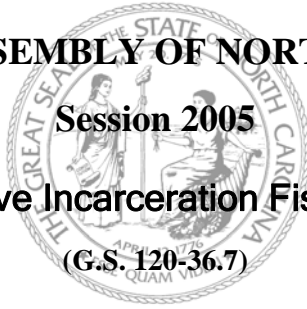


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1833 (Second Edition)
SHORT TITLE: Disorderly Conduct/Funeral/Military Services.
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>
GENERAL FUND					
Correction					
Recurring					
Nonrecurring					
Judicial					
Recurring					
Nonrecurring					
TOTAL EXPENDITURES:					
					Amount cannot be determined.
ADDITIONAL PRISON BEDS*					
					Number cannot be determined.
POSITIONS: (cumulative)					
					None anticipated.
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch; Local Governments.				
EFFECTIVE DATE:	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: Rewrites G.S. 14-288.4 (Disorderly conduct) to prohibit disorderly conduct at any funeral, memorial service, or family processional to either event, including any military funeral, memorial service, or processional. G.S. 14-288.4(a)(8) specifies that any of the following acts, occurring within one hour preceding, during, or one hour after a funeral or memorial service, constitutes disorderly conduct:

- Displaying, within 300 feet of a ceremonial site or location used for a funeral, memorial service, or processional route, any visual image conveying fighting words or an actual or imminent threat of harm directed toward any person or property associated with the funeral, memorial service, or processional route.
- Uttering, within 300 feet of a ceremonial site or location used for a funeral, memorial service, or a family's processional route, any loud, threatening, or abusive language; or, singing, chanting, whistling, or yelling in a manner that impedes, disrupts, disturbs, or interferes with a funeral, memorial service, or processional route.
- Attempting to block, or blocking pedestrian or vehicular access to the ceremonial site or location used for a funeral or memorial.

G.S. 14-288.4(c) specifies that violations of G.S. 14-288.4(a)(8) are punishable 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.

Excluding subsection (c), willful disorderly conduct as set forth under G.S. 14-288.4 remains a Class 2 misdemeanor offense. The proposed draft also makes conforming changes.

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.

Under current G.S. 14-288.4, willful disorderly conduct is a Class 2 misdemeanor offense with no additional levels of punishment prescribed for subsequent offenses. Thus, S.B. 1833 expands the levels of offense for certain disorderly conduct by setting forth additional offense classes for repeat violations of G.S. 14-288.4(a)(8).

In calendar year 2005, there were 5,888 charges for the general offense of disorderly conduct. However, this total does not distinguish the number of charges for conduct to be prohibited under proposed (a)(8).

While the prevalence of disorderly conduct charges in CY 2005 suggests that additional charges could result for the prohibited actions of (a)(8), *Fiscal Research does not anticipate a significant amount of new charges. However, the frequency of protesting during funerals, memorial services,*

or processions to either in North Carolina is not known. 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 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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Signed Copy Located in the NCGA Principal Clerk's Offices