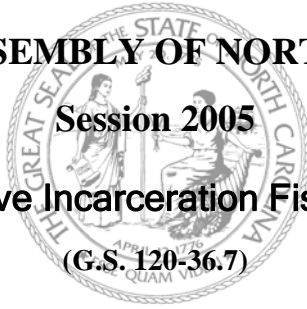


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

**BILL NUMBER:** Senate Bill 1833 (First Edition)

**SHORT TITLE:** Military Funeral/Unlawful Protest.

**SPONSOR(S):** Senator Jacumin

	FISCAL IMPACT				
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
<b>GENERAL FUND</b>					
<b>Correction</b>	Possible fiscal impact, but is not assumed to be significant. See "Assumptions and Methodology" – pp. 2-3				
<b>Recurring</b>					
<b>Nonrecurring</b>					
<b>Judicial</b>	Possible fiscal impact, but is not assumed to be significant. See "Assumptions and Methodology" – pp. 2.				
<b>Recurring</b>					
<b>Nonrecurring</b>					
<b>TOTAL EXPENDITURES:</b>	Amount cannot be determined.				
<b>ADDITIONAL PRISON BEDS*</b>	Number cannot be determined.				
<b>POSITIONS: (cumulative)</b>	None anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch; Local Governments.				
<b>EFFECTIVE DATE:</b>	December 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:** Enacts G.S. 14-277.5 to prohibit disorderly conduct at a military funeral or military service. G.S. 14-277.5(a) specifies that it is unlawful for any person who is within 300 feet of a military funeral, funeral procession, memorial service, or burial to:

- Make a loud and raucous noise that causes unreasonable distress to persons attending these services.
- Direct abusive epithets or make any threatening gesture that one knows, or should know, is likely to provoke a violent reaction.
- By conduct, intend to disturb or disrupt any of these services.

G.S. 14-277.5(b) specifies that the prohibition applies to conduct within one hour preceding, during, or one hour after any of these services. Violations of this provision are as follows:

- Class 2 misdemeanor for a first offense.
- Class 1 misdemeanor for a second offense.
- Class I felony for a third or subsequent offense.

## **ASSUMPTIONS AND METHODOLOGY:**

### **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 a specific bill. For such 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.

Currently, willful disorderly conduct is a Class 2 misdemeanor offense with no additional levels of punishment prescribed for subsequent offenses (G.S. 14-288.4). Accordingly, charges occurring under this bill for second, third, or subsequent offenses would be brought in addition to the current charge of willful disorderly conduct. In calendar year 2005, there were 5,888 charges for disorderly conduct. However, this total does not distinguish the number of charges for offenses specified by this bill.

Though the prevalence of disorderly conduct charges in CY 2005 suggests that additional charges could result for offenses prohibited under S.B. 1833, *Fiscal Research does not anticipate a significant amount of new charges. However, the frequency of protesting during military funerals or services in North Carolina is not known. Nor it is known how many acts would qualify as disorderly conduct offenses, occurring during a protest or otherwise. Nevertheless, any resulting charges could generate additional costs for the judicial system.* Presently, the AOC estimates court-time costs of \$2,380 per Class 2 misdemeanor trial, and \$211 per plea; Class 1 misdemeanor costs are \$3,153 per trial and \$224 per plea; Class I felony costs are \$6,028 and \$274, respectively.

### **Department of Correction – Division of Prisons**

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.

Because S.B. 1833 creates new offenses, there is no historical data from which to estimate the impact of this bill on the State's prison population. Accordingly, it is not known how many offenders might be sentenced under the proposed bill, or how many might be repeat offenders. In FY 2004/05, there were 2,105 convictions for general Disorderly Conduct.

***First or Second Offenses:***

In FY 2004/05, 16% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 11.8 days. Conversely, 19% of Class 1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 30.7 days. *Because offenders serving active sentences of 90 days or less are housed in county jails, new convictions for first or second offenses are not expected to impact the prison population. The impact on local jail populations is not known.*

***Third or Subsequent Offenses:***

In FY 2004/05, 15% of Class I convictions resulted in active sentences, with an average estimated time served of 7 months; 85% of convictions resulted in either community or intermediate sentences, predominantly special, intensive, or general supervision probation. *Though presumed unlikely, if twelve new Class I convictions were to occur per year under this bill, the combination of active sentences and probation revocations would necessitate one additional prison bed the first year, and four additional prison beds the second. Assuming this threshold and a medium custody level, the construction of additional prison beds could cost the State \$65,340 the first year, and \$282,269 the second year; operating costs could be \$26,680 the first year, and \$109,922 the second.*

**Department of Correction – Division of Community Corrections**

Assuming some additional intermediate or community sentencing, additional costs for probation supervision would also be incurred. General supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs: intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender, per day (*includes daily supervision cost*) and is for an average of six months; electronic house arrest costs \$6.71 (*plus daily supervision cost*). Such costs are projected to begin in FY 2007/08, due to the effective date of December 1 and the lag time between charge and conviction.

Offenders supervised by DCC are required to pay a \$30 per month supervision fee. Those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

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

**TECHNICAL CONSIDERATIONS:** None

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Fiscal Research Division

**DATE:** July 10, 2006



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