

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 920
SHORT TITLE: Enhanced Sentence/Firearm Felonies
SPONSOR(S): Senator Odom

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	(in millions)				
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
GENERAL FUND					
Correction	NO FISCAL IMPACT*				
Judicial	SUBSTANTIAL IMPACT EXPECTED; NO DOLLAR ESTIMATE AVAILABLE**				
TOTAL EXPENDITURES	_____	_____	_____	_____	_____
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch					
EFFECTIVE DATE: Applies to offenses committed on or after Dec. 1, 1997					

***impact on bed availability starting 2004**

****An estimated 1,085 defendants would be affected by Section 1 of SB920. Each defendant altering his/her defense strategy and requesting a jury trial, would add an estimated \$2,409 to the cost of this legislation, if enacted. It is not possible, however, to estimate reliably, the number of defendants electing this strategy in any single fiscal year.**

BILL SUMMARY: 920. ENHANCED SENTENCE/FIREARM FELONIES. TO REQUIRE A MANDATORY TWENTY-FOUR-MONTH ENHANCED SENTENCE FOR USE OF A FIREARM IN CLASS F THROUGH I FELONIES. Amends GS 15A-1340.16A to provide that if person is convicted of class F, G, H, or I felony and sentencing judge finds that person used, displayed, or threatened to use or display firearm at time of felony, judge must increase minimum term of imprisonment by 24 months, which may not be suspended. Provides that if firearm is discharged during commission of any class A through class I felony, enhanced term of

imprisonment (60 months for class A through class E felony and 24 months for class F through class I felony) will be increased by an additional 24 months. Applies to offenses committed on or after Dec. 1, 1997.¹

¹ *Daily Bulletin*, Institute of Government, UNC-CH

ASSUMPTIONS AND METHODOLOGY:

I. Department of Correction

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

The Sentencing Commission was only able to project the impact of the section of the bill that requires an additional 24 month active sentence for F-I felonies. They were not able to estimate the impact of the provision dealing with discharge of a firearm during the commission of a felony.

	<u>June 30</u> <u>1998</u>	<u>June 30</u> <u>1999</u>	<u>June 30</u> <u>2000</u>	<u>June 30</u> <u>2001</u>	<u>June 30</u> <u>2002</u>
Projected No. of Inmates Under Current Structured Sentencing Act ²	31,762	30,371	30,060	30,610	31,259
Projected No. of Prison Beds (DOC Expanded Capacity) ³	34,133	35,599	35,599	35,599	35,599
No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	+2,371	+5,228	+5,539	+4,989	+4,340
No. of Projected Additional Inmates Due to this Bill	+218	+934	+1,868	+2,401	+2,565
No. of Additional Beds Need Each Fiscal Year Due to this Bill	0	0	0	0	0

As shown in bold in the table above, the Sentencing Commission estimates this specific legislation will add 2,565 inmates to the prison system by 2001-02. There is no additional fiscal impact resulting from the passage of this bill because these additional beds and their associated costs can be absorbed within the Department of Correction's existing budget. This analysis is based on the following assumptions and methodology:

1. There will be an estimated surplus of 4,430 beds by FY 2001-02, based on current prison population projections by the Sentencing Commission and the estimated expanded prison bed capacity (see table above);

² The Sentencing Commission's revised prison population projections (dated December 1996) were estimated under three scenarios: High, Best, and Low. The differences in these scenarios reflect varying assumptions on incarceration rates under Structured Sentencing, probation and revocation rates, and the decline of the stock population. The projections outlined above are included in the "Best scenario" since the Sentencing Commission and the Department of Correction believe this scenario is most likely to occur.

³ Projected number of prison beds based on Department of Correction estimates of expanded bed capacity as of 1/11/97. These numbers do not include the number of beds requested in the Governor's 1997-99 Capital Improvement budget.

2. The expanded prison capacity includes all beds available when currently funded prison construction is completed, as well operating funds for food, clothing, health, and security of prisoners as the units begin housing inmates;
3. The Department of Correction will continue operating most dormitory units at 130% of capacity, as allowed by court consent decrees; and,
4. The expanded prison capacity numbers do not include out-of-state beds, jail contract beds, or the 2,000 net new beds which would be established if the projects receiving planning and design funds in the 1996 Session were fully funded.

Note: Other bills introduced this session have a potential impact on inmate population and bed availability. As of May 9, bills that have passed either the House or Senate together add 1,679 inmates by 2001-2. The total impact of all introduced bills for which fiscal notes have been distributed is 8,361, not including SB 920. If any of these additional bills pass, SB 920 would have an impact on bed availability.

While fiscal notes only consider impact through 2001-2, information is available on the impact of this bill through 2006-7. As can be seen in the chart below SB 920 would require the construction of new beds by 2004-5. Since this will not affect the state budget until 2002, the cost is not included in this fiscal note. (Note: if the new beds are close custody, construction funds would be budgeted in the 2001-2 fiscal year since a close custody facility takes roughly 3 years to build)

	2002-3	2003-4	2004-5	2005-6
Prison Beds Available Under Current Law	3,548	2,752	1,858	969
Inmates Added by SB 920	2,639	2,677	2,692	2,772
Additional Beds needed due to SB920	0	0	834	1,803

II. Judicial Branch

Because no data is available on the number of people actively discharging a firearm while committing a felony, the Judicial Branch was unable to analyze the impact of that aspect of SB 920. They do expect this provision to increase the number of trials because it would add 24 months to sentences already enhanced by other aspects of the bill.

The Judicial Branch did analyze the impact of the section of the bill which would add 24 months to the sentence (and requires active sentences) for persons convicted of Class F,G,H and I felonies if they displayed or threatened to use a firearm in the course of the felony. The Sentencing Commission projects that 1,085 defendants per year would be affected. Under *current* law, about 557 of these defendants would not receive an active sentence. SB 920 would require an active sentence of 24 months. Looking at the expected felony class of these defendants, 24 months is greater and sometimes several time greater than the current active sentences to which these defendants are exposed within the sentencing grid. For those not currently receiving an active sentence, the probability of a 24-month mandatory active sentence will cause a significant number to seek a jury trial.. Each additional jury trial would cost roughly \$2,904 assuming a 2 day trial and not including indigent defense costs. (The maximum

expected cost for this set of 557 defendants would be \$1.6 Million if all requested jury trials, assuming none of them have jury trials now. However, the AOC can not estimate the proportion who would actually ask for a jury trial so can not provide a dollar estimate of the fiscal impact)

For the estimated 528 defendants who would receive an active sentence under current law, the 24-month enhancement to the sentence represents an increase ranging from double to six times the active sentences now given. The AOC believes the enhanced sentences will cause some defendants to change their defense strategy and request a jury trial. However, they are unable to provide a dollar estimate of the fiscal impact.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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Signed Copy Located in the NCGA Principal Clerk's Offices