

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 28

SHORT TITLE: Increase Some Criminal Penalties

SPONSOR(S): Senator Odom

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

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

BILL SUMMARY: TO CREATE A NEW OFFENSE CLASS AND PUNISHMENT ROW FOR MISDEMEANOR ASSAULTS, TO INCREASE THE PUNISHMENT FOR THE FELONY OFFENSES OF COMMON LAW ROBBERY, BREAKING AND ENTERING, ASSAULT ON A LAW ENFORCEMENT OFFICER, AND POSSESSION OF A FIREARM BY A FELON, TO LENGTHEN THE MINIMUM SENTENCES FOR FELONY OFFENSE CLASSES B2, C, AND D. Amends GS 14-33 to change simply assault from a Class 1 to Class 2 misdemeanor and to change the following offenses from a Class 1 to Class A1 misdemeanor; assault with deadly weapon, assault inflicting serious injury, assault on female, assault on child under 12, assault on gov't officer or employee. Amends GS 14-34 to change assault by pointing gun from a Class 1 to Class A1 misdemeanor. Amends GS 15A-1340.23 to add new misdemeanor Class A1 with punishment provisions as follows: Level 1 (1-60 days C/I/A); Level II (1-75 days C/I/A); Level III (1-150 days C/I/A), but provides that a person convicted of Class A1 misdemeanor who has five or more prior misdemeanor convictions, two of which were assaults, shall be punished as a Class F felon. Amends GS 14-87.1 to change punishment for common law robbery from Class G to Class F felony. Amends GS 14-54.5 to provide that person who commits assault with firearm on law enforcement officer is guilty of a Class E felony. Amends GS 14-415.1(a) to change punishment for possession of firearm by convicted felony from Class H to Class G felony. Amends GS 15A-1340.17(c) to increase minimum sentences for Class B2, C, and D felonies. New aggravated range for Class B2 runs from 225 months in Prior Record Level 1 to 450 months in Prior Record Level VI. New range for Class C runs from 105 months in Prior Record Level I to 240 months in Prior Record Level VI. New range for Class D runs from 93 months in Prior Record Level I to 210 months in Prior Record Level VI. Effective for offenses committed on or after December 1, 1995.

EFFECTIVE DATE: December 1, 1995

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

FISCAL IMPACT
Judicial Department and Department of Correction
(in millions)

	<u>FY95-96</u>	<u>FY96-97</u>	<u>FY97-98</u>	<u>FY98-99</u>	<u>FY99-00</u>
Correction	0 20,990,665	12,772,224	25,444,096	0	
Judicial	719,706	1,256,020	1,303,423	1,352,929	1,404,648
Total Exp.	719,706 22,395,313	14,028,244	26,747,519	1,352,929	

FISCAL IMPACT
Department of Correction

	<u>RECURRING</u>	<u>NONRECURRING</u>	<u>TOTAL</u>
FY 95-96	\$0	\$0	\$0
FY 96-97	\$0	\$12,772,224	\$12,722,224
FY 97-98	\$0	\$25,444,096	\$24,444,096
FY 98-99	\$0	\$0	\$0
FY 99-00	\$20,990,665	\$0	\$20,990,665

The expenditures outlined above are shown each year as expansion needs beyond the operating budget of the Department of Correction due to the **Increase Some Criminal Penalties** proposal.

POSITIONS: It is anticipated that approximately 349 positions would be needed to supervise the additional inmates housed under this bill. This is based on inmate to employee ratios, provided by the Division of Prisons, for close, medium, and minimum custody facilities. The ratios of inmates to employees are approximately:

Close - 2.0 to 1
Medium - 2.3 to 1
Minimum - 3.6 to 1

* These position totals include security, program, and administrative personnel.

ASSUMPTIONS AND METHODOLOGY:

With present beds, beds that have been funded but not completed, and beds retained by renovating the existing Polk Youth Center, enough beds are projected to be available at 130% capacity of 50 square feet per inmate until June 30, 2000, for inmates incarcerated under the Structured Sentencing Act which became effective October 1, 1994.

The following chart shows, for the end of each fiscal year, the above-noted projected beds to be available, the number of inmates projected under Structured Sentencing effective October 1, 1994, the surplus beds, the number of additional inmates projected to be incarcerated under **SB 28 Increase Some Criminal Penalties**, and the additional beds needed as a result of this bill after considering projected prison capacity:

	June 30 <u>1996</u>	June 30 <u>1997</u>	June 30 <u>1998</u>	June 30 <u>1999</u>	June 30 <u>2000</u>
No. of Inmates Under Structured Sentencing Effective 10/1/94	25,822	25,936	26,143	26,738	27,694
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate*	29,854	31,870	31,870	31,870	31,870
No. of Beds Over/Under No. of Inmates Due to Structured Sentencing	+4,032	+5,934	+5,727	+5,132	+4,176
No. of Projected Additional Inmates Due to this Bill	1,384	3,390	4,423	4,757	5,088
No. of Additional Beds Needed Each Fiscal Year Due to this Bill	0	0	0	0	912

As shown in the Fiscal Impact Table on page 2, the impact of this bill is the actual cost of providing 912 additional beds by June 30, 2000.

* The projected prison bed capacity also includes 656 beds likely to be funded by the 1995 General Assembly that will be added due to double-bunking in selected single cells, and 827 beds gained through the most recent modification of Small v. Martin.

Other Assumptions:

This fiscal note does not account for the Repeal Prison Cap legislation and its related potential use of many of the currently available prison

beds. The effect of repealing the cap is not considered since no decision has been

made by the General Assembly as to the effective date of the legislation. It is necessary to have an effective date prior to incorporating the related bed utilization into the fiscal analysis of Session 1995 proposed legislation.

These projections do not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget at a cost of \$86,000,000 in 1995-96 and \$14,000,000 in 1996-97. The estimated annualized costs for these beds is \$50,000,000. If funded, enough prison beds would be available to house the additional inmates anticipated to be incarcerated under this legislation.

Attachment A shows the impact of this bill for years beyond FY 1999-2000.

DISTRIBUTION OF BEDS: After analyzing the proposed legislation, the Department of Correction estimates the following distribution of beds as needed under this bill:

Close Custody - 21%
Medium Custody - 37%
Minimum Custody - 42%

The Department of Correction maintains that there will be enough minimum custody beds when present construction is completed. However, in assigning the true cost of this bill, the Fiscal Research Division has considered the distribution of beds at each custody level as needed for new offenders who would be incarcerated under this legislation.

CONSTRUCTION: Construction costs are based on actual 1995-96 costs for each custody level as provided by the Office of State Construction on April 28, 1995. Based on these costs, the following per bed/cell construction costs were used for the 912 beds needed by June 30, 2000:

FY 1996/97 - Close Custody \$66,522 X 192 = \$12,772,224
FY 1997/98 - Medium Custody \$40,301 X 337 = \$13,581,437
FY 1997/98 - Minimum Custody \$30,973 X 383 = \$11,862,559

A 6% per year inflation rate has been added to the above capital costs to determine the non-recurring costs estimated in the Fiscal Impact Table

on page 2. This rate was recommended by the Office of State Construction based on current inflationary trends for construction projects.

Funds for the close custody beds are budgeted 3 years in advance, while funds for the medium and minimum custody beds are budgeted 2 years in advance, to allow adequate time for planning and construction.

OPERATING: Operating costs are based on actual 1993-94 costs for each custody level as provided by the Department of Correction on October 14, 1994. A 4.6% per year inflationary rate on all non-salary items has been added to these recurring costs and are shown in the Fiscal Impact Table on page 2. Based on this information, the following annual operating costs were used for the 912 additional beds needed by June 30, 2000:

FY 1999/00 - Close Custody \$27,958 X 192 = \$5,367,936
 FY 1999/00 - Medium Custody \$24,367 X 337 = \$8,211,679
 FY 1999/00 - Minimum Custody \$19,350 X 383 = \$7,411,050

Depending on when the construction of beds are completed, funds for operating costs may only need to be budgeted for 3 months of fiscal year 1999-2000. However, the Fiscal Research Division has shown funds budgeted for the entire 1999-2000 fiscal year in the fiscal impact table on page 2 to demonstrate the annualized operating costs of this legislation.

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

FISCAL IMPACT

	<u>INDIGENT DEFENSE</u>	<u>OTHER STATE FUNDS</u>	<u>TOTAL</u>
FY 95-96*	\$139,751	\$579,955	\$719,706
FY 96-97	\$243,056	\$1,012,964	\$1,256,020
FY 97-98	\$260,070	\$1,043,353	\$1,303,423
FY 98-99	\$278,275	\$1,074,654	\$1,352,929
FY 99-00	\$297,754	\$1,106,894	\$1,404,648

* FY 1995-96 costs are based on the effective date of December 1, 1995.

The figures above show an estimated 7% annual increase in indigent defense costs and an annual 3% increase in other state costs.

POSITIONS: The AOC does not specify particular positions needed as a result of this bill. However, they anticipate additional positions would be needed to keep case processing times from slowing down and increasing case backlog.

CONCLUSIONS: The AOC believes that this bill will have a significant fiscal impact on the Judicial Branch, particularly the habitual misdemeanor section of the bill. Their estimates rely heavily on numbers produced by the Sentencing Commission and on opinions of eight district attorneys who were surveyed concerning this bill. The following sections examine both the felony and misdemeanor enhancements provided for in the bill and analyze their fiscal impact on judicial costs.

Felony Enhancements

In their analysis of the felony enhancements, the AOC focused primarily on the cells in which a defendant was projected to be in an Intermediate/Active cell in the current felony class, but would be in an Active cell under the

enhanced penalty provided for in the bill. They assumed that the defendants who would have received an intermediate sentence under current law would be the most likely to ask for a trial under the proposed legislation. The AOC estimated that twice as many defendants under Fair Sentencing would ask for a trial if they fell within those cells. However, since only a small percentage of those in the Intermediate/Active cells were receiving intermediate sentences (most were receiving active time), the impact from these estimates is not substantial.

Common law robbery. This bill increases common law robbery from a Class G felony to a Class F felony. A defendant with a prior record level IV would have been in an Intermediate/Active cell under Fair Sentencing in Class G, but would go to an an Active cell in Class F under Structured Sentencing. Extrapolating from Sentencing Commission figures, the AOC estimates that nine defendants in 1995-96 and fifteen defendants in 1996-97 would receive active time who had not before. Of these defendants, if twice as many (9.6%) asked for trials as did under Fair Sentencing (4.8%), the AOC anticipates only one extra trial in 1995-96 and one extra trial in 1996-97. Subsequently, no fiscal impact for this section is anticipated at this time.

Breaking or entering. The bill increases breaking or entering from a Class H felony to a Class G felony. (Under the Fair Sentencing Act, it was a Class H felony.) Extrapolating from Sentencing Commission figures, the AOC projects that 475 defendants in 1995-96 and 830 defendants in 1996-97 would receive active time who had not before. Using Sentencing Commission figures on percent active within each class, the AOC estimates that defendants who will receive new active terms will be subsets of a group of 1,287 defendants in 1995-96 and 2,248 defendants in 1996-97 who had their cases disposed. Of these defendants, if twice as many (2.0%) asked for trials as did under Fair Sentencing (1.0%), there would be 13 extra trials in 1995-96 and 22 extra trials in 1996-97 as a result of the breaking or entering sentence enhancement for defendants in these cells. The AOC anticipates that these additional trials could be absorbed within existing resources.

