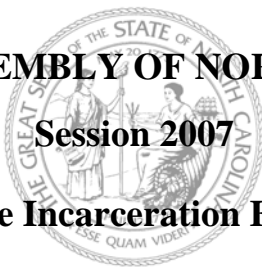


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2007**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 887 (Second Edition)  
**SHORT TITLE:** Amend Criminal Offense of Stalking.  
**SPONSOR(S):** Representatives Ray, Underhill, Langdon, and Wiley

	FISCAL IMPACT				
	Yes ( )	No ( )	No Estimate Available ( )		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
<b>GENERAL FUND</b>	<b>Cannot project prison beds beyond 2009/10; beds &amp; cost likely to increase but level cannot be determined; primary cost is for raising violation of court order to Class G . See pages 7-9</b>				
<b>Correction</b>					
<b>Recurring</b>		\$826,770	\$1,703,146	\$1,754,240	\$1,806,868
<b>Nonrecurring</b>	\$4,218,480				
<b>Judicial</b>					
<b>Recurring</b>	\$156,453	\$269,638	\$283,120	\$297,276	\$312,139
<b>Nonrecurring</b>					
<b>Local Jails</b>	<b>Potential fiscal impact on jail populations due to certain Class 1 and 2 misdemeanors that could be elevated to A1 stalking but amount of impact cannot be determined – See Assumptions and Methodology Pages 8-9</b>				
<b>TOTAL EXPENDITURES:</b>	<b>\$4,374,933</b>	<b>\$1,096,408</b>	<b>\$1,986,266</b>	<b>\$2051,516</b>	<b>\$2,119,007</b>
<b>ADDITIONAL PRISON BEDS: (cumulative)*</b>	<b>0</b>	<b>31</b>	<b>62</b>	<b>62</b>	<b>62</b>
<b>POSITIONS: (cumulative) (DOC)</b>	<b>0</b>	<b>12</b>	<b>25</b>	<b>25</b>	<b>25</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch.					
<b>EFFECTIVE DATE:</b> December 1, 2007; applies to offenses committed on or after that date					
*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.					

**BILL SUMMARY:**

**SUMMARY:** *The 2<sup>nd</sup> edition of House Bill 887 rewrites the law that defines the criminal offense of stalking, to include a course of conduct of two or more acts in which the offender follows, monitors, observes, surveils, threatens, communicates to or about a person, or interferes with a persons property. The bill would increase the penalty for stalking when a court order is in effect, making it a Class G felony. Otherwise, the penalty would remain the same as under current law.*

**CURRENT LAW:** Under G.S. 14-277.3, the offense of stalking is committed if a person willfully and repeatedly follows or harasses another person with the intent to place that person in fear of his or her safety or cause that person to suffer emotional distress. "Harassment" is defined as conduct directed at a specific person that torments, terrorizes, or terrifies that person and serves no legitimate purpose. Violation is generally a Class A1 misdemeanor, and a defendant who is sentenced to a community punishment must be placed on supervised probation in addition to any other punishment imposed by the court. However, if the offense is committed in violation of a court order prohibiting similar conduct, violation is a Class H felony. A person who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony.

**BILL ANALYSIS:** The 2<sup>nd</sup> edition of House Bill 887 redefines the criminal offense of stalking, and increases the penalty from a Class H felony to a Class G felony when a court order is in effect prohibiting similar behavior. Assuming there are no prior offenses, the presumptive minimum sentence for a Class G felony is 10-13 months intermediate or active punishment. The bill would become effective December 1, 2007 and apply to offenses committed on or after that date.

