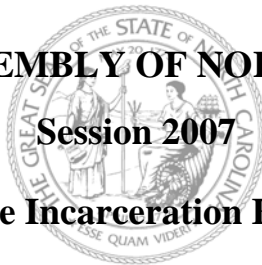


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 344 (First Edition)

SHORT TITLE: Amend Armed Robbery.

SPONSOR(S): Representative Alexander

		FISCAL IMPACT				
		Yes (X)	No ()	No Estimate Available ()		
		<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND						
Correction	Some fiscal impact anticipated, given an expansion in the armed robbery statute and anyone convicted will be given an active sentence.					
Judicial						
TOTAL EXPENDITURES:	Amount cannot be determined.					
ADDITIONAL PRISON BEDS: (cumulative)*	Amount cannot be determined.					
POSITIONS: (cumulative)	Amount cannot be determined.					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.						
EFFECTIVE DATE: December 1, 2007						
*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: H 344 (SB 222) amends the current armed robbery statute (G.S. 14-87) to include robbery while the person committing the robbery possesses an “apparent firearm.” In addition, the proposal also includes using a dangerous weapon in a way that would cause a reasonable person under the circumstances to believe that his or her life was endangered or threatened.” These violations would be punished as Class D felonies. Currently, violations of G.S. 14-87 are punishable as Class D felonies for the completed offense and attempts.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.* It is not known how many additional convictions may result from this proposal. Under Structured Sentencing, all Class D offenders are required to receive an active sentence. For 2005-06, the average estimated time served for an offender convicted of a Class D felony was 75 months. If, for example, there was one additional conviction for this offense per year as a result of the proposed changes in this bill, it would result in the need for one additional bed in the first year and two additional beds in the second year.

OPERATING: Operating costs are based on actual FY 2005-06 costs for each custody level, as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical, etc.), and administrative overhead costs for the Department and the Division of Prisons. A three percent (3.0%) annual inflation rate is applied to these base costs, as shown in the *recurring costs estimate in the “Fiscal Impact” table* (p.1).

Daily Inmate Operating Cost per Custody Level, FY 2005-06

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Daily Average</u>
Daily Cost Per Inmate	\$54.81	\$70.83	\$79.72	\$66.87

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

In calendar year 2006, approximately 3,100 defendants were charged with armed robbery, including 600 with attempted armed robbery, 80 with aiding and abetting, and 1,740 charged with common law robbery, which is a Class G felony. The Administrative Office of the Courts notes that because of the proposed changes, some of these defendants could be charged with a Class D felony. The penalty enhancement could have a significant impact on the court system.

The Sentencing and Policy Advisory Commission (SPAC) reports that in fiscal year 2005-06 there were 591 convictions under G.S. 14-87, with 443 convictions for the completed offense and 62 convictions for the attempt (the remaining 86 convictions were for conspiracies). These amendments would result in additional charges in those circumstances that are not being charged under current law because, for example, the defendant used what appeared to be a firearm but was not in fact a firearm, or the victim's life was not in fact endangered but a reasonable person believed it was. We have no data from which to estimate the number of additional felony charges that would occur.

Presently, the AOC estimates a cost of \$11,786 per trial for a charge of Class D felony; cost per plea is an estimated \$606 for the same offense. AOC cost estimates account for indigent defense.

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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DATE: April 25, 2007



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