Assault with a firearm on a law enforcement officer. The bill increases assault with a firearm on a law enforcement officer from a Class F felony to a Class E felony. (Under the Fair Sentencing Act, it was a Class I felony.) Extrapolating from Sentencing Commission figures, the AOC projects that only two defendants in 1995-96 and three in 1996-97 would receive active time who had not before. Using Sentencing Commission figures on percent active within each class, the AOC estimates that defendants who will receive new active terms will be subsets of a group of five defendants in 1995-96 and seven defendants in 1996-97 who had their cases disposed. These numbers are so small that even if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), there would be no extra trials in 1995-96 and at

most one in 1996-97. Thus, no fiscal fiscal impact is anticipated due to this felony enhancement.

Possession of firearm by convicted felon. The bill increases possession of firearm by convicted felon from a Class H felony to a Class G felony. (Under the Fair Sentencing Act, it was a Class I felony.) Extrapolating from Sentencing Commission figures, the AOC projects that 15 defendants in 1995-96 and 27 defendants in 1996-97 would receive active time who had not before. Using Sentencing Commission figures on percent active within each class, the AOC estimates that defendants who will receive new active terms will be subsets of a group of 39 defendants in 1995-96 and 70 defendants in 1996-97 who had their cases disposed. Of these defendants, if twice as many (6.0%) asked for trials as did under Fair Sentencing (3.0%), there would be 1 extra trial in 1995-96 and 2 extra trials in 1996-97. As a result, no fiscal impact is estimated for judicial costs due to this enhancement.

For the four offenses above, the AOC assumes, as does the Sentencing Commission, that judges will continue to follow their patterns of the past in determining who in the Intermediate/Active cells should receive active time (the same percent active's will apply under structured sentencing). For those extra trials projected for the defendants who were not subject to mandatory active's under current law, the AOC anticipates the system could absorb the costs, given that they are projecting only 15 extra trials for 1995-96 and 26 for 1996-97.

Enhanced sentences in offense classes B2 through D. It is difficult to estimate the impact of the increased sentences in each cell of the B2, C, and D offense classes. Each convicted defendant in these classes is already serving a lengthy sentence, particularly as the prior record level increases. The increased punishments, which range from 11 months in the mitigated range of Class D, Level I, to 112 months in the aggravated range of Class B2, Level VI may motivate some defendants to plead guilty rather than go to trial, in hopes of a more favorable plea bargain. Other defendants may feel a trial is a good risk, given the lengthy sentence they are facing. The AOC has no way of estimating the increased number of trials because there is no disposition data categorized by offense class. Extrapolating from the Sentencing Commission's figures for the first half of 1993, we estimate that 132 defendants will be sentenced to Class B2 in 1995-96 and 231 in 1996-97, that 423 defendants will be sentenced to Class D in 1995-96 and 479 in 1996-97. If a significant number of these defendants were to ask for a trial, the impact upon the court system would be substantial, particularly given that trials in these classes often last 2.5 to 4 days each.

Misdemeanor Enhancements

Creation of new Class A1. The bill raises some serious misdemeanor assaults from Class 1 misdemeanors to a new Class A1 offense class (with all Community/Intermediate/Active cells), while dropping simple assaults to Class 2 misdemeanors. Those who fall in prior conviction

levels II and III could receive longer active sentences under the Class A1 classification. Those in prior conviction level I under current law are not eligible for an

active sentence, but under the proposed bill, would be as a Class A1 misdemeanor. The Sentencing Commission estimates that 17.4% of those falling into this category would receive active sentences under the proposed bill. Using Sentencing Commission figures, the AOC estimates that 473 people in 1995-96 and 826 people in 1996-97 would fall into this cell (Offense Class A1, prior conviction level I) of the grid. They assume that these defendants will have more motivation than in the past to contest their charges. On the other hand, there is a category of Class 1 misdemeanants (prior conviction level II) that will no longer be eligible to receive active sentences when they are reduced to Class 2 misdemeanants. The AOC estimates that 243 misdemeanants in 1995-96 and 426 in 1996-97 will fall into this cell (Offense Class II, prior conviction level II) of the grid. These misdemeanants will have far less motivation to contest their case by asking for a trial. Subtracting the latter group from the former, the AOC estimates 230 additional defendants in 1995-96 and 400 more in 1996-97 will get active terms for these misdemeanor assaults. Using Sentencing Commission figures on percent active within each class and the Administrative Office of the Courts' data on the proportions of dispositions that sentenced defendants represent, the AOC projects that these defendants who will receive new active terms will be subsets of a group of 2,538 defendants in 1995-96 and 4,414 defendants in 1996-97 who had their cases disposed. Of these defendants, if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), there would be 157 extra trials in district court in 1995-96 and 274 extra trials in 1996-97 as a result of the new Class A1 punishment enhancement for defendants in these cells. The AOC estimates each trial would last approximately 3/4 of a day, at an estimated cost of \$551 each (excluding indigent costs). In 1995-96, the additional district court trial costs would be \$86,507 and indigent defense costs would be \$16,258. (Assigned counsel costs that would have been incurred in the absence of this bill for disposition by plea have been deducted from the previous and following estimates). In 1996-97, trial costs would be \$150,974 and indigent defense costs would be \$28,378.

Many district attorneys surveyed said this section would increase the number of misdemeanor appeals to superior court by 50%. The AOC estimates that under the Fair Sentencing Act, approximately 4.7% of criminal non-motor vehicle defendants would appeal their conviction to superior court. If that number were to increase by 50%, the AOC anticipates that an additional 2.4% would appeal than had in the past. Using Sentencing Commission figures on percent active within each class to arrive at the number of sentenced defendants, and taking 2.4% of that number, the AOC estimates that there would be 32 additional appeals to superior court in 1995-96 and 55 additional appeals in 1996-97 by those defendants in Class A1, Level I only (after subtracting out the effects of lowering some misdemeanor assaults to Class 2 misdemeanors). They estimate that 3/4 of those who appeal will go to trial and that each of these trials would last 1 day, at a cost of \$1,314 per trial, excluding indigent defense costs. In superior court, the AOC estimates that 70% of these defendants will be found

indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In

1995-96, superior court trial costs (excluding public defender costs) would be \$31,536 and defense costs (assigned counsel and public defender) would be \$8,017. In 1996-97, trial costs would be \$53,874 and defense costs would be \$12,601.

Punishment for habitual misdemeanor. The bill adds a new provision to the punishment for misdemeanor offense classes under G.S. 15A-1340.23: (d) A person convicted of a Class A1 misdemeanor who has five or more prior misdemeanor convictions, two of which were assaults, shall be punished as a Class F felon." Nearly all of the district attorneys surveyed believed that this provision would increase the number of trials in district court and the number of appeals to superior court. The AOC believes that this provision will have a significant impact upon the Judicial Branch.

According to Sentencing Commission figures, 44.1% of these defendants would have received some active time as Class I misdemeanants. However, being in prior conviction level III of the grid, they could not have received over 240 days under current law, even with consecutive sentences (and not more than 120 days if no consecutive sentences were given). Most would have received significantly less time than that. When punished as Class F felons, these defendants could receive active time from a minimum of 13 months (if given an active sentence) up to 39 months (assuming no aggravating or mitigating factors). The AOC's estimates assume that this significant jump in active time will substantially increase the number of defendants who ask for a trial.

Based on data in the AOC's Court Information System from the fourth quarter of 1994, they estimate that in 1994, 14,669 defendants were convicted of offenses that would fall into the Class A1 category. Using data from 1992-93, the Sentencing Commission projected that 1,102 convicted defendants would be eligible for the habitual misdemeanor enhancement in all of 1995-96 (643 people in the seven months following December 1, 1995), and 1,124 in 1996-97. Under the provisions of this bill, very few would be likely to plea guilty unless they could plead to avoid the Class F sentence. Particularly those in prior conviction levels IV, V, and VI, will have little incentive to plead guilty where there is a mandatory active sentence ranging from 20 months to 39 months in the presumptive range. Projecting from Sentencing Commission figures, the AOC estimates that in 1995-96, 348 people falling in prior record levels IV, V, and VI would be sentenced under this provision, and that 609 would be sentenced in 1996-97. Given conviction rates at trial for criminal non-motor vehicle cases (56%), these figures would translate into 621 district court trials in 1995-96 and 1,088 trials in 1996-97. Subtracting out those likely to have had a trial previously (6.4%), we obtain estimates of 581 new trials in 1995-96 and 1,018 in 1996-97. Assuming that district attorneys will favorably use their charging and plea bargaining authority to decrease the number of these new trials, the AOC assumes that half of those who initially asked for a trial will plead guilty

for a favorable plea bargain. Under this assumption, there would be 291 new trials in 1995-96 and 509 new trials in 1996-97 for those people falling in prior conviction levels IV, V, and VI.

For those defendants who would fall into Intermediate/Active cells (prior conviction levels I, II, and III), the AOC assumes that since an intermediate sentence is possible, more will plead guilty under a favorable plea bargain than would those in the higher prior conviction levels. However, many would still request a trial because of the comparatively lengthy sentences they are facing in the Class F category. The AOC assumes that a quarter of these defendants will ask for a trial. Based on calculations similar to those in the preceding paragraph, they estimate that there would be 124 new trials in 1995-96 and 216 in 1996-97 for those defendants in prior conviction levels I, II, and III.

The trials for those in the Active cells and the Intermediate/Active cells together equal 415 new district court trials in 1995-96 and 725 in 1996-97. Each trial is estimated to last 3/4 day, at an estimated cost of \$551 per trial when a public defender is not involved. The AOC assumes that 35% of the district court defendants would be indigent, with 68% defended by assigned counsel (at a cost of \$500 per case) and 32% by the public defender. In 1995-96, district court trial costs (excluding public defender costs) would be \$228,665, and defense costs (assigned counsel and public defender) would be \$57,652. In 1996-97, trial costs would be \$399,475 and defense costs would be \$100,990.

All of the defendants who are convicted of this offense and sentenced within the Class F offense class would be expected to appeal to superior court, with an estimated 3/4 of them asking for trials de novo. In 1995-96, the AOC estimates that there will be 232 appeals, of which 174 would be tried. In 1996-97, the AOC estimates that there will be 406 appeals, of which 305 would be tried. Each trial is estimated to last 1 day, at a cost of \$1,314 each (without a public defender involved). In superior court, the AOC anticipates that 70% of these defendants will be found indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In 1995-96, superior court trial costs (excluding public defender costs) would be \$228,636 and defense costs (assigned counsel and public defender) would be \$53,009. The costs for the other appeals that did not result in trial would be \$4,611 for court time (at 30 minutes each) and \$4,816 for indigent defense. In 1996-97, trial costs would be \$400,770 and defense costs would be \$92,983. The costs for the other appeals that did not result in trial would be \$7,871 for court time and \$8,105 for indigent defense.

Adding these costs for district court trials and superior court appeals together, the AOC estimates that this habitual misdemeanor provision will cost \$577,389 in 1995-96 (with \$115,477 in indigent defense costs and \$461,912 for court time costs), and \$1,010,193 in 1996-97 (with \$202,078 in indigent defense costs and \$808,116 for court time costs).

