

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** SB 185

**SHORT TITLE:** Up Penalty for Misdemeanor Assault

**SPONSOR(S):** Senator Parnell

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

**FUNDS AFFECTED:**       **General Fund (X)**    **Highway Fund ( )**  
                                  **Other Fund (X)** Indigent Persons Attorney Fee  
Fund

**BILL SUMMARY:** "TO CREATE A NEW OFFENSE CLASS AND PUNISHMENT ROW FOR MISDEMEANOR ASSAULTS." Amends G.S. 15A-1340.23 (Structured Sentencing provisions regarding misdemeanors) to add Class 0, with punishment ranges as follows: Level 1, 1-60 days C/I/A; Level II, 1-75 days C/I/A; and Level III, 1-150 days C/I/A. Fine also authorized in discretion of court. Amends G.S. 14-33 to reclassify following assaults as Class 0 (now, Class 1): any assault, battery, or affray where offender inflicts serious injury or uses deadly weapon; assaults female (where offender is male 18 or older); assaults child under 12; or assaults officer or employee of state or its subdivisions when discharging official duties. Amends G.S. 14-34 to reclassify assault by pointing gun as Class 0 (now, Class 1). Amends G.S. 15A-1332(c) to authorize persistence commitment for study on charge or conviction of Class 0 misdemeanor. Amends G.S. 15A-1340.14(b), regarding prior conviction points for felony sentencing, to assign one point to Class 0 misdemeanor. Amends G.S. 15A-1343.1 to add Class 0 misdemeanor as one of the charges qualifying a youthful offender for sentencing to IMPACT (boot camp) program.

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

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

**FISCAL IMPACT:** JUDICIAL BRANCH

	Indigent Defense	Other State Funds	Total
FY 95-96	\$10,591	\$50,847	\$ 61,438
FY 96-97	\$18,291	\$90,206	\$108,497
FY 97-98	\$19,571	\$92,909	\$112,480
FY 98-99	\$20,941	\$95,696	\$116,637

FY 99-00

\$22,407

\$98,567

\$120,974

**ASSUMPTIONS AND METHODOLOGY: JUDICIAL BRANCH**

The proposed legislation raises some serious misdemeanor assaults from Class 1 misdemeanors to a new Class 0 offense class, while dropping simple assaults to Class 2 misdemeanors. The Administrative Office of the Courts believes that the defendants most likely to be concerned about their elevation to Class 0 misdemeanants would be those who had not been eligible for active sentences before. The Administrative Office of the Courts assumes that these defendants would have more motivation than in the past to contest their charges.

The Administrative Office of the Courts estimates that these defendants who would receive new active terms would be subsets of a group of 2,538 defendants in FY 95-96 and 4,414 defendants in FY 96-97 who would have their cases disposed. Of these defendants, if twice as many (12.4%) asked for trials as did under Fair Sentencing (6.2%), the Administrative Office of the Courts would expect 157 extra trials in district court in FY 95-96 and 274 extra trials in FY 96-97 as a result of the new Class 0 punishment enhancement for defendants in these categories.

Each trial would last approximately one hour, at an estimated cost of \$123 in FY 95/96 and \$126.70 in FY 96/97.

**Trials:**

FY 95/96: \$123.00 per trial X 157 trials = \$19,311  
FY 96/97: \$126.70 per trial X 274 trials = \$34,716

In FY 95-96, the additional district court trial costs would be \$19,311 and indigent defense costs would be \$2,574. In FY 96-97, trial costs would be \$34,716 and indigent defense costs would be \$4,808. These estimates would understate the actual impact if defendants who already face active time under current law decide to contest their cases when faced with longer sentences.

**APPEALS:** Using Sentencing Commission figures, the Administrative Office of the Courts estimates that 2.4% of the sentenced defendants would appeal to superior court. Based on this information, there would be 32 additional appeals to superior court in FY 95-96 and 55 additional appeals in FY 96-97.

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 in FY 95/96, excluding indigent defense costs. 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. Estimates for years following FY 95/96 assume a 7% annual increase in indigent defense costs, and a 3% increase in other costs.

**Trial Costs:**

FY 95/96: \$1,314.00 per trial X 24 trials = \$31,536  
FY 96/97: \$1,353.42 per trial X 41 trials = \$55,490

In FY 95-96, 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 FY 96-97, trial costs would be \$55,490 and defense costs would be \$13,483.

**Total Trial Costs:**

FY 95/96:	Additional District Court Trial Costs:	\$19,311
	Superior Court Appeals Trials:	\$31,536
	Total:	\$50,847
FY 96/97:	Additional District Court Trial Costs:	\$34,716
	Superior Court Appeals Trials:	\$55,490
	Total:	\$90,206

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

Three alternative are provided for the possible fiscal impact on the Department of Correction.

- Alternative 1 assumes that the current beds available could be utilized to help fulfill the requirements of the proposed legislation.
- Alternative 2 assumes that all of the beds required by the proposed legislation would have to be supplied through the construction and operation of new facilities or the utilization of private provider beds.
- Alternative 3 examines the utilization of facilities proposed by Governor Hunt to fulfill the bed requirements resulting from the proposed legislation.