CURRENT LAW	Second Edition HB 887
<i>Willfully on more than one occasion follows or is in the presence of, or otherwise harasses, another person without legal purpose. Defines harassment as knowing conduct, including <u>written communication, telephone, fax, e-mail, etc. that is directed at a specific person</u> and torments, terrorizes, or terrifies that person and serves no legitimate purpose.</i>	<i>Willfully harasses another person without legal purpose, or willfully engages in a course of conduct directed at a specific person. Defines course of conduct as <u>2 or more acts, in which the offender is in the presence of, or follows, monitors, observes, surveils, threatens, or communicates to or about the person, or interferes with a person's property.</u></i>
<i>Requires that defendant have the intent to (1) place the person in reasonable fear for the person's safety or the safety of the person's immediate family or close personal associates, or (2) cause the person emotional distress by placing the person in fear of death, bodily injury or continued harassment</i>	<i>Substitutes specific intent requirement with <u>a "reasonable person" standard</u>; retaining current language regarding the victim's fear for safety and the victim's emotional distress by being in fear of death, bodily injury or continued harassment</i>
General: <i>Class A1 misdemeanor</i> Court order in effect: <i>Class H felony</i> Previous Stalking Offense: <i>Class F felony</i>	Increases penalty when court order in effect to <i>Class G felony</i> ; otherwise, penalty is the same as under current law.

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**ASSUMPTIONS AND METHODOLOGY:**

**General**

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

**Fiscal Impact Summary**

**COST COMPARISON –FIRST EDITION OF H 887 VERSUS SECOND EDITION**

<b><u>Cost items</u></b>	<b><u>H 887 First Edition</u></b>	<b><u>H 887 2<sup>nd</sup> Edition</u></b>	<b><u>Difference</u></b>
DOC Capital Costs (One-time)	\$14,560,000	\$4,218,480	<b>-\$10,341,520</b>
DOC Costs FY 08/09	\$2,800,350	\$826,770	<b>-\$1,973,580</b>
DOC Costs 09/10	\$5,878,794	\$1,703,146	<b>-\$4,175,648</b>
Judicial Costs FY 07/08	1,102,000 (7 mos.)	\$156,453	<b>-\$945,547</b>
Judicial Costs FY 08/09	\$1,900,000	\$269,638	<b>-\$1,639,362</b>
Estimated # Prison Beds	<u>214</u> by FY 09/10	<u>62</u> by FY 09/10	<b><u>152</u> fewer beds</b>

Source: Fiscal Research Division

**NOTES:**

1. No costs are shown for DOC in FY 07/08 because bill is effective December 1, 2007 and will not impact prison system until FY 08/09; Judicial Branch will be affected starting December 1, 2007.
2. Cost reduction primarily due to keeping basic stalking offense as defined in H 887 at a Class A1 misdemeanor instead of Class H. There will be some cost shifting to local jails for any Class 1 and Class 2 stalking-related misdemeanors, such as communicating threats, which are charged and then convicted as a Class A1 stalking offense.
3. Prison bed and cost estimate for Edition 2 primarily due to estimating 5% of A1 convictions for violating valid protective order could be converted to Class G felony.

**Department of Correction – Division of Prisons**

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,<sup>1</sup> and represent the total number of beds in operation, or authorized for construction or operation as of December 6, 2006. Official Department of Correction capacity projections also assume the General Assembly will fund 500 additional prison beds, generated by partial double-celling of the future Tabor City facility (inmate admission FY 2008-09). However, Fiscal Research does not include these 500 beds in capacity estimates (row two), since these beds have not been authorized for funding.

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.* Therefore, the number of *additional beds needed* (row five) is *always equal to* the projected number of *additional inmates* resulting from a bill (row four). Rows four and five in the chart demonstrate the impact of HB 887. As shown, the Sentencing Commission estimates that this specific legislation will add 62 inmates to the prison system by the end of FY 2011-12.

<b><u>June 30</u></b>	<b><u>June 30</u></b>	<b><u>June 30</u></b>	<b><u>June 30</u></b>	<b><u>June 30</u></b>
<b><u>2008</u></b>	<b><u>2009</u></b>	<b><u>2010</u></b>	<b><u>2011</u></b>	<b><u>2012</u></b>

1. Projected No. of Inmates Under

<sup>1</sup> Expanded Operating Capacity (EOC) is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of SOC) and 50 (SOC) square feet per inmate.

