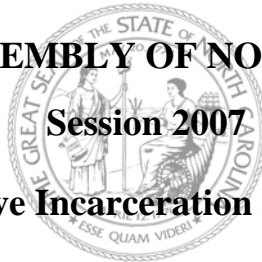


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 777 (Third Edition)

SHORT TITLE: Amend CPA Criminal Punishment.

SPONSOR(S): Senator Goodall

	FISCAL IMPACT				
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
<b>GENERAL FUND</b>					
Correction	No significant impact anticipated. See Assumptions and Methodology, p. 2-3				
Judicial					
<b>TOTAL EXPENDITURES:</b>	Amount cannot be determined.				
<b>ADDITIONAL PRISON BEDS*</b>	None anticipated. Possible, small impact on local jails.				
<b>POSITIONS:</b> (cumulative)	None anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch; Local Governments.				
<b>EFFECTIVE DATE:</b>	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:** The first edition of S.B. 777 rewrites G.S. 93-13 to make violation of G.S. 93-3, 93-4, 93-5, or 93-6 a Class 1 misdemeanor offense (*offense does not encompass violation of G.S. 93-8*), and to provide that each violation constitutes a separate offense. Under current G.S. 93-13, violation of Chapter 93 (Certified Public Accountants) is a Class 3 misdemeanor offense, punishable by fine between \$100 and \$1000 for each offense.

*Chapter 93 of the General Statutes sets forth the following prohibitions:*

G.S. 93-3: No person, who is not a certified public accountant (CPA), may assume or use such title, or any words, letters, abbreviations, symbols, or other means of identification to indicate that he or she is so certified by the State Board of Certified Public Accountant Examiners.

G.S. 93-4: No firm, copartnership, or association may assume or use the CPA title or other identifier to indicate that its members are certified public accountants, unless each has received such certification; the Board may exempt persons who do not actually practice or reside in North Carolina.

G.S. 93-5: No corporation may assume or use the CPA title or other identifier to indicate that it has received such certification from the State Board of Certified Public Accountant Examiners.

G.S. 93-6: No person, who is not a CPA, may engage in the public practice of accountancy in North Carolina, unless that person uses only the term “accountant” on all reports, letters of transmittal, or advice, and on all stationary and documents used in connection with his services as an accountant; the person must not use any other title or designation in such practice.

G.S. 93-8: No CPA may engage in the public practice of accountancy in North Carolina through any corporate form, except as provided in General Statutes Chapter 55B (Professional Corporation Act). \* *The first and second editions of S.B. 777 did not include this prohibition in the proposed Class 1 misdemeanor offense (see comments on third edition).*

*\*The second edition deletes the statement making each violation a distinct and separate offense.*

*\* The third edition amends G.S. 93-13 to also include violation of G.S. 93-8 (“Public practice of accounting by corporations prohibited”) among the offenses punishable as Class 1 misdemeanors.*

*Source: Bill Digest S.B. 777 (03/14/0200).*

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

Given the proposed enhancement, any new charge or conviction will generate some additional fiscal impact. However, the Administrative Office of the Courts currently does not have a specific offense code for violation of G.S. 93-13, indicating that such offense is infrequently charged and/or infrequently results in conviction. Accordingly, *given the nature of the offense and proposed penalty level, Fiscal Research does not anticipate a significant fiscal impact due to this proposal.*

### **Department of Correction: Division of Prisons**

Class 1 misdemeanants serve their designated terms of incarceration within local jails; therefore, the proposed offense is not expected to impact the state’s prison population.<sup>1</sup> The potential impact on local jail populations is unknown.

In FY 2005-06, 20% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 31 days. Thus, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. However, given the typical length for Class 1 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

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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.

**Department of Correction: Division of Community Corrections**

In FY 2005-06, 80% of Class 1 misdemeanor convictions resulted in either intermediate or community punishments, predominantly special, intensive, or general supervision probation. *Thus, if future convictions for the proposed offense occur, the Division of Community Corrections (DCC) could incur additional costs for offenders placed under its jurisdiction.* However, it is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long.

Presently, 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. However, 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**

There is no offense code for violation of G.S. 93-13, and therefore no data from which to estimate the number of charges that would be subject to the proposed Class 1 misdemeanor penalty. However, the Administrative Office of the Courts expects that any penalty enhancement will be accompanied by more vigorous defense and prosecution, and will thereby increase court-time requirements and the associated costs of case disposal. Specifically, the AOC anticipates increased workload for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel.

<b>Table 1. Administrative Office of the Courts Cost Estimates Per Trial and Plea: FY 2007-08</b>				
<i>Offense Class</i>	<i>Trial</i>	<i>Plea</i>	<i>Change in Cost: Trial</i>	<i>Change in Cost: Plea</i>
Class 3 Misdemeanor	\$ 2,770	\$ 226	N/A	N/A
Class 1 Misdemeanor	\$ 3,702	\$ 243	\$ 932	\$ 17

As shown, for affected cases, the proposed penalty enhancement is estimated to cost an additional \$932 per trial, and \$17 per plea. These cost estimates account for indigent defense. 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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**DATE:** June 5, 2007



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