**ALTERNATIVE 1: FISCAL IMPACT: DEPARTMENT OF CORRECTION**

	RECURRING	NON-RECURRING	TOTAL
FY 95/96		\$468,622	\$468,622
FY 96/97	\$317,866		\$317,866
FY 97/98	\$321,421		\$321,521
FY 98/99	\$325,210		\$325,210
FY 99/00	\$328,950		\$328,950

**ALTERNATIVE 1** - assumes that the current beds available could be utilized to fulfill the requirements of this proposed bill.

The chart on the following page shows, for the end of each fiscal year, the projected beds to be available, the number of inmates projected under Structured Sentencing effective October 1, 1994, the number of inmates resulting from the repeal of the prison cap 1/1/96, the number of available beds, and the additional beds needed as a result of this bill:

	June 30	June 30	June 30	June 30	June
30	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
Prison Population Projected Under Structured Sentencing	25,822	25,936	26,143	26,738	27,694
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate*	29,198	31,214	31,214	31,214	31,214
Impact from Repeal of Prison Cap 1/1/96	5,553	6,093	5,244	4,395	3,547
Additional Projected Beds Out-of-State	1,425	0	0	0	0
Additional Projected Beds In-State	360	0	0	0	0
Additional Projected Double Beds in Single Cells	656	656	656	656	656
Projected Beds by Outside Providers	578	578	578	578	578
TOTAL BEDS	32,217	32,448	32,448	32,448	32,448
No. Beds Over Projected Population	842	419	1,061	1,315	1,207
<b>No. of Projected Additional Inmates Due to this Bill</b>	317	436	446	462	493
<b>No. of Additional Beds Needed Due to this Bill</b>	0	17	0	0	0

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

**Other Assumptions:**

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 operating costs for these beds is \$50,000,000.

The construction and operating costs for the 17 beds needed by June 30, 1997 are detailed below:

**FY 96/97: 17 Additional Beds Required**

Construction:	FY 95/96:	\$27,566 X 17 = \$468,622
Operating:	FY 96/97:	\$18,698 X 17 = \$317,866
	FY 97/98:	\$18,913 X 17 = \$321,521
	FY 98/99:	\$19,130 X 17 = \$325,210
	FY 99/00:	\$19,350 X 17 = \$328,950

**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.

**ALTERNATIVE 2: FISCAL IMPACT: DEPARTMENT OF CORRECTION**

	RECURRING	NON-RECURRING	TOTAL
FY 95/96	\$6,301,294	\$3,280,354	\$
9,581,648			
FY 96/97	\$8,526,356	\$ 292,200	\$
8,818,556			
FY 97/98	\$8,741,071	\$ 492,688	\$
9,233,759			
FY 98/99	\$9,075,144	\$1,017,761	
	\$10,092,905		
FY 99/00	\$9,706,894	\$ 661,219	
	\$10,368,113		

**ALTERNATIVE 3:** Utilize prison beds proposed by Governor Hunt.

There are not any minimum security facilities included in the Governor's proposal. Thus, the minimum security beds would have to be constructed and operated as noted in Alternative 1 or Alternative 2.

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION (733-4910)**

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**DATE:** May 29, 1995

**[FRD#003]**

APPENDIX A: ALTERNATIVE 2 - COST ANALYSIS

Fiscal Year	Total Beds	Annual Bed Increase
FY 95-96	317	317
FY 96-97	436	119
FY 97-98	446	10
FY 98-99	462	16
FY 99-00	493	31

ALTERNATIVE 2 - COST ANALYSIS

It is assumed that minimum security beds could be utilized to house these inmates. The time required to site and design and construct a minimum security facility is 21 months.

The state would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, the beds required in FY 95/96 are costed out at the private provider rate of \$54.46 per inmate/per day. 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.

**FY 95/96:** 317 Inmates would be housed by private providers at a cost of \$54.46 per day/inmate.

Minimum Security:  
 \$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**

Per Diem Rate(\*):

FY 95/96:	\$54.46 X 317 X 365 = \$6,301,294
FY 96/97:	\$54.46 X 317 X 365 = \$6,301,294
FY 97/98:	\$54.46 X 317 X 365 = \$6,301,294
FY 98/99:	\$54.46 X 317 X 365 = \$6,301,294
FY 99/00:	\$54.46 X 317 X 365 = \$6,301,294

(\* ) - No inflationary cost is included in these costs.



**FY 96/97:** 119 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 95/96:	\$27,566 X 119 =	\$3,280,354
Operating:	FY 96/97:	\$18,698 X 119 =	\$2,225,062
	FY 97/98:	\$18,913 X 119 =	\$2,250,647
	FY 98/99:	\$19,130 X 119 =	\$2,276,470
	FY 99/00:	\$19,350 X 119 =	\$2,302,650

**FY 97/98:** 10 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 96/97:	\$29,220 X 10 =	\$ 292,200
Operating:	FY 97/98:	\$18,913 X 10 =	\$ 189,130
	FY 98/99:	\$19,130 X 10 =	\$ 191,300
	FY 99/00:	\$19,350 X 10 =	\$ 193,500

**FY 98/99:** 16 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 97/98:	\$30,973 X 16 =	\$492,688
Operating:	FY 98/99:	\$19,130 X 16 =	\$306,080
	FY 99/00:	\$19,350 X 16 =	\$309,600

**FY 99/00:** 31 Additional inmates would be housed in minimum security state facilities.

Construction:	FY 98/99:	\$32,831 X 31 =	\$1,017,761
Operation:	FY 99/00:	\$19,350 X 31 =	\$ 599,850



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