Current Structured Sentencing Act <sup>2</sup>	39,621	40,236	41,021	41,848	42,718
2. Projected No. of Available Prison Beds (DOC Expanded Capacity)	38,505	39,353	39,353	39,353	39,353
3. Projected No. of Beds Over/Under Inmate Population	-1,116	-883	-1,668	-2,495	-3,365
<b>4. Projected No. of Additional Inmates <u>Due to this Bill</u> <sup>3</sup></b>	<i>N/A</i>	<b>31</b>	<b>62</b>	<b>62</b>	<b>62</b>
<b>5. No. of Additional Beds Needed Each Fiscal Year Due to this Bill</b> <i>N/A</i>		<b>31</b>	<b>62</b>	<b>62</b>	<b>62</b>

**POSITIONS:** It is anticipated that by FY 2011-12, approximately 25 positions would be needed to supervise the additional inmates housed under this bill. This position total includes security, program, and administrative personnel at a ratio of approximately one employee for every 2.5 inmates. This ratio is the combined average of the last seven prisons opened by DOC – two of the prisons were medium custody and five were close custody.

**FISCAL IMPACT BEYOND FIVE YEARS:** Fiscal notes examine a bill’s impact over a five-year horizon, through FY 2011-12. However, when information is available, Fiscal Research also attempts to quantify longer-term impacts. Accordingly, the chart below illustrates the projected number of available beds given current conditions; the projected number of additional inmates due to (bill number); and, the estimated number of new beds required each year through FY 2015-16.

	<u>June 30 2013</u>	<u>June 30 2014</u>	<u>June 30 2015</u>	<u>June 30 2016</u>
1. Available Beds (Over/Under) Under Current Structured Sentencing	-4,234	-5,117	-5,996	-6,866
2. <b>Projected No. of Additional Inmates Resulting From (<u>Bill Number</u>)</b>				
3. <b>Estimated No. of New Beds Required Under HB 887</b>		<i>Cannot be determined</i>		

**CONSTRUCTION:** Construction costs for new prison beds, listed in the following chart, are derived from Department of Correction cost range estimates (FY 2006-07) for each custody level, and assume Expanded Operating Capacity (EOC). Figures represent the midpoints of each range.

As shown, there are two primary options for prison bed construction: 1) a “stand alone,” or entirely new institution;<sup>4</sup> or, 2) an addition within or adjacent to the perimeter of an existing institution, termed an “add-on.”<sup>5</sup> Cost estimates for “add-on” beds are based upon a prototypical design, and assume that program/core

<sup>2</sup> The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in December 2006.

<sup>3</sup> Criminal penalty bills effective December 1, 2007 should not affect prison population and bed needs until FY 2008-09, due to the lag time between offense charge and sentencing - 6 months on average. No delayed effect is presumed for the Court System.

<sup>4</sup> New, “stand alone” institution built for Expanded Operating Capacity; single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC).

<sup>5</sup> Close and medium custody “add-on” facilities are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody “add-on” is built adjacent to an existing perimeter. Add-on facilities built for EOC employ the same custody configurations as “stand alone” (i.e. single cells for close custody, and dorms for medium and minimum custody levels).

support from the base institution will support 500 additional close or medium custody inmates, or 250 additional minimum custody inmates. “Add-on” costs are lower, relative to “stand-alone,” due partly to the usage of existing sites and infrastructure.

**Estimated Construction Cost per Custody Level, FY 2006-07**

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Cost Per Bed: EOC “Stand Alone”	\$56,000	\$63,000	\$109,000
Cost Per Bed: EOC “Add-On”	\$52,000	\$39,000	\$71,000

Construction costs are shown as *non-recurring costs in the “Fiscal Impact” table* (p.1). An annual inflation rate of eight percent (8.0%) is applied to these base costs.<sup>6</sup> As illustrated (p.1), these costs also assume that funds to construct beds at a “stand alone” facility should be budgeted four years in advance, since building a prison typically requires four years for site selection, planning, design, construction, and occupancy. The overall duration for facility addition (“add-on”) is shorter, requiring that funds be budgeted three years in advance.