TECHNICAL CONSIDERATIONS: There appears to be an error on page 4 of the bill

SOURCES OF DATA: Sentencing Commission; District Attorneys; Court Information System; Administrative Office of the Courts; Department of Correction

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Charles E. Perusse

APPROVED BY: Tom Covington **TomC**

DATE: May 3, 1995

[FRD#003]

ATTACHMENT A

**ESTIMATED ADDITIONAL PRISON POPULATION
ABOVE THAT PROJECTED
UNDER STRUCTURED SENTENCING**

SB 28

Increase Some Criminal Penalties

(Effective December 1, 1995)

END OF FISCAL YEAR	ADDITIONAL PRISONERS
1995-96	+1,384
1996-97	+3,390
1997-98	+4,423
1998-99	+4,757

	1999-00	+5,088
	2000-01	+5,507
	2001-02	+5,955
	2002-03	+6,408

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NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 28 COMMITTEE SUBSTITUTE - May 30, 1995

SHORT TITLE: Increase Some Criminal Penalties

SPONSOR(S): Senator Odom

FISCAL IMPACT: Expenditures: Increase (X) Decrease ()

FUNDS AFFECTED: General Fund (X)

BILL SUMMARY: "TO CREATE A NEW OFFENSE CLASS AND PUNISHMENT ROW FOR MISDEMEANOR ASSAULTS, TO INCREASE THE PUNISHMENT FOR THE FELONY OFFENSES OF COMMON LAW ROBBERY, BREAKING AND ENTERING, ASSAULT ON A LAW ENFORCEMENT OFFICER, AND POSSESSION OF A FIREARM BY A FELON, TO LENGTHEN MINIMUM SENTENCES FOR FELONY OFFENSE CLASSES B2, C, AND D. Amends GS 14-33 to change simple assault from a Class 1 to Class 2 misdemeanor and to change the following offenses from a Class 1 to Class A1 misdemeanor; assault with deadly weapon, assault inflicting serious injury, assault on female, assault on child under 12, assault on gov't officer or employee. Amends GS 14-34 to change assault by pointing gun from a Class 1 to Class A1 misdemeanor. Amends GS 15A-1340.23 to add new misdemeanor Class A1 with punishment provisions as follows: Level 1 (1-60 days C/I/A); Level II (1-75 days C/I/A); Level III (1-150 days C/I/A), but provides that a person convicted of Class A1 misdemeanor who has five or more prior misdemeanor convictions, two of which were assaults, shall be punished as a Class F

felon. Amends G.S. 14-87.1 to change punishment for common law robbery from Class G to Class F felony. Amends G.S. 14-54(a) to change punishment for possession of firearm by convicted felon from Class H to Class G felony. Amends G.S. 15A-1340.17(c) to increase minimum sentences for Class B2, C, and D felonies. New aggravated range for Class B2 runs from 225 months in Prior Record Level I to 450 months in Prior Record Level VI. New range for Class C runs from 105 months in Prior Record Level I to 240 months in Prior Record Level VI. New range for Class D runs from 93 months in Prior Record Level VI. New range for Class D runs from 93 months in Prior Record Level I to 210 months in Prior Record Level VI.

Intro. 1/26/95. Senate committee substitute replaced 1st edition. Amends the prior edition to provide that a person convicted of a Class A1 misdemeanor who has 5 or more prior misdemeanor convictions, 2 of which were assaults, must be punished as a Class H (rather than Class F) felon. Deletes amendments regarding punishment for common-law robbery. Changes minimum sentence ranges for Class B2, C, and D felonies. New aggravated range for Class B2 runs from 157 months in Prior Record Level 1 to 392 months in Prior Record Level VI. New presumptive range for Class B2 runs from 125 months in Prior Record Level 1 to 313 months in Prior Record Level VI. New mitigated range for Class B2 runs from 94 months in Prior Record Level 1 to 251 months in Prior Record Level VI. New aggravated range for Class C runs from 73 months in Prior Record Level 1 to 210 months in Prior Record Level VI. New presumptive range for Class C runs from 58 months in Prior Record Level 1 to 168 months in Prior Record Level VI. New mitigated range for Class C runs from 44 months in Prior Record Level 1 to 135 months in Prior Record Level VI. New aggravated range for Class D runs from 64 months in Prior Record Level 1 to 183 months in Prior Record Level VI. New presumptive range for Class D runs from 51 months in Prior Record Level 1 to 146 months in Prior Record Level VI. New mitigated range for Class D runs from 38 months in Prior Record Level 1 to 117 months in Prior Record Level VI. Amends title accordingly.

EFFECTIVE DATE: December 1, 1995; applies to offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:

Department of Correction
Judicial Branch

FISCAL IMPACT: DEPARTMENT OF CORRECTION

Two alternatives are provided for the possible fiscal impact on the Department of Correction.

Alternative 1 assumes that the number of beds over the currently projected prison population could be utilized to partially fulfill the requirements of the proposed legislation. The fiscal impact of Alternative 1 shows the cost associated with constructing and operating facilities in addition to those currently available.

DEPARTMENT OF CORRECTION: FISCAL IMPACT: ALTERNATIVE 1

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$ 2,547,151	\$38,050,791	\$40,597,942
FY 96/97	\$24,227,344		\$24,227,344
FY 97/98	\$15,842,632		\$15,842,632
FY 98/99	\$12,276,475	\$ 971,672	\$13,248,147
FY 99/00	\$17,563,383	\$10,534,002	\$28,097,385

Alternative 2 assumes that all of the beds required by the proposed legislation would have to be provided through the construction and operation of new facilities.

DEPARTMENT OF CORRECTION: FISCAL IMPACT: ALTERNATIVE 2

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$20,898,640	\$36,881,404	\$57,780,044
FY 96/97	\$33,553,799	\$ 7,777,738	\$41,331,537
FY 97/98	\$39,554,669	\$ 4,560,351	\$44,115,020
FY 99/00	\$41,834,016	\$ 7,490,894	\$49,324,910
FY 99/00	\$44,926,994	\$10,124,153	\$55,051,147

Note: If funded, the Governor's proposal for constructing 2,424 new prison beds would meet and exceed the number of beds needed if SB 28 is ratified. However, there are some differences between SB 28 and the Governor's proposal in the type of beds needed (i.e. minimum, medium, close custody levels). The Governor is requesting in his 1995-97 Capital Improvement budget, the construction of 2,424 beds at a cost of \$86,000,000 in 1995-96 and \$14,000,000 in 1996-97. The estimated annualized operating costs for these beds is \$50,000,000. See Appendix C for a list of the proposed facilities and their related construction costs.

ASSUMPTIONS AND METHODOLOGY: DEPARTMENT OF CORRECTION

ALTERNATIVE 1

Alternative 1 assumes that the prisons beds currently available, those available over- and-above the number required under Structured Sentencing and the repeal of the prison cap, could be utilized to partially fulfill the requirements of SB 28.

The following chart shows, for the end of each fiscal year, the total number of inmates projected under Structured Sentencing effective October 1, 1994 and the number of additional inmates resulting from the repeal of the prison cap 1/1/96, the number of beds projected to be available, the number of additional inmates projected to be incarcerated under **SB 28 Increase Some Criminal Penalties**, and the additional beds needed as a result of this bill:

	<u>June 30</u> <u>1996</u>	<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>
No. of Inmates Under Structured Sentencing Effective 10/1/94 and Repealing the Prison Cap 1/1/96	31,375	32,029	31,387	31,133	31,241
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate*	29,198	31,214	31,214	31,214	31,214
Projected Beds Available In-State	360	0	0	0	0
Projected Beds Available Due to Double Bunking in Selected Single Cells	656	656	656	656	656
Projected Beds Available by Outside Providers	578	578	578	578	578
No. of Beds Over/(Under) Projected Population	842	419	1,061	1,315	1,207
No. of Projected Additional Inmates Due to this Bill	959	1,525	1,777	1,865	1,985
No. of Additional Beds Needed Due to SB 28	117	1,106	716	550	778

* The projected prison bed capacity also includes 827 beds gained through the most recent modification of Small v. Martin.

Alternative 1 does not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget.

The following tables show the prison bed needs by custody level for Alternative 1 for FY 95/96 through FY 99/00.

ALTERNATIVE 1: THE NUMBER OF ADDITIONAL BEDS NEEDED DUE TO THIS BILL

	FY 95/96	FY 96/97	FY 97/98	FY 98/99	FY 99/00
CLOSE (19.1%)	22	211	137	105	148
MEDIUM (33.5%)	39	371	240	184	261
MINIMUM (47.4%)	56	524	339	261	369
TOTAL	117	1,106	716	550	778

ALTERNATIVE 1: PRISON BED IMPACT: ANNUAL BREAKDOWN

<u>FY 95/96</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY			
MEDIUM SECURITY STATE FACILITY			
CLOSE SECURITY STATE FACILITY			22
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	56	39	22

<u>FY 96/97</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	468		
MEDIUM SECURITY STATE FACILITY		332	
CLOSE SECURITY STATE FACILITY			211
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	524	371	211

<u>FY 97/98</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	283		
MEDIUM SECURITY STATE FACILITY		201	
CLOSE SECURITY STATE FACILITY			137
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	339	240	137
<u>FY 98/99</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	205		
MEDIUM SECURITY STATE FACILITY		145	
CLOSE SECURITY STATE FACILITY			105
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	261	184	105
<u>FY 99/00</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	313		
MEDIUM SECURITY STATE FACILITY		222	
CLOSE SECURITY STATE FACILITY			148
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	369	261	148

See Appendix A for the detailed cost analysis for Alternative 1.

Alternative 2 assumes that all of the beds required by SB 28 would have to be provided through the construction and operation of new facilities. The following tables show the prison bed needs by custody level for Alternative 2 for FY 95/96 through FY 99/00 (*).

ALTERNATIVE 2: THE NUMBER OF ADDITIONAL BEDS NEEDED DUE TO THIS BILL

	FY 95/96	FY 96/97	FY 97/98	FY 98/99	FY 99/00
CLOSE	183	303	364	383	413
MEDIUM	321	531	637	670	713
MINIMUM	455	691	776	812	859
TOTAL	959	1,525	1,777	1,865	1,985

* The projections for Alternative 2 do not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget.

ALTERNATIVE 2: PRISON BED IMPACT: ANNUAL BREAKDOWN

<u>FY 95/96</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY			
MEDIUM SECURITY STATE FACILITY			
CLOSE SECURITY STATE FACILITY			183
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	455	321	183
<u>FY 96/97</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	236		
MEDIUM SECURITY STATE FACILITY		210	
CLOSE SECURITY STATE FACILITY			303
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	691	531	303

<u>FY 97/98</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	321		
MEDIUM SECURITY STATE FACILITY		316	
CLOSE SECURITY STATE FACILITY			364
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	776	637	364

<u>FY 98/99</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	357		
MEDIUM SECURITY STATE FACILITY		349	
CLOSE SECURITY STATE FACILITY			383
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	812	670	383

<u>FY 99/00</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	404		
MEDIUM SECURITY STATE FACILITY		392	
CLOSE SECURITY STATE FACILITY			413
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	859	713	413

See Appendix B for the detailed cost analysis for Alternative 2.

FISCAL IMPACT: JUDICIAL BRANCH

	<u>INDIGENT DEFENSE</u>	<u>OTHER STATE FUNDS</u>	<u>TOTAL</u>
FY 95-96	\$ 52,671	\$ 240,162	\$ 292,833
FY 96-97	\$ 97,563	\$ 431,602	\$ 529,165
FY 97-98	\$104,392	\$ 444,550	\$ 548,942
FY 98-99	\$111,699	\$ 457,886	\$ 569,585
FY 99-00	\$119,518	\$ 471,623	\$ 591,141

* FY 1995-96 costs are based on the effective date of December 1, 1995.

