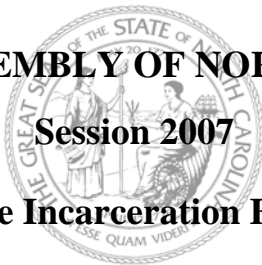


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1643 (Second Edition)
SHORT TITLE: Community College Subpoena & Contempt Powers.
SPONSOR(S): Representative Bryant

	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					
Judicial					
Local Govt.					
TOTAL EXPENDITURES:					
					Amount cannot be determined.
ADDITIONAL PRISON BEDS: (cumulative)*					
					None anticipated. Jail impact is indeterminate.
POSITIONS: (cumulative)					
					None.
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
					Department of Correction; Judicial Branch; Local Government.
EFFECTIVE DATE:					
					October 1, 2007.
<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: Amends G.S. 115D-20 to authorize a community college board to issue subpoenas in any matters that come within its powers; failure to honor a subpoena is a Class 3 misdemeanor offense. Provides that a board may punish for contempt any disorderly conduct tending to disrupt it in the transaction of official business. Effective October 1, 2007.

* House committee substitute makes the following changes to the first edition:

- Modifies G.S. 115D-20 (regarding powers and duties of trustees of NC community colleges) to provide that boards of trustees may also issue subpoenas for other tangible things. Includes failure to produce other tangible things in response to a subpoena as a Class 3 misdemeanor offense.
- Amends G.S. 115C-45(a) to allow local boards of education to issue subpoenas for other documents and other tangible things, and to make a failure to produce these items in response to a subpoena a Class 3 misdemeanor offense.

Source: Adapted from Bill Digest H.B. 1643 (04/18/0200).

ASSUMPTIONS AND METHODOLOGY:

General

Although resultant Class 3 misdemeanor charges, convictions, and/or findings of contempt could generate additional costs for the Courts and local governments (administration of jails), the nature of these offenses, limited offender pool, and proposed penalty level suggest that any fiscal impact will prove minimal. However, it is not known how many charges might occur for the new (G.S. 115D-20(a)) and expanded (G.S. 115C-45(b)) offenses.¹

Department of Correction

There is no historical data from which to estimate the number of additional Class 3 misdemeanor convictions that might result for the proposed and expanded offenses; therefore, the number of resultant active and non-active sentences is unknown.² In FY 2005-06, 23% of Class 3 misdemeanor convictions resulted in active sentences, with an average estimated time served of 8.5 days; 77% resulted in non-active, intermediate or community punishments.

Per Structured Sentencing, Class 3 active sentences may range from one to twenty days in length. Accordingly, since active sentences of 90 days or less are served in local jails, there is no anticipated impact on the state prison population.³ *The potential impact on local jail populations is unknown.* In addition, the permissible sentence length suggests the Department of Correction will not incur any additional costs for county reimbursement.

Similarly, if the description of contempt in new G.S. 115C-D-20(14) matches criminal contempt under G.S. 5A-11, such conduct is punishable by censure, imprisonment of up to 30 days, fine of up to \$500, or any combination of these punishments. Because those incarcerated for contempt are housed in local jails, no impact is assumed for the Department of Correction.

¹ The Administrative Office of the Courts currently does not maintain an offense code for violation of G.S. 115C-45(b), which may indicate that offenses are infrequently charged and/or infrequently result in conviction.

² 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. Accordingly, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

³ 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.

However, if additional non-active sentences occur, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision. Included below is a brief overview of DCC supervisory 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.
- 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 Class 3 misdemeanor charges and contempt findings 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 3 misdemeanor trial and plea are \$2,770 and \$226, respectively. These cost estimates account for indigent defense. However, actual costs may vary with time requirements and disposition.

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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