Accordingly, given an increase of 62 inmates, bed provision through construction of a “stand alone” facility could cost approximately (\$4,218,480) by FY 2011-12; provision through “add-on” could cost approximately (\$2,379,000).

**OPERATING:** Operating costs are based on actual FY 2005-06 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 three percent (3.0%) annual inflation rate is applied to these base costs, as shown in the *recurring costs estimate in the “Fiscal Impact” table* (p.1).

**Daily Inmate Operating Cost per Custody Level, FY 2005-06**

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Daily Average</u>
Daily Cost Per Inmate	\$54.81	\$70.83	\$79.72	\$66.87

*Fiscal Research used the cost of a medium custody bed as the basis for calculating prison operating costs shown in this Note.*

**Methodology for Analysis of Basic Stalking – Class A1**

*The 2<sup>nd</sup> edition retains Class A 1 misdemeanor as the penalty for basic stalking... However, the new definitions of stalking offenses in HB 887 could also result in lower level but related misdemeanors being raised to the level of Class A1. Fiscal Research asked the Sentencing Commission to research the impact if these misdemeanors were raised to A1. Two scenarios were developed by the Commission. Table 1 shows the various stalking related offenses. The potential pool of offenders that could be elevated (total convictions) are numbers 4, 5 and 6 in Table 1.*

<sup>6</sup> Office of State Construction, March 24, 2006.

**Table 1 Stalking Related Offenses –2005/06\***

<b>N.C.G.S.</b>	<b>Offense</b>	<b>Charged (AOC)</b>	<b>Total Convictions</b>	<b>Conv. in PRL/PCL II**</b>
1. 14-277.3	Stalking (A1 misdemeanor)	851	103	60
2. 14-277.3	Stalking –2 <sup>nd</sup> time (Class F Felony)	41	5	5
3. 14-196.3	Cyberstalking (Class 2 Misd.)	155	11	3
<b>4. 14-196(a)(3)</b>	<b>Harassing phone call (Class 2 Misd.)</b>	<b>5,638</b>	<b>624</b>	<b>320</b>
<b>5. 14-196(a)(2)</b>	<b>Threatening phone call (Class 2 Misd.)</b>	<b>2,179</b>	<b>208</b>	<b>122</b>
<b>6. 14-277.1</b>	<b>Communicating threats (Class 1 Misd.)</b>	<b>24,029</b>	<b>3,033</b>	<b>1,778</b>

\***Source:** Sentencing and Policy Advisory Commission

\*\*Prior Record Level (PRL) is the number of offenders convicted and sentenced for a second or subsequent offense but it cannot be determined if the original offense was also related to stalking.

Scenario A assumes that

- 5% of convictions under G.S. 14-196(a)(3) (harassing phone call), G.S. 14-196.3 (cyberstalking), and G.S. 14-401.14(a) (ethnic intimidation) would be reclassified to Class A1
  - 32 of 640 convictions reclassified to Class A1
- 10% of convictions under G.S. 14-277.1 (communicating threats) would be reclassified to Class A1
  - 303 of 3,033 convictions reclassified to Class A1
- 15% of convictions under G.S. 14-196(a)(2) (threatening phone call) would be reclassified to Class A1
  - 31 of 208 convictions reclassified to Class A1

Scenario B assumes that

- 10% of convictions under G.S. 14-196(a)(3) (harassing phone call), G.S. 14-196.3 (cyberstalking), and G.S. 14-401.14(a) (ethnic intimidation) would be reclassified to Class A1
  - 64 of 640 convictions reclassified to Class A1
- 15% of convictions under G.S. 14-277.1 (communicating threats) would be reclassified to Class A1
  - 455 of 3,033 convictions reclassified to Class A1
- 20% of convictions under G.S. 14-196(a)(2) (threatening phone call) would be reclassified to Class A1
  - 42 of 208 convictions reclassified to Class A1

As shown in the table under Scenario A, a total of 366 Class 1 or Class 2 misdemeanor convictions would be reclassified to Class A1. Under Scenario B, a total of 561 Class 1 or Class 2 misdemeanor convictions would be reclassified to Class A1.