** The figures above show an estimated 7% annual increase in indigent defense costs and an annual 3% increase in other state costs.

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

POSITIONS: The AOC does not specify particular positions needed as a result of this bill. However, they anticipate additional positions would be needed to keep case processing times from slowing down and increasing case backlog.

CONCLUSIONS: The Administrative Office of the Courts believes that the amended version of SB 28 would have less fiscal impact on the Judicial Branch than the original version of SB 28. However, the impact of the proposed legislation, even as amended, is still substantial for the Judicial Branch.

The Administrative Office of the Court's estimates rely heavily on numbers produced by the Sentencing Commission and on opinions of eight district attorneys who were surveyed concerning the proposed legislation. The following sections examine both the felony and misdemeanor enhancements provided for in the proposed bill and analyze their fiscal impact on judicial costs.

Felony Enhancements

The Administrative Office of the Courts assumed that the defendants who would have received an intermediate sentence under current law would be the most likely to ask for a trial under the proposed legislation. Since only a small percentage of defendants receive intermediate sentences under current law (most were receiving active time), the impact of the felony enhancement section of the proposed legislation would not have a substantial effect on the Judicial Branch. The assumptions for this conclusion are explained below for each offense class.

Assault with a firearm on a law enforcement officer. Under the current Structured Sentencing Act, assaults with a firearm or other deadly weapon on governmental officers (including law enforcement officers) are punished as Class F felonies. This section of the proposed bill increases assault with a firearm on a law enforcement officer from a Class F felony to a Class E felony. (Under the Fair Sentencing Act, it was a Class I felony).

The majority of defendants charged with this offense already serve active time under current law. According to the Administrative Office of the Courts, the potential increase in sentence lengths for those serving active terms, would not be significant enough to change the defense strategies of those charged with this offense. However, if additional trials are requested, district attorneys can favorably balance out the need for additional court time through their charging and plea bargaining authority.

New Active Prison Sentences: A few defendants would receive new active prison terms as a result of this section of the proposed legislation. The Administrative Office of the Courts projects that the defendants who would receive new active terms would be subsets of a group of five defendants in the last seven months of FY 95-96, and seven defendants in FY 96-97 who had their cases disposed. These numbers are so small that even if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), the Administrative Office of the Courts would expect no extra trials in FY 95-96, and at most one in FY 96-97 as a result of the proposed legislation.

Possession of firearm by convicted felon. The proposed bill increases possession of firearm by a convicted felon from a Class H felony to a Class G felony. Extrapolating from Sentencing Commission figures, the Administrative Office of the Courts projects that 15 defendants in FY 95-96 and 27 defendants in FY 96-97 would receive active time who had not before. Using Sentencing Commission figures on percent active within each class and the Administrative Office of the Courts' data on the proportions of dispositions that sentenced defendants represent, the Administrative Office of the Courts projects that these defendants who would receive new active terms will be subsets of a group of 39 defendants in FY 95-96 and 70 defendants in FY 96-97 who had their cases disposed. Of these defendants, if twice as many (6.0%) asked for trials as did under Fair Sentencing (3.0%), the Administrative Office of the Courts would expect 1 extra trial in FY 95-96 and 2 extra trials in FY 96-97 as a result of this section of the proposed legislation.

For the three offenses above, the Fiscal Research Division, the Administrative Office of the Courts, and the North Carolina Sentencing and Policy Advisory Commission assume, that judges will continue to follow their patterns of the past in determining who should receive active time, i.e., that the same percent actives will apply under structured sentencing. Since the possible increased sentence ranges are only three to twenty months greater than those currently established, the Administrative Office of the Courts assumes that defendants will not ask for trials more frequently than they do presently.

Enhanced sentences in offense classes B2 through D. The Administrative Office of the Courts has no way of estimating the increased number of trials that may result from this section of the proposed legislation as it is difficult to estimate the impact of the increased sentences in each cell of the B2, C and D offense classes. Each convicted defendant in these classes is already serving a lengthy sentence, particularly as the prior record level increases. The increased punishments may motivate some defendants to plead guilty rather than go to trial, in hopes of a more favorable plea bargain. Other defendants may feel a trial is a good risk, given the lengthy sentence they are facing.

Misdemeanor Enhancements

Creation of new Class A1. The proposed bill raises some serious misdemeanor assaults from Class 1 misdemeanors to a new Class A1 offense class, while dropping simple assaults to Class 2 misdemeanors. Those who fall in prior conviction levels II and III could receive longer active sentences under the Class A1 classification. Those in prior conviction level I under current law are not eligible for an active sentence, but under the proposed bill, would be as a Class A1 misdemeanant. It appears that the defendants likely to be most concerned about their elevation to Class A1 misdemeanants would be those who had not been eligible for active sentences before. The Sentencing Commission estimates that 17.4% of those falling into this category would receive active sentences under the proposed bill.

Using Sentencing Commission figures, AOC estimates that 473 people in 1995-96 and 826 people in 1996-97 would fall into this category (Offense Class A1, prior conviction level I of the grid). The Administrative Office of the Courts assumes that these defendants will have more motivation than in the past to contest their charges. On the other hand, there is a category of Class 1 misdemeanants (prior conviction level II) that will no longer be eligible to receive active sentences when they are reduced to Class 2 misdemeanants. The Administrative Office of the Courts estimates that 243 misdemeanants in 1995-96 and 426 in 1996-97 will fall into this category (Offense Class II, prior conviction level II of the grid). These misdemeanants will have far less motivation to contest their case by asking for a trial. Subtracting the latter group from the former, AOC arrived at an estimate of 230 additional defendants in 1995-96 and 400 more in 1996-97 who will get active terms for these misdemeanor assaults.

Using Sentencing Commission figures on percent active within each class and the Administrative Office of the Courts' data on the proportions of dispositions that sentenced defendants represent, AOC projects that these defendants who will receive new active terms will be subsets of a group of 2,538 defendants in 1995-96 and 4,414 defendants in 1996-97 who had their cases disposed. Of these defendants, if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), AOC would expect 157 extra trials in district court in 1995-96 and 274 extra trials in 1996-97 as a result of the new Class A1 punishment enhancement for these defendants.

District Court: Each trial would last approximately one hour, at an estimated cost of \$123 each (excluding indigent costs). In FY 95-96, the additional district court trial costs would be \$19,311 and indigent defense costs would be \$2,574. (Assigned counsel costs that would have been incurred in the absence of the proposed legislation for disposition by plea have been deducted from the previous and following estimates). In FY 96-97, trial costs would be \$33,702 and indigent defense costs would be \$4,493. To the extent that defendants who already faced active time under current law decide to contest their

cases when faced with longer sentences (up to 75 days in Level II and 150 days in Level III for single offenses), then these estimates will understate the actual impact and should be regarded as conservative.

THE NUMBER OF NEW DISTRICT COURT TRIALS AND THEIR RELATED COST - FOR
CREATION OF A NEW CLASS A1 OFFENSE CATEGORY

	<u>FY 95/96</u>	<u>FY 96/97</u>
New District Court Trials	157	274
District Court Trial Costs	\$19,311	\$33,702
Assigned Counsel & Public Defender Costs	\$ 2,574	\$ 4,493
TOTAL	\$21,885	\$38,195

Superior Court: The district attorneys surveyed believe that this proposed section could increase the number of misdemeanor appeals to superior court by 50%. From Administrative Office of the Courts' data, it is estimated that under the Fair Sentencing Act, approximately 4.7% of criminal non-motor vehicle defendants would appeal their conviction to superior court. If that number were to increase by 50%, AOC would estimate an additional 2.4% would appeal than had in the past. Using Sentencing Commission figures on percent active within each class to arrive at the number of sentenced defendants, and taking 2.4% of that number, we estimate that there would be 32 additional appeals to superior court in 1995-96 and 55 additional appeals in 1996-97 by those defendants in Class A1, Level I only (after subtracting out the effects of lowering some misdemeanor assaults to Class 2 misdemeanors).

The Administrative Office of the Courts estimates that 3/4 of those who appeal will go to trial and that each of these trials would last 1 day, at a cost of \$1,314 per trial, excluding indigent defense costs. In superior court, AOC estimates that 70% of these defendants will be found indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In 1995-96, superior court trial costs (excluding public defender costs) would be \$31,536 and defense costs (assigned counsel and public defender) would be \$8,017. In 1996-97, trial costs would be \$53,874 and defense costs would be \$12,601.

THE NUMBER OF SUPERIOR COURT TRIALS ON APPEAL AND THEIR RELATED COSTS -
FOR CREATION OF A NEW CLASS A1 OFFENSE CATEGORY

	<u>FY 95/96</u>	<u>FY 96/97</u>
New Superior Court Trials	32	55
Superior Court Trial Costs	\$31,536	\$53,874
Assigned Counsel & Public Defender Costs	\$ 8,017	\$12,601
TOTAL	\$39,553	\$66,475

Punishment for habitual misdemeanor. The proposed legislation adds a new provision to the punishment for misdemeanor offense classes under G.S. 15A-1340.23: "(d) A person convicted of a Class A1 misdemeanor who has five or more prior misdemeanor convictions, two of which were assaults, shall be punished as a Class H felon." The Administrative Office of the Courts believes that this provision would have a significant impact upon the Judicial Branch if these habitual misdemeanants are punished as Class H felons.

District Court: Using data from 1992-93, the Sentencing Commission projected that 1,102 convicted defendants would be eligible for the habitual misdemeanor enhancement in all of 1995-96 (643 people in seven months following December 1, 1995), and 1,124 in 1996-97. The district attorneys surveyed estimated that there would be a 53% increase in the numbers of trials as a result of the proposed legislation. These figures would translate into 129 new district court trials in FY 95-96, and 227 new trials in FY 96-97.

Each trial is estimated to last one hour, at an estimated cost of \$123 per trial when a public defender is not involved. The Administrative Office of the Courts assumes that 35% of district court defendants are indigent, with 68% defended by assigned counsel (at a cost of \$200 per case) and 32% by the public defender. In FY 95-96, district court trial costs (excluding public defender costs) would be \$15,867, and defense costs (assigned counsel and public defender) would be \$2,106. In FY 96-97, trial costs would be \$27,921 and defense costs would be \$3,697. The above figures for indigent defense exclude assigned counsel costs that would have been incurred in the past for guilty pleas.

THE NUMBER OF NEW DISTRICT COURT TRIALS AND THEIR RELATED COST
- HABITUAL MISDEMEANANT -

	<u>FY 95/96</u>	<u>FY 96/97</u>
New District Court Trials	129	227
District Court Trial Costs	\$15,867	\$27,921
Assigned Counsel & Public Defender Costs	\$ 2,106	\$ 3,697
TOTAL	\$17,973	\$31,618

Superior Court: District attorneys estimated that the appeal rate of these habitual misdemeanants convicted (either at trial or by plea) in district court would jump from 6.8% to 30%. In FY 95-96, the Administrative Office of the Courts estimates that there would be 132 trials on appeal and in FY 96-97 there would be 231 trials. Each trial is estimated to last one day, at a cost of \$1,314 each (without a public defender involved). In superior court, the Administrative Office of the Courts estimates that 70% of these defendants would be found indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In FY 95-96, superior court trial costs

(excluding public defender costs) would be \$173,448 and defense costs (assigned counsel and public defender) would be \$39,974. In FY 96-97, trial costs would be \$303,534 and defense cost would be \$70,389.

