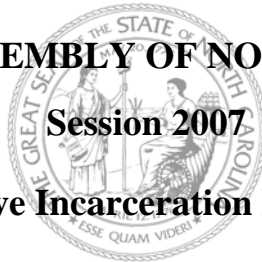


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1847 (Second Edition)

SHORT TITLE: Report Lost or Stolen Gun.

SPONSOR(S): Representatives Hall, Jones, and Luebke

FISCAL IMPACT					
	Yes (xx)	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	No significant impact anticipated for either Judicial or Corrections. See pp. 2-3, "Assumptions and Methodology"				
Correction	There will be a minimal impact on local jails.				
Recurring					
Nonrecurring					
Judicial	No significant impact.				
Recurring					
Nonrecurring					
TOTAL EXPENDITURES:					
ADDITIONAL PRISON BEDS: (cumulative)*	None anticipated. Minimal impact on local jails.				
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch.				
EFFECTIVE DATE:	December 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:

Enacts new GS 14-406.1 to require a person who suffers the loss of a gun to report the loss of the gun to law enforcement officials within 48 hours. Failure to report is an infraction for the first offense, a Class 3 misdemeanor for second offense, Class 2 for a third offense, and Class 1 for fourth and subsequent offenses. A person reporting who does not have a permit for the gun may not be prosecuted for failure to have the permit if the person could have legally obtained the permit and has no convictions of failing to report a loss of a gun.

House committee substitute makes the following changes to 1st edition. Modifies proposed GS 14-406.1(c) to add as a condition for immunity from criminal liability that the person would not have been prohibited from receiving a permit at the time the gun was obtained, and requiring credible evidence concerning the date and manner of acquisition of the gun. Also modifies proposed GS 14-406.1(e) to require the law enforcement agency (was, officer or department) receiving the report to give written notice of the loss or theft to the Department of Justice (was, to the Attorney General). Makes technical and conforming changes. Makes the act effective for losses or thefts discovered or occurring on or after that date

Source: Bill Digest H.B. 1847 (04/18/0200).

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.

House Bill 1847 creates a new offense, and therefore the Sentencing Commission does not have any historical data from which to estimate the impact of this bill. The bill makes violating the *first time* an infraction, and the Sentencing Commission does not maintain data on infractions.

A person convicted a *second time* under H 1847 would be sentenced as a Class 3 misdemeanor. In 2005-06, 23% of Class 3 misdemeanants received active sentence. The average estimated time served was 3 days, and offenders serving active sentences of 90 days or less are housed in county jails. As a result, the convictions for this proposed offense would have an insignificant impact upon the prison population, and its impact on local jails is unknown.

A person convicted a *third time* under H 1847 would be sentenced as a Class 2 misdemeanor. In 2005-06, 17% of Class 2 misdemeanants received active sentence. The average estimated time served was 13 days, and offenders serving active sentences of 90 days or less are housed in county jails. As a result, the convictions for this proposed offense would have an insignificant impact upon the prison population, and its impact on local jails is unknown.

Finally, a person convicted a *fourth and subsequent times* under H 1847 would be sentenced as a Class 1 misdemeanor. In 2005-06, 20% of Class 1 misdemeanants received active sentence. The average estimated time served was 31 days, and offenders serving active sentences of 90 days or less are housed in county jails. As a result, the convictions for this proposed offense would have an insignificant impact upon the prison population, and its impact on local jails is unknown.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

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. The daily cost per offender on intermediate sanction ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

Judicial Branch

The Administrative Office of the Courts (AOC) 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.

According to 2006 AOC data, 1,040 defendants were charged with larceny of a firearm and 1,231 defendants were charged with possession of a stolen firearm. The AOC, however, has no data from which to estimate the number of people with a lost or stolen firearm who failed to report such to a law enforcement officer.

Presently, the AOC estimates a cost of \$2,770 per trial and \$226 per plea for a Class 3 misdemeanor. The trial cost estimate for a Class 2 misdemeanor is \$2,770 and a plea is \$230. Finally, the trial cost for Class 1 misdemeanor is \$3,702 and a plea is \$243. 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

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

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