

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 1287

**SHORT TITLE:** DWI/Felony Prior Record Level

**SPONSOR(S):** Representative Bowie

**FISCAL IMPACT:** Expenditures: Increase (X) Decrease ( )  
 Revenues: Increase ( ) Decrease ( )  
 No Impact ( )  
 No Estimate Available (X)

**FUNDS AFFECTED:** General Fund (X) Highway Fund ( ) Local Fund ( )  
 Other Fund ( )

**BILL SUMMARY:** TO INCLUDE PRIOR IMPAIRED DRIVING CONVICTIONS IN FELONY PRIOR RECORD LEVEL CALCULATION AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION. Amends GS 15A-1340(b) (prior record level for felony sentencing) to add that one point must be assigned for each prior impaired driving conviction under GS 20-138.1. Provides that convictions for Class 1 misdemeanor offenses under GS Ch 20 other than conviction for misdemeanor death by vehicle [GS 20-141.4(a2)] and conviction for impaired driving in a commercial vehicle under GS 20-138.2 will not be assigned any points for felony sentencing.

**EFFECTIVE DATE:** December 1, 1996, and applies to offenses on or after that date.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Department of Correction; Judicial Branch

**FISCAL IMPACT**

**DEPARTMENT OF CORRECTION**

	<u>FY</u> 1996-97*	<u>FY</u> 1997-98	<u>FY</u> 1998-99	<u>FY</u> 1999-00	2000-01	<u>FY</u>
<b>TOTAL EXPENDITURES</b>	\$1,674,437	\$0	\$0	\$0		\$0
<b>RECURRING</b>	\$0	\$0	\$0	\$0		\$0
<b>NON-RECURRING</b>	\$1,674,437					
<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>			

\* Although the effective date in this bill is December 1, 1996, the fiscal impact outlined above is based on an effective date of January 1, 1997. January 1, 1997 was the date originally intended by the Sentencing and Policy Advisory Commission for this bill. Thus, it is anticipated that this bill and all other Sentencing Commission recommendations to the 1996

Short Session of the General Assembly will be changed to the January 1, 1997 effective date as well.

**POSITIONS:** No additional State positions. The supervision of inmates would be provided as part of private contracts with facilities located out-of-state.

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

The following chart shows, for the end of each fiscal year, beds projected to be available, the number of inmates projected under the present Structured Sentencing Act, the deficit or surplus beds, the number of additional inmates projected to be incarcerated under this bill, and the additional beds needed as a result of this bill after considering projected prison capacity:

	<u>June 30</u> <u>1997</u>	<u>June 30</u> <u>1998</u>	<u>June 30</u> <u>1999</u>	<u>June 30</u> <u>2000</u>	<u>June 30</u> <u>2001</u>
No. of Inmates Under Current Structured Sentencing Act	35,522	33,626	32,814	32,466	32,600
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate			35,663*	35,186	35,186
No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act			+141**	+1,560	+2,372
				+2,720	+2,586
No. of Projected Additional Inmates Due to this Bill				167	387
				454	502
No. of Additional Beds Need Each Fiscal Year Due to this Bill					525
				167	0
				0	0
				0	0

\*The projected prison capacity for the fiscal year ending June 30, 1997 also includes 2,000 out-of-state beds, 451 local jail beds, and 1,100 segregation/special use beds. These beds are not included in the projected capacity for FY 1997-98 and beyond.

\*\* The Department of Correction (DOC) is currently using all available prison beds, including segregation/special use beds, to house the spike of inmates resulting from the Repeal of the Prison Cap. Typically, in order to ensure effective prison management, DOC uses their 1,100 special use beds for administrative segregation, mental health cases, and for other special needs. However, with the current emergency situation almost all of these

beds are being used to handle the excess number of inmates in the system. Therefore, the Fiscal Research Division believes that the projected surplus of 141 beds in FY 1996-97 should be reserved for these special needs in order to provide the Division of Prisons some management flexibility. As a result, the 167 additional beds required by HB 1287 in FY 1996-97 would have to be provided through contracts with private or public correctional facilities in other states.

The 167 additional beds required in FY 1996-97 are estimated to cost an average of \$54.79 per inmate/per day. This rate is based on the most recent estimates provided by the Department of Correction based on current and projected contracts. Since DOC is projected to have adequate bed capacity for FY 1997-98 and beyond, it is assumed these contracts will be short-term and that the inmates would return to North Carolina facilities by June 30, 1997.

**FY 1996-97:** 167 inmates at a cost of \$54.79 per day/inmate

Sentencing Commission estimates are based on January 1, 1997 effective date, so assume 183 days

$\$54.79 \times 167 \text{ inmates} \times 183 \text{ days} = \$1,674,437$

It is not anticipated that the proposed legislation would have a significant impact on the Department of Correction for FY 1997-98 and beyond. Based on the North Carolina Sentencing and Policy Advisory Commission projections of prison population, including the impact of the proposed legislation, and the Department of Correction's estimated prison bed capacity, the Fiscal Research Division believes the fiscal impact of the proposed legislation could be absorbed within existing DOC resources in future years.

**ASSUMPTIONS AND METHODOLOGY: Judicial Department**

The Judicial Department is unable to estimate the impact that this bill would have. Data is not available to estimate the changes that would occur in the structured sentencing grid cell placement of felony defendants whose prior record level would increase by one level (or more, in the case of defendants with numerous prior impaired driving convictions). The expected impact on the court system would be the costs associated with some increase in the trial rate for the affected defendants.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** It is anticipated that the effective date of this bill and all Sentencing Commission bills will be amended from December 1, 1996 to January 1, 1997, the effective date originally intended by the Commission.

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Charles Perusse

**APPROVED BY:** Tom L. Covington /s/TomC

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**Official**

**Fiscal Research Division**

**Publication**



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