THE NUMBER OF SUPERIOR COURT TRIALS ON APPEAL AND THEIR RELATED COSTS
- HABITUAL MISDEMEANANT -

	<u>FY 95-96</u>	<u>FY 96-97</u>
New Superior Court Trials on Appeal	132	231
Superior Court Trial Costs	\$173,448	\$303,534
Assigned Counsel & Public Defender Costs	\$ 39,974	\$ 70,389
TOTAL	\$213,422	\$373,923

These estimates are conservative as these figures exclude public defender and district attorney preparation time outside of trial, and additional workload within the clerks' offices. The Administrative Office of the Courts also makes no attempt to determine the costs of increased defense activity when defendants are charged with a misdemeanor, for which if convicted, they would be one Class A1 conviction away from being eligible for the habitual misdemeanor enhancement. Defense attorneys must challenge these charges more vigorously knowing that a conviction now would mean a Class H felony punishment the next time their clients are convicted of a Class A1 misdemeanor.

TECHNICAL CONSIDERATIONS: There appears to be an error on page 4 of the bill, under proposed G.S. 15A-1340.23(c). In the second line, the word "offense" seems to be mistakenly crossed out. There also appears to be an error in the new presumptive sentencing range of Class B2, Level V (page 7 of the bill). The maximum sentence should be "324," not "924," if the same pattern is followed as for other cells.

SOURCES OF DATA: Sentencing Commission; District Attorneys; Court Information System; Administrative Office of the Courts; Department of Correction

FISCAL RESEARCH DIVISION (733-4910)

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DATE: June 6, 1995

[FRD#003]

APPENDIX A
ALTERNATIVE 1

The time required for the State to find a site, draw up the plans, and construct each of the custody level prisons are as follows:

Close Custody - 30 months
Medium Custody - 24 months
Minimum Custody - 21 months

The State would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, it is assumed that minimum and medium security private provider beds would be needed at the rate of \$54.46 and \$59.46 per day/inmate, respectively. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95/96 would remain in private facilities throughout the time-period covered by this fiscal note.

In addition, the costs associated with the construction and operation of the close security facilities in FY 95/96 and FY 96/97 are only hypothetical in nature. These numbers are included so as to encompass the full cost of the legislation. However, it would not be possible to construct and begin operation of close security facilities within this time-frame.

FISCAL YEAR	TOTAL BEDS	MINIMUM	MEDIUM	CLOSE
FY 95/96	117	56	39	22
FY 96/97	1,106	524	371	211
FY 97/98	716	339	240	137
FY 98/99	550	261	184	105
FY 99/00	778	369	261	148

MINIMUM CUSTODY COST ANALYSIS: ALTERNATIVE 1

PRIVATE PROVIDER COSTS: Private Providers are able to supply minimum security beds for the following per diem rate(*).

MINIMUM

\$45 Per Day/Inmate
\$ 3.56 Administrative Cost
\$ 4.84 Extraordinary Medical
\$.88 Day/Clothing
\$.18 SIPS for Employees/
Office supplies
\$54.46 Total Per Day/Inmate

(*) - There is not an inflation factor included in the private provider costs.

FY 95/96: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

FY 96/97: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

468 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): 468 X \$27,566 = \$12,900,888

Operation: 468 X \$18,698 = \$ 8,750,664

FY 97/98: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

283 MINIMUM SECURITY BEDS - STATE FACILITIES

Operation: 283 X \$18,913 = \$ 5,352,379

FY 98/99: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

205 MINIMUM SECURITY BEDS - STATE FACILITIES

Operation: 205 X \$19,130 = \$ 3,921,650

FY 99/00: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

313 MINIMUM SECURITY BEDS - STATE FACILITIES

Operation: 313 X \$19,350 = \$ 6,056,550

FY 00/01: 557 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 89 X \$34,801 = \$ 3,097,289

MEDIUM CUSTODY COST ANALYSIS: ALTERNATIVE 1

PRIVATE PROVIDER COSTS: Private Providers are able to supply medium security beds for the following per diem rate(*) .

MEDIUM

\$50 Per Day/Inmate
\$ 3.56 Administrative Cost
\$ 4.84 Extraordinary Medical
\$.88 Day/Clothing
\$.18 SIPS for Employees/Office supplies
\$59.46 Total Per Day/Inmate

(*) - There is not an inflation factor included in the private provider costs.

FY 95/96: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

FY 96/97: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

332 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): 332 X \$35,868 = \$11,908,176

Operation: 332 X \$23,545 = \$ 7,816,940

FY 97/98: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

201 MEDIUM SECURITY BEDS - STATE FACILITIES

Operation: 201 X \$23,816 = \$ 4,787,016

FY 98/99: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

145 MEDIUM SECURITY BEDS - STATE FACILITIES

Operation: 145 X \$24,090 = \$ 3,493,050

FY 99/00: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

222 MEDIUM SECURITY BEDS - STATE FACILITIES

Operation: 222 X \$24,367 = \$ 5,409,474

FY 00/01: 393 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 61 X \$45,282 = \$ 2,762,202

CLOSE CUSTODY COST ANALYSIS: **ALTERNATIVE 1**

FY 95/96: 22 CLOSE SECURITY BEDS - STATE FACILITIES - HYPOTHETICAL

Construction: 22 X \$62,757 = \$1,380,654

Operation: 22 X \$26,708 = \$ 587,576

FY 96/97: 211 CLOSE SECURITY BEDS - STATE FACILITIES - HYPOTHETICAL

Construction (FY 95/96): 189 X \$62,757 = \$11,861,073

Operation: 211 X \$27,015 = \$ 5,700,165

FY 97/98: 137 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 137 X \$27,326 = \$ 3,743,662

FY 98/99: 105 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 105 X \$27,640 = \$ 2,902,200

FY 99/00: 148 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 148 X \$27,958 = \$ 4,137,784

FY 00/01: 224 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 13 X \$74,744 = \$ 971,672

FY 01/02: 283 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 59 X \$79,229 = \$ 4,674,511

APPENDIX B
ALTERNATIVE 2

The State would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, it is assumed that minimum and medium security private provider beds would be needed at the rate of \$54.46 and \$59.46 per day/inmate, respectively. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95/96 would remain in private facilities throughout the time-period covered by this fiscal note.

In addition, the costs associated with the construction and operation of the close security facilities in FY 95/96 and FY 96/97 are only hypothetical in nature. These numbers are included so as to encompass the full cost of the legislation. However, it would not be possible to construct and begin operation of close security facilities within this time-frame.

FISCAL YEAR	TOTAL BEDS	MINIMUM	MEDIUM	CLOSE
FY 95/96	959	455	321	183
FY 96/97	1,525	268	190	108
FY 97/98	1,777	119	84	48
FY 98/99	1,865	42	29	17
FY 99/00	1,985	57	40	23

MINIMUM CUSTODY COST ANALYSIS: **ALTERNATIVE 2**

FY 95/96: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

$$455 \times \$54.46 \times 365 = \$ 9,044,445$$

FY 96/97: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

$$455 \times \$54.46 \times 365 = \$ 9,044,445$$

236 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): $236 \times \$27,566 = \$ 6,505,576$

Operation: $236 \times \$18,698 = \$ 4,412,728$

FY 97/98: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

455 X \$54.46 x 365 = \$ 9,044,445

321 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 96/97): 85 X \$29,220 = \$ 2,483,700

Operation: 321 X \$18,913 = \$ 6,071,073

FY 98/99: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

455 X \$54.46 X 365 = \$ 9,044,445

357 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 97/98): 36 X \$30,973 = \$ 1,115,028

Operation: 357 X \$19,130 = \$ 6,829,410

FY 99/00: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

455 X \$59.46 X 365 = \$ 9,044,445

404 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 47 X \$32,831 = \$ 1,543,057

Operation: 404 X \$19,350 = \$ 7,817,400

FY 00/01: 503 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 46 X \$34,801 = \$ 1,600,846

MEDIUM CUSTODY COST ANALYSIS: **ALTERNATIVE 2**

FY 95/96: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

FY 96/97: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

210 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): 210 X \$35,868 = \$ 7,532,280

Operation: 210 X \$23,545 = \$ 4,944,450

FY 97/98: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

316 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 96/97): 106 X \$38,020 = \$ 4,030,120

Operation: 316 X \$23,816 = \$ 7,525,856

FY 98/99: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

349 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 97/98): 33 X \$40,301 = \$ 1,329,933

Operation: 349 X \$24,090 = \$ 8,407,410

FY 99/00: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

392 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 43 X \$42,719 = \$ 1,836,917

Operation: 392 X \$24,367 = \$ 9,551,864

FY 00/01: 456 MEDIUM SECURITY BEDS

Construction (FY 99/00): 64 X \$45,282 = \$ 2,898,048

APPENDIX C
GOVERNOR'S PROPOSAL - CONSTRUCTION COSTS OF NEW FACILITIES

624 Bed Medium Custody Unit with 40 Segregation Cells

Office of State Construction Revised Estimated Cost:	\$26,335,300
Department of Correction Original Estimate:	\$26,375,800

624 Bed Medium Custody Unit with 40 Segregation Cells

Office of State Construction Revised Estimated Cost:	\$26,335,300
Department of Correction Original Estimate:	\$26,832,200

336 Bed Close Custody Unit with 40 Bed Segregation Unit

Office of State Construction Revised Estimated Cost:	\$33,578,500
Department of Correction Original Estimate:	\$34,212,000

Expand Warren - 168 Medium Security Cells with 40 Segregation cells

Office of State Construction Revised Estimated Cost:	\$9,628,300
Department of Correction Original Estimate:	\$9,718,200

60 Bed Boot Camp for Females

Office of State Construction Revised Estimated Cost:	\$2,041,100
Department of Correction Original Estimate:	\$2,048,800

104 Bed Minimum Custody Unit for Females

Office of State Construction Revised Estimated Cost:	\$2,183,000
Department of Correction Original Estimate:	\$2,203,400

Expand Polk - 104 Bed Dorm and 144 Single Cells

Office of State Construction Revised Estimated Cost:	\$7,615,400
Department of Correction Original Estimate:	\$7,759,100

Polk - Supermax - 100 Cells

Office of State Construction Revised Estimated Cost:	\$8,565,200
Department of Correction Original Estimate:	\$8,645,200

TOTALS

Office of State Construction Revised Estimated Cost:	\$116,282,100
Department of Correction Original Estimate:	\$117,794,700

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UPDATE FOR FISCAL NOTE FOR S28 - JUNE, 6, 1995

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 28 COMMITTEE SUBSTITUTE - May 30, 1995

SHORT TITLE: Increase Some Criminal Penalties

SPONSOR(S): Senator Odom

FISCAL IMPACT: Expenditures: Increase (X) Decrease ()

FUNDS AFFECTED: General Fund (X)

BILL SUMMARY: "TO CREATE A NEW OFFENSE CLASS AND PUNISHMENT ROW FOR MISDEMEANOR ASSAULTS, TO INCREASE THE PUNISHMENT FOR THE FELONY OFFENSES OF COMMON LAW ROBBERY, BREAKING AND ENTERING, ASSAULT ON A LAW ENFORCEMENT OFFICER, AND POSSESSION OF A FIREARM BY A FELON, TO LENGTHEN MINIMUM SENTENCES FOR FELONY OFFENSE CLASSES B2, C, AND D. Amends GS 14-33 to change simple assault from a Class 1 to Class 2 misdemeanor and to change the following offenses from a Class 1 to Class A1 misdemeanor; assault with deadly weapon, assault inflicting serious injury, assault on female, assault on child under 12, assault on gov't officer or employee. Amends GS 14-34 to change assault by pointing gun from a Class 1 to Class A1 misdemeanor. Amends GS 15A-1340.23 to add new misdemeanor Class A1 with punishment provisions as follows: Level 1 (1-60 days C/I/A); Level II (1-75 days C/I/A); Level III (1-150 days C/I/A), but provides that a person convicted of Class A1 misdemeanor who has five or more prior misdemeanor convictions, two of which were assaults, shall be punished as a Class F felon. Amends G.S. 14-87.1 to change punishment for common law robbery from Class G to Class F felony. Amends G.S. 14-54(a) to change punishment for possession of firearm by convicted felon from Class H to Class G felony. Amends G.S. 15A-1340.17(c) to increase minimum sentences for Class B2, C, and D felonies. New aggravated range for Class B2 runs from 225 months in Prior Record Level I to 450 months in Prior Record Level VI. New range for Class C runs from 105 months in Prior Record Level I to 240 months in Prior Record Level VI. New range for Class D runs from 93 months in Prior Record Level VI. New range for Class D runs from 93 months in Prior Record Level I to 210 months in Prior Record Level VI.

