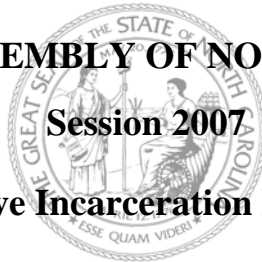


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2007**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 1231 (Third Edition)

**SHORT TITLE:** Certain Law Officers/Waive Handgun Permit.

**SPONSOR(S):** Representatives Gibson and Daughtridge

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<u><b>FY 2007-08</b></u>	<u><b>FY 2008-09</b></u>	<u><b>FY 2009-10</b></u>	<u><b>FY 2010-11</b></u>	<u><b>FY 2011-12</b></u>
<b>REVENUE</b>					
Justice	No significant change assumed; however, the fee amount is indeterminate.				
Sheriffs	Possible decrease in fee proceeds; amount is indeterminate.				
<b>GENERAL FUND</b>					
Correction	No significant fiscal impact for either Corrections or the Courts. See pp. 3-4, Assumptions and Methodology.				
Judicial					
Justice	No significant fiscal impact (p. 3)				
<b>TOTAL EXPENDITURES:</b>	<b>Amount cannot be determined.</b>				
<b>ADDITIONAL PRISON BEDS: (cumulative)*</b>	<b>None anticipated.</b>				
<b>POSITIONS: (cumulative)</b>	<b>None anticipated.</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Justice; Department of Correction; Judicial Branch; Sheriffs.					
<b>EFFECTIVE DATE:</b> December 1, 2007. Section 2 is effective when it becomes law.					
<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:** Section 926C of Title 18 of the U.S. Code provides that qualified retired law enforcement officers, as defined by the section, may carry concealed firearms if they possess the following identification:

1. Photo identification, issued by the agency from which the individual retired, that indicates fulfillment of the agency’s standards/training for active law enforcement officers to carry a firearm; or,
2. Photo identification issued by the agency from which the individual retired, and certification issued by the state in which the individual resides that indicates fulfillment of the agency’s standards/training for active law enforcement officers to carry a firearm.

Accordingly, H.B. 1231 provides for the certification of qualified retired law enforcement officers (as similarly defined by federal law) through the N.C. Criminal Justice Education and Training Standards Commission (Department of Justice), and exempts those in compliance with the requirements of sections 926B (active law enforcement) and 926C of Title 18 from North Carolina’s concealed handgun permit requirement. Currently, persons without the requisite identification must obtain a concealed handgun permit (Article 54B of Chapter 14); therefore, the certification provides an alternative to the current permitting process.

In addition, H.B. 1231 makes it a Class 2 misdemeanor for an applicant to make a willful and intentional misrepresentation on any form or application submitted to the Commission; it also provides for the denial of a concealed handgun permit to any individual convicted of this offense.

**ASSUMPTIONS AND METHODOLOGY**

**PART I. ANNUAL FIREARMS CERTIFICATION**

Currently, a person who meets the requisite criteria (Article 54B) may apply for, and receive, a concealed handgun permit from the sheriff of his county of residence. The permit is valid for five years, and must be renewed prior to 30 days of the date of expiration. G.S. 14-415.19, sets forth the following permit fees (payable to the sheriff) and remittances:

<i>General Permit</i>		
<b>Fee type</b>	<b>Amount</b>	<b>Remittance</b>
Application	\$80	County Finance Officer remits \$45 of each new application and \$40 of each new renewal fee to the Department of Justice for the costs of State and federal criminal record checks, and for the implementation of Article 54B; the remaining \$35 is used by the collecting sheriff to pay administrative (Article 54B) and other law enforcement costs.
Renewal	\$75	
Duplicate	\$15	
<i>Retired Sworn Law Enforcement*</i>		
<b>Fee type</b>	<b>Amount</b>	<b>Remittance</b>
Application	\$45	County Finance Officer remits the proceeds of each new application and renewal fee to the Department of Justice for the costs of State and federal criminal record checks, and for the implementation of Article 54B.
Renewal	\$40	
* Retired sworn law enforcement must provide the following information:		
1. Copy of the officer’s letter of retirement from either the N.C. Teacher’s and State Employees’ Retirement System or the N.C. Local Governmental Employees’ Retirement System; and,		
2. Written documentation from the head of the employing agency that indicates the person was neither involuntarily terminated nor under administrative or criminal investigation within six months of retirement		

Consequently, fee proceeds could decrease for both the Department of Justice and sheriffs if qualified retired law enforcement officers pursue certification *in lieu of permitting* (or increase for DOJ,

depending on the fee amount and actual number of certifications). However, because H.B. 1231 authorizes the Commission to charge a reasonable fee to applicants, no significant change in receipts is assumed for the Department of Justice – *the appropriate fee amount is indeterminate at this time*. Conversely, sheriffs' total receipts could decrease if officers retired from out-of-state service seek certification, rather than a general concealed handgun permit (would forego \$35 per permit).

It is not known how many qualified retired law enforcement officers, from service in North Carolina or out-of-state, would apply for *annual* certification. Data collected by the Criminal Justice Education and Training Standards Commission, in consultation with the Retirement Systems Division, indicates that approximately 1,637 officers and deputies have retired in the past 10 years, with an average of 218 having retired per year during the past five years. The number of retirees from out-of-state service is unknown.

While the appropriate fee amount is unknown, the Department of Justice expects that any additional resource needs, arising from the requisite planning and implementation of the certification process, will be covered by future proceeds. Accordingly, no additional funding is required.

## **PART II. CRIMINAL OFFENSE**

H.B. 1231 creates a new Class 2 misdemeanor offense for an applicant to make a willful and intentional misrepresentation on any form or application submitted to the Commission. Since this is a new offense, there is no historical data from which to estimate potential violation. However, Fiscal Research assumes that most applicants will lawfully apply for the certification, resulting in few additional charges and/or convictions. Although some additional costs could be incurred by the Courts and Corrections due to resultant charges and/or convictions, these costs should not prove significant.

### **Department of Correction**

There is no historical data from which to estimate the number of convictions that might result for the proposed offense. However, since *Class 2 misdemeanants serve their designated terms of incarceration within local jails, there is no anticipated impact on the state prison population.*<sup>1</sup> *The potential impact on local jail populations is unknown.*

In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. Per Structured Sentencing, Class 2 active sentences may range from one to sixty days in length. Consequently, the Department of Correction could incur some additional costs for county reimbursement; though, the typical sentence length suggests minimal impact.

The remaining 83% of Class 2 misdemeanants in FY 2005-06 received non-active, intermediate or community punishments. Thus, if new convictions result, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision. Included below is an overview of DCC supervision/sanction costs, per offender.

- General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. DCC also incurs a daily cost of \$0.69 per offender sentenced to the Community Service Work Program.

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<sup>1</sup> Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

- The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

### **Judicial Branch**

Although the number of resultant charges is unknown, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Presently the estimated costs per Class 2 misdemeanor trial and plea are \$2,770 and \$230, respectively. These cost estimates account for indigent defense. However, actual costs may vary with time requirements and disposition.

**SOURCES OF DATA:** Department of Justice; N.C. Sheriffs' Association; 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:** June 6, 2007



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