

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 490 (First Edition)

SHORT TITLE: False Report/Destructive Device.

SPONSOR(S): Representatives Setzer and Hilton

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					
Judicial					
ADDITIONAL PRISON BEDS*					
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 2005					
<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:

Current G.S. 14-69.1 subsection (a) specifies that it is a Class H felony to falsely report that a destructive device is located in any building, house, other structure, vehicle, aircraft, vessel, or boat. G.S. 14-69.1 subsection (c) specifies that a second conviction within five years of the first conviction for such a report made in relation to any public building is a Class G felony. H.B. 490 would amend this statute to criminalize a false report of a destructive device in sufficient proximity to any of the specified structures that it could damage or destroy those structures.

ASSUMPTIONS AND METHODOLOGY:

General

This bill would be expected to result in additional charges and convictions for Class H felonies and would consequently incur a fiscal impact. Due to the small number of charges and convictions under current G.S. 14-69.1, the fiscal impact associated with this bill is not expected to be substantial.

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 broaden the scope of existing offenses, the Sentencing Commission has no data from which to project the number of convictions that might result from this legislation. The following number of convictions occurred in fiscal year 2003-04 under current G.S. 14-69.1 for false reports of destructive devices:

Table 1: Fiscal Year 2003-04 Felony Convictions Under G.S. 14-69.1

Felony Class H		Felony Class G
G.S. 14-69.1 (a) Non-Public Structure	G.S. 14-69.1 (c) Public Structure	G.S. 14-69.1 (c) Second Conviction in Five Years
7	12	0

Under this bill, any false report of a destructive device located in sufficient proximity to a structure to cause damage to that structure would also be punishable as a Class H felony (Class G, if the report is in relation to a public building and is a second conviction within five years). Because no data exists regarding how often such reports are made, it is not possible to project the number of convictions that would result from these new provisions.

Class H Felonies: If, for example, there were three additional convictions for Class H felonies per year, 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.

Class G Felonies: If, for example, there were two additional Class G felony convictions per year, one additional prison bed would be needed in the first year and two additional beds in the second year.

The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Non-Active Sentences: In FY 2003-04, 50 percent of Class H felony convictions resulted in intermediate sanctions and 13 percent in community sanctions; 56 percent of Class G convictions resulted in intermediate sanctions (the remainder were active). Probation officers in the Division of Community Correction (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.

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.

For calendar year 2004, AOC data indicates that 25 individuals were charged with a Class H felony for a false report of a destructive device in a non-public structure, and 51 individuals were charged with a Class H or Class G felony for a false report of a destructive device relating to a public structure. No data is available regarding how many of the 51 charges relating to public structures were for Class G felonies (i.e. a second offense within five years of the first conviction). AOC cannot estimate the number of new charges that would result from this legislation because data regarding the number of false reports that would be criminalized by this bill is not available.

The cost to the Courts to process a felony or misdemeanor charge varies depending upon the method of settlement and the severity of the charge. AOC estimates the following costs to process a single Class H or Class G felony charge. Based on prior-year data, the majority of new charges resulting from this bill that are not dismissed are likely to be settled by guilty plea.

Table 2: Per Charge Settlement Costs

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	-
Class H Felony	\$4,096	\$2,100	\$6,196	\$359
Class G Felony	\$5,092	\$2,529	\$7,621	\$379

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

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



DATE: March 29, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices