Class A1 misdemeanors) could result from the clarification of the behavior prohibited in relation to monuments, markers, plaques, memorials, and flag displays located on State property.

Due to the small number of similar offenses committed under current law, no substantial fiscal impact is expected to result from this bill.

Depending upon the interpretation of current G.S. 14-132, the behavior prohibited by this bill may already be unlawful. G.S. 14-132 provides that it is a Class 2 misdemeanor to write on or scribble on, mark, deface, besmear, or injure any statue or monument situated in a public place. To the extent that this provision of current law would include the acts of relocating, removing, disturbing, or defacing, and that the term “monument” encompasses memorials, plaques, markers, and historic flag displays, few additional charges or convictions would be expected to result from this bill.

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.*

In FY 2003-04, there were 18 convictions for violations of G.S. 14-132. No data exists regarding how many of these convictions, if any, were for defacing, moving, or altering monuments that commemorate North Carolina history and would be subject to the enhanced penalty (a Class A1 misdemeanor) provided by this legislation. However, the number of convictions that might occur under this bill, whether new to the system or a penalty enhancement over current statute, is not expected to be significant.

- In FY 2003-04, 24 percent of Class A1 misdemeanors resulted in active sentences and the average estimated time served was 54 days.
- DOC reimburses counties for housing offenders between thirty and ninety days at a rate of \$18 per day per offender. If, for example, one offender were sentenced to 54 days active time as a result of this bill, costs to DOC to reimburse the county would be \$972.

The remaining 76 percent of Class A1 misdemeanants 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 most Class A1 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.

The average estimated increase in cost for any charge elevated from a Class 2 misdemeanor to a Class A1 misdemeanor would be \$1,279 per trial and \$14 per guilty plea. Given that the majority of these cases are likely to be settled via guilty plea, costs to AOC are not anticipated to be substantial. AOC data for calendar year 2004 indicates that 86 defendants were charged under G.S. 14-132 for Defacing a Public Building. Any of these charges that involved defacing a monument, marker, plaque, memorial, or flag display of historic significance would be subject to the penalty enhancement provided by this bill. Although new charges could also result from this legislation, AOC assumes that most of the behavior prohibited by this bill would be charged under present law. The total average estimated cost to dispose of one Class A1 misdemeanor charge via trial is \$3,601 (including estimated indigent defense costs of \$1,502). However, any new charge resulting from this bill would likely be settled by guilty plea at an average estimated cost of \$286 per plea.

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

TECHNICAL CONSIDERATIONS: None

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