

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 7 (First Edition)

SHORT TITLE: Ban Mephedrone.

SPONSOR(S): Senator Brown

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
GENERAL FUND					
Correction			Exact amount cannot be determined*		
Probation			Exact amount cannot be determined*		
Judicial			Exact amount cannot be determined*		
<i>*See Assumptions and Methodology</i>					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.					
<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:

The proposed legislation expands the scope of existing non-trafficking controlled substance offenses by adding mephedrone to the list of Schedule I controlled substances in G.S. 90-89.

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.

Department of Correction – Division of Prisons

Section 1:

This bill amends G.S. 90-89, Schedule I controlled substances, by adding subsection (5)(h), 4-methylmethcathinone. The addition of mephedrone to Schedule I expands the reach of all existing offenses involving Schedule I controlled substances in G.S. 90-95, Violations; penalties, and elsewhere.

Impact: The offenses set forth in the proposed legislation could result in additional convictions of Class 1 Misdemeanors, as well as Class I, H, G, F, E, D, and C felonies. In FY 2009-10, the average estimated time severed for Class 1 misdemeanors was 27 days. In FY 2009-10, the average estimated time served for felonies ranged from 7 to 82 months. It is not known how many additional convictions would occur as a result of the proposed broadening of the current statute. Since a period of Post-Release Supervision follows release from prison for offenders convicted of Class B1-E felonies, there would also be some impact on Post-Release Supervision caseloads and prison beds due to revocations.

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.

Section 1:

AOC anticipates a somewhat larger number of charges initially, due to charges for possession of controlled substances purchased prior to the effective date of this legislation. AOC expects the number of charges to decline over time.

Impact: Using a time study conducted by the National Center for State Courts for North Carolina District Attorneys' offices and adjusting for the type of drug and other factors, AOC anticipates that, on average, each charge will require 2.5 hours of an assistant district attorney's time, of which half will be spent in court. This average includes all types of dispositions, such as trials, pleas, and dismissals. In 2010, there were 17,172 non-trafficking cocaine, methamphetamine, and MDMA-related charges. (This count does not include other general drug charges such as selling a controlled substance near a public school.) If, for example, in the first full year of implementation defendants charged with mephedrone-related offenses were equivalent to 10 percent of cocaine, methamphetamine, and MDMA charges, there would be approximately 1,700 charges for new offenses, and costs would be as follows:

Scenario: 1,700 Defendants Charged (10% of Cocaine/Methamphetamine/MDMA Charges)				
Position Type	Number*	Cost per Position		Total
		R	NR	
Assistant District Attorney	3	\$108,829	\$3,739	\$337,704
Victim Witness Legal Assistant	2	\$57,481	\$5,155	\$125,272
Superior Court Judge	2	\$183,654	\$6,572	\$380,452
Deputy Clerk	3	\$45,652	\$2,620	\$144,816
Court Reporter	2	\$68,625	\$4,857	\$146,964
Total Positions	12	\$1,082,963	\$52,245	\$1,135,208

*Rounded to nearest whole FTE

Note: The workload used in the above scenario is based on 2.5 hours per case for Assistant District Attorneys, of which half is in court and is therefore used to estimate the workload for Superior Court Judges and court reporters. The workload for deputy clerks is based on Superior Court in-court criminal dispositions from the NCSC study of clerks' workload. The workload for VWLAs is based on the NCSC VWLA study, using felony workload adjusted for the difference between trafficking and non-trafficking Schedule I drug cases from the ADA study. (Only the ADA study distinguished drug cases from other cases.)

In FY 2009-10, a typical felony case took approximately 206 days to dispose in Superior Court. A typical misdemeanor case took approximately 91 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

SOURCES OF DATA: North Carolina Sentencing and Policy Advisory Commission; Judicial Branch

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Sarah Stone; Douglas Holbrook

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

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