

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2005**

**Legislative Incarceration Fiscal Note**

(G.S. 120-36.7)

**BILL NUMBER:** Senate Bill 929 (Second Edition)

**SHORT TITLE:** Prison Escape/Juvenile Detention Facility.

**SPONSOR(S):** Senator Clodfelter

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>
<b>GENERAL FUND</b>					
<b>Correction</b>	Exact cost and impact cannot be determined; will be small increase in payments to county jails for holding misdemeanants.				
<b>Judicial</b>	\$10,724	\$17,613	\$18,494	\$19,419	\$20,390
<b>Juvenile Justice</b>	No impact anticipated.				
<b>LOCAL GOVERNMENTS</b>					
	Exact amount cannot be determined; will likely increase local jail population and costs but no substantial fiscal impact anticipated.				
<b>ADDITIONAL PRISON BEDS*</b>					
	Exact amount cannot be determined; no substantial impact anticipated.				
<b>POSITIONS:</b>					
<b>(cumulative)</b>	Exact amount cannot be determined.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch; Department of Juvenile Justice and Delinquency Prevention; Local Governments					
<b>EFFECTIVE DATE:</b> December 1, 2005					
*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.					

**BILL SUMMARY:** This bill would amend G.S. 14-256 to 1) raise the penalty for county/municipal jailbreaks or escapes from custody from Class 1 to Class A1 misdemeanors and, 2) expand the statute to include breaks or escapes from juvenile facilities (Youth Development

Centers and Detention Centers). The Second Edition restricts breaks or escapes from juvenile facilities to offenders still in the custody of DJJDP who are 18 or older.

## **ASSUMPTIONS AND METHODOLOGY:**

### **Summary**

Adults: Elevating the penalty from misdemeanor Class 1 to A1 for offenders who break local county jails or lockups could result in longer sentences and increased costs to local jails and the Department of Correction. 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. Court costs are relatively low, however, because of the small pool of offenders. While costs could not be determined for DOC or local jails, the cost should not be substantial.

*Juveniles:* This bill is expected to have no impact on the Department of Juvenile Justice and Delinquency Prevention since offenders in its facilities that are 18 or older would be prosecuted as adults for escapes from custody. Offenders 18 and over under DJJDP custody are a potential new pool of escapees that could be prosecuted as adults under this bill but no juveniles 18 and over were involved in the 36 escapes from DJJDP custody in 2004.

*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/Local Jails**

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.*

It is anticipated this bill could result in higher active rates and longer sentences than the typical A1 misdemeanor:

- In FY 2003-04, 19 percent of Class 1 misdemeanants received active sentences, with an average sentence length of 31 days. By contrast, the 39 Class 1 misdemeanor convictions under current G.S. 14-256 resulted in a 72 percent active rate (28 cases) and an average sentence length of 53 days.
- In FY 2003-04, 24 percent of Class A1 misdemeanors resulted in active sentences and the average time served was 53.8 days. However, given the percentage of active time imposed for escapes now as Class 1 misdemeanors (72% active time), it is likely the active rate for

escapes will be much higher than the typical A1 misdemeanor. It is also likely that the ability to charge offenders with an A1 misdemeanor will result in judges *giving longer active sentences for escapes than for the typical A1 offense.*

- Given the potential for more active sentences and longer sentences there would be increased costs to counties and to DOC, who reimburses counties for housing misdemeanants sentenced to thirty days or more at a rate of \$18 per day per offender. However, since there is a relatively small pool of offenders, the cost is not likely to be significant.
- For those Class A1 misdemeanants 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 addition of language in SB 929 creating a Class A1 misdemeanor for escape from a law enforcement officer could result in additional fiscal impact but costs could not be determined.

### **Department of Juvenile Justice and Delinquency Prevention**

This bill is expected to have little or no impact on the Department of Juvenile Justice and Delinquency Prevention since offenders in its facilities that are 18 or older would be prosecuted as adults for escapes from custody. Offenders 18 and over under DJJDP custody are a potential new pool of escapees that could be prosecuted as adults under this bill but no juveniles 18 and over were involved in the 36 escapes from DJJDP custody in 2004.

### **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.

AOC data for calendar year 2004 indicates that 113 defendants were charged with Class 1 misdemeanors under G.S. 14-256 for breaking a county jail, lockup, or prison. Because DJJDP data indicates that no juveniles over the age of eighteen escaped from a state-operated Youth Development Center or detention facility, little to no impact would be expected for any additional Class A1 charges for juvenile escapes due to this bill.

AOC estimates the cost to dispose of 113 charges reclassified as Class A1 misdemeanors at \$17,613 in the first full year. This cost increase reflects presumed increases in trial length, attorney preparation time, and trial rates, and a decrease in dismissal rates. These 113 charges would cost an estimated \$17,613, of which \$11, 288 would be for attorney preparation and court costs, and \$6,325 would be for indigent defense. The figures in the box on the first page reflect the total increase in cost of processing these charges (\$17,613), inflated at a rate of five percent

annually, and adjusted in the first year to reflect 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; Department of Juvenile Justice and Delinquency Prevention

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Jim Mills and Aaron Paul

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



**DATE:** May 16, 2005

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