

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE FISCAL NOTE  
(INCARCERATION NOTE G.S. 120-36.7)**

**BILL NUMBER:** House Bill 1453 (Second Edition)  
**SHORT TITLE:** Discharging Firearm on School Property.  
**SPONSOR(S):** Representatives Clary and Moore

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>
<b>GENERAL FUND</b>					
<b>Correction</b>		<b>Unable to</b>	<b>Determine</b>		
Recurring					
Nonrecurring					
<b>Judicial</b>		<b>Unable to</b>	<b>Determine</b>		
Recurring					
Nonrecurring					
<b>TOTAL</b>					
<b>EXPENDITURES:</b>					
<b>ADDITIONAL PRISON BEDS*</b>		<b>Unable to</b>	<b>Determine</b>		
<b>POSITIONS:</b> (Cumulative)					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch					
<b>EFFECTIVE DATE:</b> December 1, 2004					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

**BILL SUMMARY:** Amends GS 14-269.2, "Weapons on campus or other educational property," to specify that any person who discharges a firearm of any kind on educational property or at a curricular or extracurricular activity sponsored by a school is guilty of a Class F felony, unless the

conduct is covered under some other provision of law providing greater punishment. Does not apply to a BB gun, stun gun, air rifle, or air pistol. Makes conforming amendment to GS 14-269.2(h) to clarify that the exception to the statutory prohibitions found in that subsection continues to apply only to the possession or carrying of a firearm.

House amendment makes the following changes to 1st edition. Amends GS 14-269.2(b) to provide that willfully discharging firearm on educational property is a Class F felony. Deletes provision making it a Class F felony to discharge a firearm at school-sponsored activities that are not on educational property. Changes effective date to Dec. 1, 2004. *Source: Bill Digest H.B. 1453 (05/17/2004)*

**ASSUMPTIONS AND METHODOLOGY:**

**Department of Correction**

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced for this proposed offense. However, in FY 2002/03 there were 21 convictions under N.C.G.S. 14-269.2(b). If, for example, there were two Class F convictions per year for the proposed offense (which represents 10% of the 21 convictions under N.C.G.S. 14-269.2(b)), the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

The chart below compares the projected inmate population to prison bed capacity and shows whether there is adequate bed capacity for any population increases caused by a specific bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* That means the number of beds needed (Row 5) is always equal to the projected additional inmates due to a bill (Row 4).

Rows 4 and 5 in the chart show the impact of this specific Bill. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation will add \_\_\_ inmates to the prison system by the end of FY 2008-09.

	<b>June 30 2005</b>	<b>June 30 2006</b>	<b>June 30 2007</b>	<b>June 30 2008</b>	<b>June 30 2009</b>
1. Projected No. Of Inmates Under Current Structured Sentencing Act <sup>1</sup>	36,973	37,705	38,613	39,567	40,498
2. Projected No. Of Prison Beds (DOC Expanded Capacity) <sup>2</sup>	35,055	35,951	36,847	37,743	37,743

<sup>1</sup> The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on December 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

<sup>2</sup> Projected number of prison beds is based on beds completed, under construction, or authorized for construction as of December, 2003. The number of beds is based on DOC operating at Expanded Operating Capacity (EOC) .

	<u>June 30 2005</u>	<u>June 30 2006</u>	<u>June 30 2007</u>	<u>June 30 2008</u>	<u>June 30 2009</u>
3. No. Of Beds Over/Under No. Of Inmates Under Current Structured Sentencing Act	-1,918	-1,754	-1,766	1,824	-2,755
4. No. Of Projected Additional Inmates <u>Due to this Bill</u> <sup>3</sup>			unable to determine		
5. No. Of Additional Beds Needed Each Fiscal Year <u>Due to this Bill</u> <sup>3</sup>			unable to determine		

**POSITIONS:** It is not possible to determine the number of positions needed to supervise the additional inmates housed under this bill by 2008-09.

