

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 288 (Fourth Edition)

SHORT TITLE: MV Move-Over Law Changes.

SPONSOR(S): Representatives McGee and Rapp

		FISCAL IMPACT				
		Yes (X)	No ()	No Estimate Available ()		
		<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND						
Correction	The Class I felony created by this bill could lead to a <u>small</u> increase in prison population and therefore bed needs, but the exact number of beds needed and, thus, the cost cannot be determined (see pg. 2 for details).					
Judicial	Exact amount cannot be determined; no substantial impact anticipated.					
LOCAL GOVERNMENTS						
	Exact amount cannot be determined; no substantial impact anticipated.					
ADDITIONAL PRISON BEDS*						
	Exact amount cannot be determined. For every ten Class I felony convictions, one prison bed would be needed in the first year and three beds in the second year.					
POSITIONS: (cumulative)						
	Exact amount cannot be determined; no substantial impact anticipated.					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments						
EFFECTIVE DATE: July 1, 2006						
<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: This bill would amend G.S. 20-157 to specify the speed to which drivers must slow their vehicles when approaching a stopped emergency or public service vehicle and create new criminal offenses for violations of this requirement, as well as other requirements under G.S. 20-157 (including failure to move over upon the approach of an emergency vehicle, stopping one's vehicle within 100 feet of an emergency vehicle that is investigating an accident, driving over a fire hose that is in use, and following an emergency vehicle too closely).

Under this bill, failure to abide by these requirements would be an infraction punishable with a fine of \$250 unless a) property damage in excess of \$500 or injury to specified emergency response personnel results, in which case such violation is a Class 1 misdemeanor; or, b) serious injury or death to emergency response personnel results, in which case such violation is a Class I felony.

The third edition eliminated the specific speed requirements to which drivers must slow their vehicles when approaching a stopped emergency vehicle, which were detailed in the second edition.

The fourth edition makes a technical change only (replaces term “police” with “law enforcement”).

ASSUMPTIONS AND METHODOLOGY:

Summary

As this bill would create two new criminal offenses (a Class 1 misdemeanor and a Class I felony), it would be expected to result in additional charges and convictions and would consequently incur a fiscal impact. New Class I felony convictions could increase prison bed needs and therefore prison costs. Class 1 misdemeanor convictions would likely impact local jails, though a short prison sentence could result. In addition, increased court workload and costs would be anticipated to dispose of the additional charges. Because the offenses created by this bill are new, no historical data is available from which to estimate the numbers of charges and convictions that might occur. As such, the specific prison bed impact and cost to the Department of Correction and the Courts cannot be determined.

Division of Motor Vehicles (DMV) data for 2003 indicate that there were 369 crashes involving emergency medical service vehicles in which the emergency vehicle driver was not at fault. In 207 crashes, injury to emergency personnel resulted, but the data does not identify the severity of the injury. Additionally, 6 crashes resulted in the death of emergency personnel.

DMV data for all vehicle crashes indicates that, of all persons injured (133,216), roughly 3 percent (4,318) were categorized as having serious injury. If the distribution was similar for the 207 injury crashes involving emergency vehicles, relatively few of the 207 incidents could likely qualify as Class I felonies under this bill. *Furthermore, of these emergency-vehicle-related crashes that caused property damage in excess of \$500, injury, or death, it is not known how many occurred during a violation of G.S. 20-157 and could therefore be prosecuted as Class 1 misdemeanors or Class I felonies as a result of this bill.*

Although some number of the emergency vehicle accidents (up to approximately 369) could be expected to result in a Class 1 misdemeanor charge, it is likely that significantly fewer of these incidents would qualify and be prosecuted under this bill. As such, some impact—principally to local jails and the Courts—would be expected but is unlikely to be of substantial magnitude.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. 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.*

Because this bill would create new criminal offenses, the Sentencing Commission has no historical data from which to project the potential impact on prison population. As the Sentencing Commission does not maintain data on infractions, the number of convictions under current G.S. 20-157 is also unknown.

Class I Felonies: In FY 2003-04, eleven percent of Class I felony convictions resulted in active sentences with an average estimated time served of 7 to 9 months. If, for example, there were ten Class I convictions due to this bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 is projected to be \$24,740.

Class 1 Misdemeanors: In FY 2003-04, 19 percent of Class 1 misdemeanants received active sentences, and the average estimated time served was 31 days. Offenders with sentences of less than ninety days are housed in county jails, and DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per offender per day. Because active sentences of less than ninety days are served in county jails, Class 1 misdemeanor convictions resulting from this legislation are not expected to significantly impact prison population.

Non-Active Sentences: In FY 2003-04, 49 percent of Class I convictions resulted in intermediate sanctions and 40 percent in community sanctions; two percent of Class 1 misdemeanants received intermediate sanctions and 79 percent received community punishment. Probation officers in the Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

As this bill would create new criminal offenses, AOC has no historical data from which to project the number of new Class I felony and Class 1 misdemeanor charges that would occur. AOC data

for CY 2004 indicate that 342 defendants were charged with infractions for current violations of G.S. 20-157 (b) – (f). However, the number of these infractions involving property damage in excess of \$500 or injury to or the death of emergency personnel (and would therefore become Class 1 misdemeanors or Class I felonies) is not known.

AOC data shows an additional 2,916 defendants charged with Class 2 misdemeanors under G.S. 20-157(a) for failure to move over upon the approach of an emergency vehicle that is giving a warning signal. These offenses could also be elevated to Class 1 misdemeanors or Class I felonies if property damage in excess of \$500 or injury or death to an emergency responder were to result from the violation. As with other violations under G.S. 20-157, the number that would be elevated to a Class 1 misdemeanor or Class I felony due to this bill cannot be determined.

For any infraction under G.S. 20-157 (b) – (f) or Class 2 misdemeanor under G.S. 20-157(a) that is elevated to a Class 1 misdemeanor or Class I felony charge due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing district and superior court workload, respectively. AOC estimates the cost to process one Class I felony or one Class 1 misdemeanor charge as well as the increase in cost to dispose of any charge elevated from a Class 2 misdemeanor to a Class 1 misdemeanor or Class I felony as shown in Table 1 below. Based on prior-year data, the majority of charges that are not dismissed are likely to be settled via guilty plea.

Table 1: Estimated Average Per Charge Settlement Costs

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	
				-
<i>Class I Felony</i>	\$3,877	\$1,931	\$5,808	\$329
<i>Class 1 Misdemeanor</i>	\$1,880	\$1,333	\$3,213	\$284
<i>Class 2 → Class 1 Misdemeanor</i>	\$518	\$384	\$902	\$12
<i>Class 2 → Class I Felony</i>	\$2,531	\$982	\$3,513	\$58

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

TECHNICAL CONSIDERATIONS: None

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