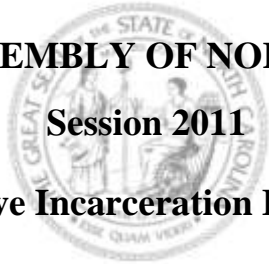


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 105 (First Edition)

SHORT TITLE: Increase Penalty/2nd Degree Murder.

SPONSOR(S): Senators Jones, Rouzer, and Newton

	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>
<b>GENERAL FUND</b>					
<b>Correction</b>		<i>*See Assumptions and Methodology*</i>			
<b>Probation</b>		<i>*See Assumptions and Methodology*</i>			
<b>Judicial</b>		<b>No significant impact anticipated</b>			
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch.					
<b>EFFECTIVE DATE:</b> 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 reclassifies the offense of second degree murder from a Class B2 felony to a Class B1 felony in G.S. 14-17. This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.

## **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**

In FY 2009-10, there were 230 convictions for Second Degree Murder (Class B2). Under Structured Sentencing, sentence lengths for Class B2 felons range from 94 months to 393 months, depending on prior record level. In FY 2009-10, the average estimated time served for Second Degree Murder convictions was 188 months.

Sentence lengths for Class B1 felons range from 144 months to life without parole, depending on prior record level, with an average estimated time served of 234 months in FY 2009-10. Given the sentencing range for Class B2 felons and the average sentence imposed for second degree murder convictions in FY 2009-10, all of the impact that would result from reclassifying second degree murder from Class B2 to Class B1 would occur outside the ten-year projection period. As a result, the Structured Sentencing Simulation Model could not be used to project the impact from the proposed reclassification. However, if the proposed reclassification of second degree murder from Class B2 to Class B1 were enacted, substantial long-term impact to the prison population would occur due to the longer sentence lengths available for Class B1 felony convictions and would continue as these convictions “stack up” in prison.

In addition, the proposed section would reclassify conspiracy to commit second degree murder from Class C to Class B2. There is also a potential for impact from the resulting reclassification of conspiracy to commit second degree murder from Class C to Class B2. There were no convictions for conspiracy to commit second degree murder in FY 2009-10. Due to the lack of convictions, a more detailed impact projection using the Structured Sentencing Simulation Model could not be provided. Impact on the prison population would occur beginning in the sixth year of the projection period as a result of the longer average estimated time served (184 months for Class B2 compared to 82 months for Class C) and would continue as these convictions “stack up” in prison.

Finally, the proposed section would increase solicitation to commit second degree murder and accessory after the fact to second degree murder from Class D to Class C. There is also a potential for impact from the resulting reclassification of solicitation to commit second degree murder and accessory after the fact to second degree murder from Class D to Class C. In FY 2009-10, there were three (3) convictions for accessory after the fact to second degree murder. Due to the small number of convictions, a more detailed impact projection using the Structured Sentencing Simulation Model would not be reliable. Impact on the prison population would occur beginning in the fifth year of the projection period as a result of the longer average estimated time served (83 months for Class C compared to 63 months for Class D) and would continue as these convictions “stack up” in prison.

## **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.

AOC does not anticipate a significant impact on workload if charges for B2 felonies were elevated to charges for B1 felonies, as the nature of the casework would remain the same.

According to the Conference of District Attorneys, increasing the penalty for 2nd degree murder from a Class B2 to a Class B1 could lead to a shift in charges from 1st degree murder (Class A felony) to 2nd degree murder, and increase the willingness of district attorneys to accept pleas to 2nd degree murder. If such a shift did occur, there would be a reduction in the time and personnel required to process murder cases overall. This workload reduction would impact personnel in district attorneys' offices and in Superior Court. However, current backlogs and personnel shortages in the courts would prevent any reduction in resources. If murder cases required, on average, fewer resources due to this legislation, the impact would be to somewhat reduce the shortage of court personnel and potentially decrease the average time to disposition for such cases. In FY 2009-10, the average time to disposition of a murder case was 545 days. A decrease in prosecutorial and judicial workload could reduce the average time for disposition of such cases.

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

**TECHNICAL CONSIDERATIONS:** None

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**Fiscal Research Division**



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**Signed Copy Located in the NCGA Principal Clerk's Offices**