**FISCAL IMPACT BEYOND FIVE YEARS:** Fiscal Notes look at the impact of a bill through FY 2009. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
Inmates Due to This Bill	Unable to determine	Unable to determine	Unable to determine	Unable to determine
Available Beds (over/under)	--3653	-4,561	-5,454	-6,351
New Beds Needed	Unable to determine	Unable to determine	Unable to determine	Unable to determine

**DISTRIBUTION OF BEDS:** After analyzing the proposed legislation, the Department of Correction is unable to estimate the distribution of beds as needed under this bill.

**CONSTRUCTION:** Construction costs for new prison beds, as listed in the following chart, are based on estimated 2003-04 costs for each custody level as provided by the Office of State Construction and the Department of Correction. An inflation rate of 5% per year is applied to future years. The costs assume stand-alone facilities.

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Construction Cost Per Bed 2003-04	\$43,500	\$69,500	\$93,500

---

<sup>3</sup> Criminal Penalty bills effective December 1, 2004 will not affect prison population and bed needs until FY 2005-06 due to the lag time between when an offense is committed and an offender is sentenced.

Construction costs, where applicable, are shown as non-recurring costs in the Fiscal Impact Table on Page 1 of this note. These costs assume that funds to construct prison beds should be budgeted in advance. Based on previous prison construction projects we are assuming it will typically require three years for planning, design and construction of new beds. Therefore, construction costs are budgeted three years prior to the anticipated prison occupancy date.

**OPERATING:** Operating costs are based on actual 2002-03 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate will be added each year to the base costs for FY 2003 shown below and included in the recurring costs estimated in the Fiscal Impact Table on Page 1.

**Daily Inmate Operating Cost 2001-02**

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (2001-02)	\$46.23	\$60.54	\$74.56	\$57.92

**ASSUMPTIONS AND METHODOLOGY:**

**Judicial Branch**

Current GS 14-269.2(b) provides that it is a Class I felony to possess or carry (whether openly or concealed) any gun, rifle, pistol, or other firearm on educational property or to a curricular or extracurricular activity sponsored by a school. This existing section does not apply to a BB gun, stun gun, air rifle, or air pistol. This bill expands current GS 14-269.2(b) by creating a new Class F felony for willfully discharging a firearm on educational property. This edition is narrower than the previous version in two ways. First, it does not apply to the unintentional discharge of a firearm. Second, it does not apply to a school-sponsored curricular or extracurricular activity that does not take place on educational property.

A person who discharges a firearm on educational property could presumably be charged with a Class I felony under current GS 14-269.2(b) (unless a more serious felony offense was also committed). This bill, in effect, would increase this penalty by three felony classes. AOC expects the enhancement in punishment to be accompanied by a more vigorous defense and prosecution, thus resulting in more court time and costs to dispose of these cases. The difference in cost between a Class I felony plea and a Class F trial is some \$7,900.

The AOC currently does not have an offense code for current GS 14-269.2(b), which generally indicates that there are relatively few charges. A search of the “free text offense” database reveals that one defendant was charged in calendar 2003 with possessing or carrying a firearm on educational property. (Since this field is optional, it would not likely reveal all of the charges.) AOC cannot determine whether this charge also involved the discharge of a firearm.

AOC has no data from which to estimate the impact of this bill. Depending on the number of charges, the impact on the courts could be significant. These felony charges would be disposed in superior court, where the costs of disposition are higher than those in district court. Although AOC is unable to generate estimates, an increase in workload for superior court judges, district attorneys, clerks, and court reporters would be expected. There would also be an increase in expenses for jury fees and indigent defense. AOC regards any impact on the courts as substantial under current circumstances as the court system is already under funded and overstretched, and in need of significant additional resources to manage the demands of the existing workload. The court system cannot absorb any additional workload without additional resources.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and, Office of State Construction.

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Denise Thomas



**APPROVED BY:** *James D. Johnson, Director*  
*Fiscal Research Division*

**DATE:** July 6, 2004

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