Intro. 1/26/95. Senate committee substitute replaced 1st edition. Amends the prior edition to provide that a person convicted of a Class A1 misdemeanor who has 5 or more prior misdemeanor convictions, 2 of which were assaults, must be punished as a Class H (rather than Class F) felon. Deletes amendments regarding punishment for common-law robbery. Changes minimum sentence ranges for Class B2, C, and D felonies. New aggravated range for Class B2 runs from 157 months in Prior Record Level 1 to 392 months in Prior Record Level VI. New presumptive range for Class B2 runs from 125 months in Prior Record Level 1 to 313 months in Prior Record Level VI. New mitigated range for Class B2 runs from 94 months in Prior Record Level 1 to 251 months in Prior Record Level VI. New aggravated range for Class C runs from 73 months in Prior Record Level 1 to 210 months in Prior Record Level VI. New presumptive range for Class C runs from 58 months in Prior Record Level 1 to 168 months in Prior Record Level VI. New mitigated range for Class C runs from 44 months in Prior Record Level 1 to 135 months in Prior Record Level VI. New aggravated range for Class D runs from 64 months in Prior Record Level 1 to 183 months in Prior Record Level VI. New presumptive range for Class D runs from 51 months in Prior Record Level 1 to 146 months in Prior Record Level VI. New mitigated range for Class D runs from 38 months in Prior Record Level 1 to 117 months in Prior Record Level VI. Amends title accordingly.

EFFECTIVE DATE: December 1, 1995; applies to offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:

Department of Correction
Judicial Branch

FISCAL IMPACT: DEPARTMENT OF CORRECTION

Two alternatives are provided for the possible fiscal impact on the Department of Correction.

Alternative 1 assumes that the number of beds over the currently projected prison population could be utilized to partially fulfill the requirements of the proposed legislation. The fiscal impact of Alternative 1 shows the cost associated with constructing and operating facilities in addition to those currently available.

DEPARTMENT OF CORRECTION: FISCAL IMPACT: ALTERNATIVE 1

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$ 2,547,151	\$38,050,791	\$40,597,942
FY 96/97	\$24,227,344		\$24,227,344
FY 97/98	\$15,842,632		\$15,842,632
FY 98/99	\$12,276,475	\$ 971,672	\$13,248,147
FY 99/00	\$17,563,383	\$10,534,002	\$28,097,385

Alternative 2 assumes that all of the beds required by the proposed legislation would have to be provided through the construction and operation of new facilities.

DEPARTMENT OF CORRECTION: FISCAL IMPACT: ALTERNATIVE 2

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$20,898,640	\$36,881,404	\$57,780,044
FY 96/97	\$33,553,799	\$ 7,777,738	\$41,331,537
FY 97/98	\$39,554,669	\$ 4,560,351	\$44,115,020
FY 99/00	\$41,834,016	\$ 7,490,894	\$49,324,910
FY 99/00	\$44,926,994	\$10,124,153	\$55,051,147

Note: If funded, the Governor's proposal for constructing 2,424 new prison beds would meet and exceed the number of beds needed if SB 28 is ratified. However, there are some differences between SB 28 and the Governor's proposal in the type of beds needed (i.e. minimum, medium, close custody levels). The Governor is requesting in his 1995-97 Capital Improvement budget, the construction of 2,424 beds at a cost of \$86,000,000 in 1995-96 and \$14,000,000 in 1996-97. The estimated annualized operating costs for these beds is \$50,000,000. See Appendix C for a list of the proposed facilities and their related construction costs.

ASSUMPTIONS AND METHODOLOGY: DEPARTMENT OF CORRECTION

ALTERNATIVE 1

Alternative 1 assumes that the prisons beds currently available, those available over- and-above the number required under Structured Sentencing and the repeal of the prison cap, could be utilized to partially fulfill the requirements of SB 28.

The following chart shows, for the end of each fiscal year, the total number of inmates projected under Structured Sentencing effective October 1, 1994 and the number of additional inmates resulting from the repeal of the prison cap 1/1/96, the number of beds projected to be available, the number of additional inmates projected to be incarcerated under **SB 28 Increase Some Criminal Penalties**, and the additional beds needed as a result of this bill:

	<u>June 30</u> <u>1996</u>	<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>
No. of Inmates Under Structured Sentencing Effective 10/1/94 and Repealing the Prison Cap 1/1/96	31,375	32,029	31,387	31,133	31,241
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate*	29,198	31,214	31,214	31,214	31,214
Projected Beds Available In-State	360	0	0	0	0
Projected Beds Available Due to Double Bunking in Selected Single Cells	656	656	656	656	656
Projected Beds Available by Outside Providers	578	578	578	578	578
No. of Beds Over/(Under) Projected Population	842	419	1,061	1,315	1,207
No. of Projected Additional Inmates Due to this Bill	959	1,525	1,777	1,865	1,985
No. of Additional Beds Needed Due to SB 28	117	1,106	716	550	778

* The projected prison bed capacity also includes 827 beds gained through the most recent modification of Small v. Martin.

Alternative 1 does not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget.

The following tables show the prison bed needs by custody level for Alternative 1 for FY 95/96 through FY 99/00.

ALTERNATIVE 1: THE NUMBER OF ADDITIONAL BEDS NEEDED DUE TO THIS BILL

	FY 95/96	FY 96/97	FY 97/98	FY 98/99	FY 99/00
CLOSE (19.1%)	22	211	137	105	148
MEDIUM (33.5%)	39	371	240	184	261
MINIMUM (47.4%)	56	524	339	261	369
TOTAL	117	1,106	716	550	778

ALTERNATIVE 1: PRISON BED IMPACT: ANNUAL BREAKDOWN

<u>FY 95/96</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY			
MEDIUM SECURITY STATE FACILITY			
CLOSE SECURITY STATE FACILITY			22
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	56	39	22

<u>FY 96/97</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	468		
MEDIUM SECURITY STATE FACILITY		332	
CLOSE SECURITY STATE FACILITY			211
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	524	371	211

<u>FY 97/98</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	283		
MEDIUM SECURITY STATE FACILITY		201	
CLOSE SECURITY STATE FACILITY			137
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	339	240	137
<u>FY 98/99</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	205		
MEDIUM SECURITY STATE FACILITY		145	
CLOSE SECURITY STATE FACILITY			105
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	261	184	105
<u>FY 99/00</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	313		
MEDIUM SECURITY STATE FACILITY		222	
CLOSE SECURITY STATE FACILITY			148
PRIVATE PROVIDERS	56	39	
ANNUAL TOTAL	369	261	148

See Appendix A for the detailed cost analysis for Alternative 1.

Alternative 2 assumes that all of the beds required by SB 28 would have to be provided through the construction and operation of new facilities. The following tables show the prison bed needs by custody level for Alternative 2 for FY 95/96 through FY 99/00 (*).

ALTERNATIVE 2: THE NUMBER OF ADDITIONAL BEDS NEEDED DUE TO THIS BILL

	FY 95/96	FY 96/97	FY 97/98	FY 98/99	FY 99/00
CLOSE	183	303	364	383	413
MEDIUM	321	531	637	670	713
MINIMUM	455	691	776	812	859
TOTAL	959	1,525	1,777	1,865	1,985

* The projections for Alternative 2 do not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget.

ALTERNATIVE 2: PRISON BED IMPACT: ANNUAL BREAKDOWN

<u>FY 95/96</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY			
MEDIUM SECURITY STATE FACILITY			
CLOSE SECURITY STATE FACILITY			183
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	455	321	183
<u>FY 96/97</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	236		
MEDIUM SECURITY STATE FACILITY		210	
CLOSE SECURITY STATE FACILITY			303
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	691	531	303

<u>FY 97/98</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	321		
MEDIUM SECURITY STATE FACILITY		316	
CLOSE SECURITY STATE FACILITY			364
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	776	637	364
<u>FY 98/99</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	357		
MEDIUM SECURITY STATE FACILITY		349	
CLOSE SECURITY STATE FACILITY			383
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	812	670	383
<u>FY 99/00</u>	<u>MINIMUM</u>	<u>MEDIUM</u>	<u>CLOSE</u>
MINIMUM SECURITY STATE FACILITY	404		
MEDIUM SECURITY STATE FACILITY		392	
CLOSE SECURITY STATE FACILITY			413
PRIVATE PROVIDERS	455	321	
ANNUAL TOTAL	859	713	413

See Appendix B for the detailed cost analysis for Alternative 2.

FISCAL IMPACT: JUDICIAL BRANCH

	<u>INDIGENT DEFENSE</u>	<u>OTHER STATE FUNDS</u>	<u>TOTAL</u>
FY 95-96	\$ 52,671	\$ 240,162	\$ 292,833
FY 96-97	\$ 97,563	\$ 431,602	\$ 529,165
FY 97-98	\$104,392	\$ 444,550	\$ 548,942
FY 98-99	\$111,699	\$ 457,886	\$ 569,585
FY 99-00	\$119,518	\$ 471,623	\$ 591,141

* FY 1995-96 costs are based on the effective date of December 1, 1995.

** The figures above show an estimated 7% annual increase in indigent defense costs and an annual 3% increase in other state costs.

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

POSITIONS: The AOC does not specify particular positions needed as a result of this bill. However, they anticipate additional positions would be needed to keep case processing times from slowing down and increasing case backlog.

CONCLUSIONS: The Administrative Office of the Courts believes that the amended version of SB 28 would have less fiscal impact on the Judicial Branch than the original version of SB 28. However, the impact of the proposed legislation, even as amended, is still substantial for the Judicial Branch.

The Administrative Office of the Court's estimates rely heavily on numbers produced by the Sentencing Commission and on opinions of eight district attorneys who were surveyed concerning the proposed legislation. The following sections examine both the felony and misdemeanor enhancements provided for in the proposed bill and analyze their fiscal impact on judicial costs.

Felony Enhancements

The Administrative Office of the Courts assumed that the defendants who would have received an intermediate sentence under current law would be the most likely to ask for a trial under the proposed legislation. Since only a small percentage of defendants receive intermediate sentences under current law (most were receiving active time), the impact of the felony enhancement section of the proposed legislation would not have a substantial effect on the Judicial Branch. The assumptions for this conclusion are explained below for each offense class.