Table 2 Estimated Convictions to A1

Scenario	# Convictions Reclassified to Class A1
A	366
B	561

***The impact of either Scenario is likely to be on local jails not on the prison system.***

*In FY 2005/06, 26% of Class A1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class A1 convictions was 50 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, Class 1 or Class 2 misdemeanors that would be reclassified to Class A1 typically would not be expected to have a significant impact on the prison population.*

Any convictions that would result in sentences greater than 90 days as a result of being reclassified to Class A1 would have a small impact on the prison population; however, the impact cannot be determined. As shown in the table below, when compared to Class 1 and Class 2 misdemeanor convictions, Class A1 misdemeanor convictions have a higher percentage of active sentences, a longer average estimated time served, and a higher percentage of convictions with sentences greater than 90 days. Class 1 or Class 2 misdemeanor convictions that would be reclassified to Class A1 could impact local jail populations; however, the impact cannot be determined.

Table 3

Offense Class	N	% Active	Average Estimated Time Served in Days	% of Convictions with Sentences Greater than 90 Days
A1	14,539	26%	50	25%
1	95,152	20%	31	14%
2	31,466	17%	13	0.5%

Note: This table excludes convictions that did not fit within the appropriate cell in the Misdemeanor Punishment Chart due to discrepant offense classes, prior conviction levels, or for other reasons. The highest sentence available for Class 2 misdemeanants is 60 days; sentences greater than 90 days may reflect the use of consecutive sentencing.

**Methodology for Analysis of Increasing Violation of Court Order from Class H felony to Class G**

Offenses for which offenders currently convicted would be eligible for conviction of the Class G felony of stalking in violation of a court order include those currently convicted of:

Table 4

G.S.	Description	All? <sup>a</sup>	Class	Total FY 2005/06 Convictions	FY 2005/06 Convictions in PRL/PCL II+ <sup>b</sup>
14-277.3	Stalking	No	H	3	N/A; existing stalking statute.
50B-4.1	Violation of valid protective order [domestic violence]	No	A1	1,369	942

<sup>a</sup> The “All?” column denotes whether all convictions for the listed offense would be eligible for conviction under the proposed bill. See the endnotes for explanations of why convictions of certain offenses may not be eligible.

<sup>b</sup> Although convictions in all of the prior record/conviction levels would be eligible for conviction of stalking under the proposed bill, convictions in PRL/PCL II and above are more likely to fit the definition of stalking under the proposed bill.

In FY 2005/06, there were three Class H convictions for felony stalking. Under the proposed bill, these convictions could become Class G felonies. Due to the small number of convictions, a more detailed impact projection could not reliably be computed using the Structured Sentencing Simulation Model. Using threshold data, if these three convictions were reclassified from Class H to Class G, this would result in the need for one additional prison bed the first year and one additional prison bed the second year.

In addition, it is not known how many additional convictions may result from the proposed broadening of the current statute. In FY 2005/06, there were 1,369 Class A1 convictions under 50B-4.1 that may be eligible to be convicted as Class G felonies under the proposed bill. Of these convictions, 942 were in PCL II or above. Convictions in PCL II or above indicate at least one prior conviction.

In FY 2005/06, 42% of Class G convictions resulted in active sentences, with an average estimated time served of 16 months.

If, for example, there were two Class A1 convictions per year that would become Class G convictions under this proposed bill, 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.

