

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 972 (First Edition)

SHORT TITLE: Break Into Place of Worship.

SPONSOR(S): Senator Smith

		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. Convictions elevated to Class G or F felonies due to this bill could lead to an increase in prison population and the need for more prison beds, but the exact number of beds needed and therefore the cost cannot be determined (see pg. 2 for details).					
Judicial	Exact amount cannot be determined (see pg. 2 for details).					
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined (see pg. 2 for details).					
POSITIONS: (cumulative)	Exact amount cannot be determined (see pg. 2 for details).					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch						
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 enact new G.S. 14-56.4 to make breaking or entering a place of worship (defined as a church, chapel, meetinghouse, synagogue, temple, or mosque) a Class G felony, unless either a) the offense involves breaking or entering two or more buildings or, b) it is the offender's second or subsequent conviction for the offense, in which case it is a Class F felony.

ASSUMPTIONS AND METHODOLOGY:

General

Depending upon the nature of the offense, Breaking or Entering is presently a Class H or I felony, or a Class 1 or 2 misdemeanor. This bill would elevate any present Breaking or Entering offenses involving a place of worship to a Class G or F felony and would therefore be expected to increase prison bed needs (thus, the cost to incarcerate the affected offenders) and the cost to the Courts of disposing the related charges. As we have no data on the number of Breaking or Entering offenses that involve a place of worship, we are unable to estimate the number of charges and convictions that would be elevated by this bill and the resulting costs to DOC and the Courts.

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.*

Offenders eligible for conviction under this bill may be convicted currently of either felony or misdemeanor Breaking or Entering under G.S. 14-54. Violation of G.S. 14-54 is a Class H felony if the offender intended to commit a larceny or felony within the structure entered and is a Class 1 misdemeanor if the offender lacked such intent. Attempted Breaking or Entering is punished one offense class lower (Class I and Class 2, respectively). Table 1 below lists the number of convictions for these offenses in FY 2003-04.

Table 1: FY 2003-04 Convictions for Breaking or Entering

Offense Class	Offense	Convictions
Felony H	<i>Felony Breaking or Entering.</i>	2,690
Felony I	<i>Attempted Felony Breaking or Entering.</i>	60
Misdemeanor 1	<i>Misdemeanor Breaking or Entering.</i>	2,478
Misdemeanor 2	<i>Attempted Misdemeanor Breaking or Entering.</i>	49
Total		5,277

It is not known how many of these convictions involved breaking or entering a church, chapel, meetinghouse, synagogue, temple, or mosque and would thus be enhanced to a Class G or F felony by this bill. As the offender's intent is not an element of this new offense, current misdemeanor (as well as felony) Breaking or Entering convictions could be reclassified to Class G or F felonies by this bill.

Class G Felonies: In FY 2003-04, 44 percent of Class G felony convictions resulted in active sentences. If, for example, three Class H felony convictions were elevated to Class G convictions due to this bill, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and one additional prison bed the second year. If, for example, two Class 1 misdemeanor convictions were elevated to Class G convictions due to this bill, one additional prison bed would be needed in the first year and two additional beds the second year.

Class F Felonies: In FY 2003-04, 47 percent of Class F felony convictions resulted in active sentences. If, for example, three Class H felony convictions were elevated to Class F felonies due to this bill, one additional prison bed would be needed in the first year and three additional prison beds the second year. If, for example, two Class 1 misdemeanor convictions were elevated to Class F felonies due to this bill, one additional prison bed would be needed in the first year and three additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Non-Active Sentences: Due to the decrease in non-active sentence rate from felony Class H to Class G and F, convictions elevated from Class H felonies because of this bill would be expected to result in fewer non-active sentences and, consequently, cost savings to the Division of Community Corrections (DCC). In FY 2003-04, 50 percent of Class H convictions resulted in intermediate sanctions and 13 percent resulted in community sentences. In contrast, felony Class G and Class F carried intermediate sentence rates of 56 and 53 percent, respectively (the remainder were active).

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.

Table 2: CY 2004 Charges for Breaking or Entering

Offense Class	Offense	Charges
Felony H	<i>Felony Breaking or Entering.</i>	9,841
Felony I	<i>Attempted Felony Breaking or Entering.</i>	400
Misdemeanor 1	<i>Misdemeanor Breaking or Entering.</i>	4,951
Misdemeanor 2	<i>Attempted Misdemeanor Breaking or Entering.</i>	288
Total		15,480

No data is available with respect to how many of these charges involved breaking or entering a place of worship and would be elevated to Class G or F felonies due to this bill. For any charge elevated to a Class G or F felony due to this bill, AOC anticipates that additional court and preparation time would be needed to dispose of the charge, thus increasing superior court workload. AOC estimates the average *increase* in cost to process one charge elevated from a Class H felony or Class 1 misdemeanor to a Class G or F felony as shown in Table 3 on the next page.

Table 3: CY 2004 Estimated Average Increase in Per Charge Settlement Costs

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	-
<i>Misdemeanor 1 → Felony F</i>	\$4,142	\$1,371	\$5,513	\$203
<i>Misdemeanor 1 → Felony G</i>	\$3,212	\$1,196	\$4,408	\$87
<i>Felony H → Felony F</i>	\$1,379	\$604	\$1,983	\$71
<i>Felony H → Felony G</i>	\$996	\$429	\$1,425	\$20

If, for instance, 5 percent (or 492) of the 9,841 Class H felony charges were enhanced to Class G felonies as a result of this bill, AOC estimates that the cost to the Courts to dispose of those charges would be \$67,409 in the first full year. If, for instance, 5 percent (or 248) of the 4,951 Class 1 misdemeanor charges were enhanced to Class G felonies as a result of the bill, AOC estimates that the cost to settle these charges would be \$63,828 in the first full year. These estimates are based on the figures in Table 3, in addition to estimated trial, plea, and indigency rates. While AOC has provided this scenario to illustrate the potential costs to the Courts, they are unable to estimate the actual cost due to lack of data on the number of Breaking or Entering charges that would be affected by this bill.

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

TECHNICAL CONSIDERATIONS: None

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Signed Copy Located in the NCGA Principal Clerk's Offices