Assault with a firearm on a law enforcement officer. Under the current Structured Sentencing Act, assaults with a firearm or other deadly weapon on governmental officers (including law enforcement officers) are punished as Class F felonies. This section of the proposed bill increases assault with a firearm on a law enforcement officer from a Class F felony to a Class E felony. (Under the Fair Sentencing Act, it was a Class I felony).

The majority of defendants charged with this offense already serve active time under current law. According to the Administrative Office of the Courts, the potential increase in sentence lengths for those serving active terms, would not be significant enough to change the defense strategies of those charged with this offense. However, if additional trials are requested, district attorneys can favorably balance out the need for additional court time through their charging and plea bargaining authority.

New Active Prison Sentences: A few defendants would receive new active prison terms as a result of this section of the proposed legislation. The Administrative Office of the Courts projects that the defendants who would receive new active terms would be subsets of a group of five defendants in the last seven months of FY 95-96, and seven defendants in FY 96-97 who had their cases disposed. These numbers are so small that even if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), the Administrative Office of the Courts would expect no extra trials in FY 95-96, and at most one in FY 96-97 as a result of the proposed legislation.

Possession of firearm by convicted felon. The proposed bill increases possession of firearm by a convicted felon from a Class H felony to a Class G felony. Extrapolating from Sentencing Commission figures, the Administrative Office of the Courts projects that 15 defendants in FY 95-96 and 27 defendants in FY 96-97 would receive active time who had not before. Using Sentencing Commission figures on percent active within each class and the Administrative Office of the Courts' data on the proportions of dispositions that sentenced defendants represent, the Administrative Office of the Courts projects that these defendants who would receive new active terms will be subsets of a group of 39 defendants in FY 95-96 and 70 defendants in FY 96-97 who had their cases disposed. Of these defendants, if twice as many (6.0%) asked for trials as did under Fair Sentencing (3.0%), the Administrative Office of the Courts would expect 1 extra trial in FY 95-96 and 2 extra trials in FY 96-97 as a result of this section of the proposed legislation.

For the three offenses above, the Fiscal Research Division, the Administrative Office of the Courts, and the North Carolina Sentencing and Policy Advisory Commission assume, that judges will continue to follow their patterns of the past in determining who should receive active time, i.e., that the same percent actives will apply under structured sentencing. Since the possible increased sentence ranges are only three to twenty months greater than those currently established, the Administrative Office of the Courts assumes that defendants will not ask for trials more frequently than they do presently.

Enhanced sentences in offense classes B2 through D. The Administrative Office of the Courts has no way of estimating the increased number of trials that may result from this section of the proposed legislation as it is difficult to estimate the impact of the increased sentences in each cell of the B2, C and D offense classes. Each convicted defendant in these classes is already serving a lengthy sentence, particularly as the prior record level increases. The increased punishments may motivate some defendants to plead guilty rather than go to trial, in hopes of a more favorable plea bargain. Other defendants may feel a trial is a good risk, given the lengthy sentence they are facing.

Misdemeanor Enhancements

Creation of new Class A1. The proposed bill raises some serious misdemeanor assaults from Class 1 misdemeanors to a new Class A1 offense class, while dropping simple assaults to Class 2 misdemeanors. Those who fall in prior conviction levels II and III could receive longer active sentences under the Class A1 classification. Those in prior conviction level I under current law are not eligible for an active sentence, but under the proposed bill, would be as a Class A1 misdemeanant. It appears that the defendants likely to be most concerned about their elevation to Class A1 misdemeanants would be those who had not been eligible for active sentences before. The Sentencing Commission estimates that 17.4% of those falling into this category would receive active sentences under the proposed bill.

Using Sentencing Commission figures, AOC estimates that 473 people in 1995-96 and 826 people in 1996-97 would fall into this category (Offense Class A1, prior conviction level I of the grid). The Administrative Office of the Courts assumes that these defendants will have more motivation than in the past to contest their charges. On the other hand, there is a category of Class 1 misdemeanants (prior conviction level II) that will no longer be eligible to receive active sentences when they are reduced to Class 2 misdemeanants. The Administrative Office of the Courts estimates that 243 misdemeanants in 1995-96 and 426 in 1996-97 will fall into this category (Offense Class II, prior conviction level II of the grid). These misdemeanants will have far less motivation to contest their case by asking for a trial. Subtracting the latter group from the former, AOC arrived at an estimate of 230 additional defendants in 1995-96 and 400 more in 1996-97 who will get active terms for these misdemeanor assaults.

Using Sentencing Commission figures on percent active within each class and the Administrative Office of the Courts' data on the proportions of dispositions that sentenced defendants represent, AOC projects that these defendants who will receive new active terms will be subsets of a group of 2,538 defendants in 1995-96 and 4,414 defendants in 1996-97 who had their cases disposed. Of these defendants, if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), AOC would expect 157 extra trials in district court in 1995-96 and 274 extra trials in 1996-97 as a result of the new Class A1 punishment enhancement for these defendants.

District Court: Each trial would last approximately one hour, at an estimated cost of \$123 each (excluding indigent costs). In FY 95-96, the additional district court trial costs would be \$19,311 and indigent defense costs would be \$2,574. (Assigned counsel costs that would have been incurred in the absence of the proposed legislation for disposition by plea have been deducted from the previous and following estimates). In FY 96-97, trial costs would be \$33,702 and indigent defense costs would be \$4,493. To the extent that defendants who already faced active time under current law decide to contest their

cases when faced with longer sentences (up to 75 days in Level II and 150 days in Level III for single offenses), then these estimates will understate the actual impact and should be regarded as conservative.

THE NUMBER OF NEW DISTRICT COURT TRIALS AND THEIR RELATED COST - FOR
CREATION OF A NEW CLASS A1 OFFENSE CATEGORY

	<u>FY 95/96</u>	<u>FY 96/97</u>
New District Court Trials	157	274
District Court Trial Costs	\$19,311	\$33,702
Assigned Counsel & Public Defender Costs	\$ 2,574	\$ 4,493
TOTAL	\$21,885	\$38,195

Superior Court: The district attorneys surveyed believe that this proposed section could increase the number of misdemeanor appeals to superior court by 50%. From Administrative Office of the Courts' data, it is estimated that under the Fair Sentencing Act, approximately 4.7% of criminal non-motor vehicle defendants would appeal their conviction to superior court. If that number were to increase by 50%, AOC would estimate an additional 2.4% would appeal than had in the past. Using Sentencing Commission figures on percent active within each class to arrive at the number of sentenced defendants, and taking 2.4% of that number, we estimate that there would be 32 additional appeals to superior court in 1995-96 and 55 additional appeals in 1996-97 by those defendants in Class A1, Level I only (after subtracting out the effects of lowering some misdemeanor assaults to Class 2 misdemeanors).

The Administrative Office of the Courts estimates that 3/4 of those who appeal will go to trial and that each of these trials would last 1 day, at a cost of \$1,314 per trial, excluding indigent defense costs. In superior court, AOC estimates that 70% of these defendants will be found indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In 1995-96, superior court trial costs (excluding public defender costs) would be \$31,536 and defense costs (assigned counsel and public defender) would be \$8,017. In 1996-97, trial costs would be \$53,874 and defense costs would be \$12,601.

THE NUMBER OF SUPERIOR COURT TRIALS ON APPEAL AND THEIR RELATED COSTS -
FOR CREATION OF A NEW CLASS A1 OFFENSE CATEGORY

	<u>FY 95/96</u>	<u>FY 96/97</u>
New Superior Court Trials	32	55
Superior Court Trial Costs	\$31,536	\$53,874
Assigned Counsel & Public Defender Costs	\$ 8,017	\$12,601
TOTAL	\$39,553	\$66,475

Punishment for habitual misdemeanor. The proposed legislation adds a new provision to the punishment for misdemeanor offense classes under G.S. 15A-1340.23: "(d) A person convicted of a Class A1 misdemeanor who has five or more prior misdemeanor convictions, two of which were assaults, shall be punished as a Class H felon." The Administrative Office of the Courts believes that this provision would have a significant impact upon the Judicial Branch if these habitual misdemeanants are punished as Class H felons.

District Court: Using data from 1992-93, the Sentencing Commission projected that 1,102 convicted defendants would be eligible for the habitual misdemeanor enhancement in all of 1995-96 (643 people in seven months following December 1, 1995), and 1,124 in 1996-97. The district attorneys surveyed estimated that there would be a 53% increase in the numbers of trials as a result of the proposed legislation. These figures would translate into 129 new district court trials in FY 95-96, and 227 new trials in FY 96-97.

Each trial is estimated to last one hour, at an estimated cost of \$123 per trial when a public defender is not involved. The Administrative Office of the Courts assumes that 35% of district court defendants are indigent, with 68% defended by assigned counsel (at a cost of \$200 per case) and 32% by the public defender. In FY 95-96, district court trial costs (excluding public defender costs) would be \$15,867, and defense costs (assigned counsel and public defender) would be \$2,106. In FY 96-97, trial costs would be \$27,921 and defense costs would be \$3,697. The above figures for indigent defense exclude assigned counsel costs that would have been incurred in the past for guilty pleas.

THE NUMBER OF NEW DISTRICT COURT TRIALS AND THEIR RELATED COST
- HABITUAL MISDEMEANANT -

	<u>FY 95/96</u>	<u>FY 96/97</u>
New District Court Trials	129	227
District Court Trial Costs	\$15,867	\$27,921
Assigned Counsel & Public Defender Costs	\$ 2,106	\$ 3,697
TOTAL	\$17,973	\$31,618

Superior Court: District attorneys estimated that the appeal rate of these habitual misdemeanants convicted (either at trial or by plea) in district court would jump from 6.8% to 30%. In FY 95-96, the Administrative Office of the Courts estimates that there would be 132 trials on appeal and in FY 96-97 there would be 231 trials. Each trial is estimated to last one day, at a cost of \$1,314 each (without a public defender involved). In superior court, the Administrative Office of the Courts estimates that 70% of these defendants would be found indigent, with 75% of them represented by assigned counsel and 25% by the public defender. In FY 95-96, superior court trial costs

(excluding public defender costs) would be \$173,448 and defense costs (assigned counsel and public defender) would be \$39,974. In FY 96-97, trial costs would be \$303,534 and defense cost would be \$70,389.

THE NUMBER OF SUPERIOR COURT TRIALS ON APPEAL AND THEIR RELATED COSTS
- HABITUAL MISDEMEANANT -

	<u>FY 95-96</u>	<u>FY 96-97</u>
New Superior Court Trials on Appeal	132	231
Superior Court Trial Costs	\$173,448	\$303,534
Assigned Counsel & Public Defender Costs	\$ 39,974	\$ 70,389
TOTAL	\$213,422	\$373,923

These estimates are conservative as these figures exclude public defender and district attorney preparation time outside of trial, and additional workload within the clerks' offices. The Administrative Office of the Courts also makes no attempt to determine the costs of increased defense activity when defendants are charged with a misdemeanor, for which if convicted, they would be one Class A1 conviction away from being eligible for the habitual misdemeanor enhancement. Defense attorneys must challenge these charges more vigorously knowing that a conviction now would mean a Class H felony punishment the next time their clients are convicted of a Class A1 misdemeanor.

TECHNICAL CONSIDERATIONS: There appears to be an error on page 4 of the bill, under proposed G.S. 15A-1340.23(c). In the second line, the word "offense" seems to be mistakenly crossed out. There also appears to be an error in the new presumptive sentencing range of Class B2, Level V (page 7 of the bill). The maximum sentence should be "324," not "924," if the same pattern is followed as for other cells.

