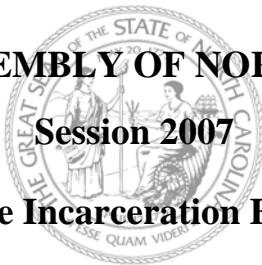


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1372 (Second Edition)
SHORT TITLE: Organ & Tissue Donation/the Heart Prevails.
SPONSOR(S): Representatives Clary, Wainwright, Holliman, and Folwell

	FISCAL IMPACT				
	Yes (xx)	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>
GENERAL FUND					
Correction		No significant impact anticipated			
Recurring					
Nonrecurring					
Judicial		No significant impact anticipated			
Recurring					
Nonrecurring					
Health & Human Services		No impact anticipated			
ADDITIONAL PRISON BEDS: (cumulative)*					
POSITIONS: (cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: Effective when act becomes law.					
*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:

House Bill 1372 repeals the Uniform Anatomical Act (Part 3 of Article 16 of Chapter 130A) and creates the Revised Uniform Anatomical Act (Part 3A of Article 16 of Chapter 130A), which applies to an anatomical gift, and changes to, revocation of, or refusal to make an anatomical gift.

Source: Bill Digest H.B. 1372 (04/05/2000).

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.

House Bill 1372 creates a Class F felony related to the sale or purchase of body parts (G.S. 130A-412.18). In addition, it subjects a person to a Class H felony that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal (G.S. 130A-412.19).

The Sentencing Commission notes this bill creates new offenses and therefore there is no historical data from which to estimate the impact of this bill. The bill calls for violations to be punishable by a fine not to exceed \$50,000 or imprisonment not to exceed five years, or both. Under Structured Sentencing, individuals guilty of Class H felonies may receive a community punishment, an intermediate punishment, or active punishment, depending upon their Prior Record Level. Sentences for Class H felonies range from 4 months to 25 months. In 2005-06, 34% of Class H convictions resulted in active sentences, with an average time served of 11 months.

The Sentencing Commission notes that “since the punishment for the proposed offense is outside of Structured Sentencing and due to the possible sentence range, it is not possible to determine its impact on the prison population. The possible punishment of imprisonment not to exceed five years exceeds the punishment available for Class H felons under Structured Sentencing.”

Other Agencies

The Department of Health and Human Services and the Department of Transportation have analyzed this bill and concluded there will be no fiscal impact on either agency.

Department of Correction – Division of Prisons

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.*

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.¹

¹ 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.

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 (AOC) 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.

AOC has no offense codes for relevant offenses under the current statute. Presently, the AOC estimates a cost of \$9,902 per trial for a Class H felony, and \$539 per plea for the same offense. AOC cost estimates account for indigent defense.

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

TECHNICAL CONSIDERATIONS: The punishment for the proposed offenses is outside of Structured Sentencing.

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