**At the request of Fiscal Research, the Sentencing Commission developed two scenarios regarding the impact of H 887 on the current Class A1 offense class for violating court orders. These scenarios are displayed below**

Scenario A assumes that

- All Class H convictions under G.S. 14-277.3 would be reclassified to Class G
  - 3 of 3 convictions reclassified to Class G



- 5% of convictions under G.S. 50B-4.1 (violation of valid protective order) would be reclassified to Class G
  - 69 of 1,369 convictions reclassified to Class G

**Scenario B assumes that**

- All Class H convictions under G.S. 14-277.3 would be reclassified to Class G
  - 3 of 3 convictions reclassified to Class G
- 10% of convictions under G.S. 50B-4.1 (violation of valid protective order) would be reclassified to Class G
  - 137 of 1,369 convictions reclassified to Class G

Table 5 –Bed Impact of Violating Protective Order as Class G

Scenario	# Convictions Reclassified	Additional Prison Beds	
		Year 1	Year 2
A	72	31	62
B	140	60	122

**Fiscal Research used Scenario A to estimate costs**

Table 6 –Fiscal Impact of Violating Protective Order as Class G

Category	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12
Prison Beds	0	31	62	62	62
Capital Costs	\$4,218,480				
Operating Costs		\$826,770	\$1,703,146	\$1,754,240	\$1,806,868

1. Assumes 5% (72) of 05/06 convictions (1,369) would increase from Class A1 to Class G.
2. Assumes some violations of domestic violence protective orders (DVPOs) under G.S. 50B-4.1 would constitute stalking under the proposed bill after only a single act, such as communicating a threat or other harassment to the victim in violation of the order. Other violations of a DVPO would require multiple acts to constitute stalking under the “course of conduct” element, such as visiting the victim’s home or workplace or interfering with the victim’s property. Other acts in violation of a DVPO would not constitute “stalking” at all (e.g., failure to make child support payments or attend an abuser treatment program).
3. Fiscal Research developed cost estimates using the cost of medium custody beds for capital and operating costs

**Stalking after previous stalking conviction**

**Sentencing Commission Analysis:** The proposed bill imposes the same penalty for this offense as under current law (Class F). In FY 2005/06, there were two Class F convictions for felony stalking. However, it is not known how many additional convictions may result from the proposed broadening of the current statute.

In FY 2005/06, there were three Class I felony convictions under 14-16.7 and 3,870 misdemeanor convictions under 14-196(a)(2), 14-196(a)(3), 14-225.2, 14-277.1, and 14-401.14(a) that may be

eligible to be convicted as Class F stalking under the proposed bill if they have a prior stalking conviction. Of these convictions, all of the three felony convictions and 2,223 of the misdemeanor convictions were in PRL/PCL II or above. Convictions in PRL/PCL II or above indicate at least one prior conviction.

In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed 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.

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

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.<sup>7</sup>

General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

### **Judicial Branch**

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

For HB 887, Edition 1, AOC originally estimated that 50% of over 32,000 offenders charged with the various misdemeanor threat and harassment crimes shown in Table 1 would be charged with the new stalking offenses. Fiscal Research has adjusted these figures to reflect 10% of these charges due to changes in Edition 2. Estimated costs are shown in Table 7 below.

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<sup>7</sup> DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

Table 7 – Judicial Costs for HB 887

<b>Offense Type</b>	<b>FY 07/08 (7 mos.)</b>	<b>FY 08/09</b>	<b>FY 09/10</b>	<b>FY 10/11</b>	<b>FY 11/12</b>
Various Class 1 and Class 2 misdemeanors to Class A1	\$145,394	\$250,680	\$263,214	\$276,374	\$290,193
Violate Order to Class G	\$11,059	\$18,958	\$19,906	\$20,901	\$21,946
<b>TOTAL</b>	<b>\$156,453</b>	<b>\$269,638</b>	<b>\$283,120</b>	<b>\$297,276</b>	<b>\$312,139</b>

**ASSUMPTIONS**

1. Include 10% of charges for communicating threats, threatening phone calls, and harassing phone calls
2. Assume 1% would go to trial (318) and assume 9% would be pleas (2,862)
3. Calculate difference between cost for current Class 1 and 2 cases versus A1
4. Assume 7 months cost the first year (effective December 1, 2007) and full cost the second year
5. Add 5% inflation per year

**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:** Jim Mills

**APPROVED BY:** Lynn Muchmore, Director  
Fiscal Research Division

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