SOURCES OF DATA: Sentencing Commission; District Attorneys; Court Information System; Administrative Office of the Courts; Department of Correction

FISCAL RESEARCH DIVISION (733-4910)

PREPARED BY: Jim Mills, Whitney Obrig, Charles Perusse, Carolyn Wyland

APPROVED BY: Tom Covington **TomC**

DATE: June 6, 1995

[FRD#003]

APPENDIX A
ALTERNATIVE 1

The time required for the State to find a site, draw up the plans, and construct each of the custody level prisons are as follows:

Close Custody - 30 months
Medium Custody - 24 months
Minimum Custody - 21 months

The State would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, it is assumed that minimum and medium security private provider beds would be needed at the rate of \$54.46 and \$59.46 per day/inmate, respectively. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95/96 would remain in private facilities throughout the time-period covered by this fiscal note.

In addition, the costs associated with the construction and operation of the close security facilities in FY 95/96 and FY 96/97 are only hypothetical in nature. These numbers are included so as to encompass the full cost of the legislation. However, it would not be possible to construct and begin operation of close security facilities within this time-frame.

FISCAL YEAR	TOTAL BEDS	MINIMUM	MEDIUM	CLOSE
FY 95/96	117	56	39	22
FY 96/97	1,106	524	371	211
FY 97/98	716	339	240	137
FY 98/99	550	261	184	105
FY 99/00	778	369	261	148

MINIMUM CUSTODY COST ANALYSIS: ALTERNATIVE 1

PRIVATE PROVIDER COSTS: Private Providers are able to supply minimum security beds for the following per diem rate(*).

MINIMUM

\$45 Per Day/Inmate
\$ 3.56 Administrative Cost
\$ 4.84 Extraordinary Medical
\$.88 Day/Clothing
\$.18 SIPS for Employees/
Office supplies
\$54.46 Total Per Day/Inmate

(*) - There is not an inflation factor included in the private provider costs.

FY 95/96: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

FY 96/97: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

468 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): 468 X \$27,566 = \$12,900,888

Operation: 468 X \$18,698 = \$ 8,750,664

FY 97/98: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

283 MINIMUM SECURITY BEDS - STATE FACILITIES

Operation: 283 X \$18,913 = \$ 5,352,379

FY 98/99: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

205 MINIMUM SECURITY BEDS - STATE FACILITIES

Operation: 205 X \$19,130 = \$ 3,921,650

FY 99/00: 56 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

56 X \$54.46 X 365 = \$1,113,162

313 MINIMUM SECURITY BEDS - STATE FACILITIES

Operation: 313 X \$19,350 = \$ 6,056,550

FY 00/01: 557 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 89 X \$34,801 = \$ 3,097,289

MEDIUM CUSTODY COST ANALYSIS: ALTERNATIVE 1

PRIVATE PROVIDER COSTS: Private Providers are able to supply medium security beds for the following per diem rate(*).

MEDIUM

\$50 Per Day/Inmate
\$ 3.56 Administrative Cost
\$ 4.84 Extraordinary Medical
\$.88 Day/Clothing
\$.18 SIPS for Employees/Office supplies
\$59.46 Total Per Day/Inmate

(*) - There is not an inflation factor included in the private provider costs.

FY 95/96: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

FY 96/97: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

332 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): 332 X \$35,868 = \$11,908,176

Operation: 332 X \$23,545 = \$ 7,816,940

FY 97/98: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

201 MEDIUM SECURITY BEDS - STATE FACILITIES

Operation: 201 X \$23,816 = \$ 4,787,016

FY 98/99: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

145 MEDIUM SECURITY BEDS - STATE FACILITIES

Operation: 145 X \$24,090 = \$ 3,493,050

FY 99/00: 39 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

39 X \$59.46 X 365 = \$ 846,413

222 MEDIUM SECURITY BEDS - STATE FACILITIES

Operation: 222 X \$24,367 = \$ 5,409,474

FY 00/01: 393 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 61 X \$45,282 = \$ 2,762,202

CLOSE CUSTODY COST ANALYSIS: **ALTERNATIVE 1**

FY 95/96: 22 CLOSE SECURITY BEDS - STATE FACILITIES - HYPOTHETICAL

Construction: 22 X \$62,757 = \$1,380,654

Operation: 22 X \$26,708 = \$ 587,576

FY 96/97: 211 CLOSE SECURITY BEDS - STATE FACILITIES - HYPOTHETICAL

Construction (FY 95/96): 189 X \$62,757 = \$11,861,073

Operation: 211 X \$27,015 = \$ 5,700,165

FY 97/98: 137 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 137 X \$27,326 = \$ 3,743,662

FY 98/99: 105 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 105 X \$27,640 = \$ 2,902,200

FY 99/00: 148 CLOSE SECURITY BEDS - STATE FACILITIES

Operation: 148 X \$27,958 = \$ 4,137,784

FY 00/01: 224 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 13 X \$74,744 = \$ 971,672

FY 01/02: 283 CLOSE SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 59 X \$79,229 = \$ 4,674,511

APPENDIX B
ALTERNATIVE 2

The State would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, it is assumed that minimum and medium security private provider beds would be needed at the rate of \$54.46 and \$59.46 per day/inmate, respectively. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95/96 would remain in private facilities throughout the time-period covered by this fiscal note.

In addition, the costs associated with the construction and operation of the close security facilities in FY 95/96 and FY 96/97 are only hypothetical in nature. These numbers are included so as to encompass the full cost of the legislation. However, it would not be possible to construct and begin operation of close security facilities within this time-frame.

FISCAL YEAR	TOTAL BEDS	MINIMUM	MEDIUM	CLOSE
FY 95/96	959	455	321	183
FY 96/97	1,525	268	190	108
FY 97/98	1,777	119	84	48
FY 98/99	1,865	42	29	17
FY 99/00	1,985	57	40	23

MINIMUM CUSTODY COST ANALYSIS: **ALTERNATIVE 2**

FY 95/96: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

$$455 \times \$54.46 \times 365 = \$ 9,044,445$$

FY 96/97: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

$$455 \times \$54.46 \times 365 = \$ 9,044,445$$

236 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): $236 \times \$27,566 = \$ 6,505,576$

Operation: $236 \times \$18,698 = \$ 4,412,728$

FY 97/98: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

455 X \$54.46 x 365 = \$ 9,044,445

321 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 96/97): 85 X \$29,220 = \$ 2,483,700

Operation: 321 X \$18,913 = \$ 6,071,073

FY 98/99: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

455 X \$54.46 X 365 = \$ 9,044,445

357 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 97/98): 36 X \$30,973 = \$ 1,115,028

Operation: 357 X \$19,130 = \$ 6,829,410

FY 99/00: 455 MINIMUM SECURITY BEDS - PRIVATE PROVIDERS

455 X \$59.46 X 365 = \$ 9,044,445

404 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 47 X \$32,831 = \$ 1,543,057

Operation: 404 X \$19,350 = \$ 7,817,400

FY 00/01: 503 MINIMUM SECURITY BEDS - STATE FACILITIES

Construction (FY 99/00): 46 X \$34,801 = \$ 1,600,846

MEDIUM CUSTODY COST ANALYSIS: **ALTERNATIVE 2**

FY 95/96: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

FY 96/97: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

210 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 95/96): 210 X \$35,868 = \$ 7,532,280

Operation: 210 X \$23,545 = \$ 4,944,450

FY 97/98: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

316 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 96/97): 106 X \$38,020 = \$ 4,030,120

Operation: 316 X \$23,816 = \$ 7,525,856

FY 98/99: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

349 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 97/98): 33 X \$40,301 = \$ 1,329,933

Operation: 349 X \$24,090 = \$ 8,407,410

FY 99/00: 321 MEDIUM SECURITY BEDS - PRIVATE PROVIDERS

321 X \$59.46 X 365 = \$ 6,966,631

392 MEDIUM SECURITY BEDS - STATE FACILITIES

Construction (FY 98/99): 43 X \$42,719 = \$ 1,836,917

Operation: 392 X \$24,367 = \$ 9,551,864

FY 00/01: 456 MEDIUM SECURITY BEDS

Construction (FY 99/00): 64 X \$45,282 = \$ 2,898,048

CLOSE CUSTODY COST ANALYSIS: **ALTERNATIVE 2**

FY 95/96: 183 CLOSE CUSTODY BEDS - STATE FACILITIES - HYPOTHETICAL
 Construction: 183 X \$62,757 = \$11,484,531
 Operation: 183 X \$26,708 = \$ 4,887,564

FY 96/97: 303 CLOSE CUSTODY BEDS - STATE FACILITIES - HYPOTHETICAL
 Construction (FY 95/96): 120 X \$62,757 = \$ 7,530,840
 Operation: 303 X \$27,015 = \$ 8,185,545

FY 97/98: 364 CLOSE CUSTODY BEDS - STATE FACILITIES
 Construction (FY 95/96): 61 X \$62,757 = \$ 3,828,177
 Operation: 364 X \$27,326 = \$ 9,946,664

FY 98/99: 383 CLOSE CUSTODY BEDS - STATE FACILITIES
 Construction (FY 96/97): 19 X \$66,522 = \$ 1,263,918
 Operation: 383 X \$27,640 = \$10,586,120

FY 99/00: 413 CLOSE CUSTODY BEDS - STATE FACILITIES
 Construction (FY 97/98): 30 X \$70,513 = \$ 2,115,390
 Operation: 413 X \$27,958 = \$11,546,654

FY 00/01: 468 CLOSE CUSTODY BEDS - STATE FACILITIES
 Construction (FY 98/99): 55 X \$74,744 = \$ 4,110,920

FY 01/02: 539 CLOSE CUSTODY BEDS - STATE FACILITIES
 Construction (FY 99/00): 71 X \$79,229 = \$ 5,625,259

APPENDIX C
GOVERNOR'S PROPOSAL - CONSTRUCTION COSTS OF NEW FACILITIES

624 Bed Medium Custody Unit with 40 Segregation Cells

Office of State Construction Revised Estimated Cost:	\$26,335,300
Department of Correction Original Estimate:	\$26,375,800

624 Bed Medium Custody Unit with 40 Segregation Cells

Office of State Construction Revised Estimated Cost:	\$26,335,300
Department of Correction Original Estimate:	\$26,832,200

336 Bed Close Custody Unit with 40 Bed Segregation Unit

Office of State Construction Revised Estimated Cost:	\$33,578,500
Department of Correction Original Estimate:	\$34,212,000

Expand Warren - 168 Medium Security Cells with 40 Segregation cells

Office of State Construction Revised Estimated Cost:	\$9,628,300
Department of Correction Original Estimate:	\$9,718,200

60 Bed Boot Camp for Females

Office of State Construction Revised Estimated Cost:	\$2,041,100
Department of Correction Original Estimate:	\$2,048,800

104 Bed Minimum Custody Unit for Females

Office of State Construction Revised Estimated Cost:	\$2,183,000
Department of Correction Original Estimate:	\$2,203,400

Expand Polk - 104 Bed Dorm and 144 Single Cells

Office of State Construction Revised Estimated Cost:	\$7,615,400
Department of Correction Original Estimate:	\$7,759,100

Polk - Supermax - 100 Cells

Office of State Construction Revised Estimated Cost:	\$8,565,200
Department of Correction Original Estimate:	\$8,645,200

TOTALS

Office of State Construction Revised Estimated Cost:	\$116,282,100
Department of Correction Original Estimate:	\$117,794,700



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