

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 1008 (Committee Substitute)

**SHORT TITLE:** Up Penalties/Weapons at School

**SPONSOR(S):** Representative Hensley

**FISCAL IMPACT:**      **Expenditures:**      **Increase (X)**      **Decrease ( )**  
                         **Revenues:**              **Increase ( )**      **Decrease ( )**  
                         **No Impact ( )**  
                         **No Estimate Available ( )**

**FUND AFFECTED:**    **General Fund (X)**    **Highway Fund ( )**    **Local Fund ( )**  
                         **Other Fund (X)** (Indigent Persons Attorney Fee Fund)

**BILL SUMMARY:** House committee substitute rewrites G.S. 14-269.2 to provide that a person is guilty of a Class I felony (punishable by maximum imprisonment of five years and fine) if the person possesses or carries, openly or concealed, any gun, rifle, pistol, or any other firearm, bomb, etc. on educational property (defined in bill the same as current section). Person is guilty of misdemeanor, punishable by maximum two years' imprisonment and fine, if person possess or carries, openly or concealed, any bowie or switchblade knife, blackjack, etc. on educational property. Provides that person who causes, encourages, or aids person in committing either of two offenses discussed above is punished the same as the person who commits particular offense. Exempts from offenses (1) law enforcement officers, military, etc. while performing official duties; and (2) person temporarily on educational property for lawful purpose, if (i) weapon is not concealed; (ii) if weapon is firearm, it is not loaded and is in locked container or locked firearm rack in motor vehicle; (iii) person does not display weapon in careless or threatening manner; and (iv) person is not student in educational institution or on suspension from institution. Provides that violation of section by student 14 years old or older is basis for expulsion under G.S. 115C-391(d), when student's continued presence in school constitutes clear threat to safety and health of other students or employees, whether or not violation of section resulted in conviction of felony. Adds new G.S. 14-269.7 to require that person who has cause to suspect that another person possesses weapon in violation of G.S. 14-269.2(a) or (b) (felony and misdemeanor violations discussed above) must report information to school principal or to appropriate law enforcement agency. Provides that report may be made orally, by telephone, or in writing and specifies information that must be given; gives immunity from civil or criminal liability for person making report in good faith. Failure to report information required by section is misdemeanor punishable by maximum two years' imprisonment and fine. Adds new G.S. 14-315.1 to create misdemeanor, punishable by maximum two years' imprisonment and fine, when person stores or leaves firearm on any premises when person

knows or reasonably should know that minor would have or obtain access to firearm without lawful permission of minor's parents or person in charge of minor, provided that (1) firearm is not (i) kept in secured container or in location reasonable person would believe to be secure; (ii) secured with trigger local; or (iii) carried on person's body or within close proximity to be used easily; or (2) minor gains access to firearm without lawful permission of minor's parents or person in charge of minor, and (i) possess it in violation of G.S. 14-269.2(b); (ii) exhibits it in public place in threatening manner, or (iii) intentionally or unintentionally causes personal injury or death with firearm or uses it to commit crime. Provides there is no violation if minor obtained firearm as result of unlawful entry by any person. Provides that if minor possesses firearm in violation of G.S. 14-269.2(b) that is property of adult living in home with minor, there shall be "prima facie presumption" of unsafe storage in violation of section. Adds new G.S. 14-315.2 to require (1) when retail commercial sale or transfer of firearm, seller or transferor must deliver specified written warning about leaving firearm within easy access of minor) to purchaser or transferee; and (2) retail or wholesale store that sells firearms must conspicuously post specified warning (about leaving firearm within easy access of minor) at each purchase counter. Violation is misdemeanor punishable by two years of imprisonment and fine.

**EFFECTIVE DATE:** December 1, 1993; applicable to offenses committed on or after that date.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Department; Department of Correction

**JUDICIAL DEPARTMENT**

**FISCAL IMPACT**

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99
<b>EXPENDITURES</b>	\$51,000	\$51,000	\$51,000	\$51,000	\$51,000	\$51,000
<b>GENERAL FUND</b>	45,000	45,000	45,000	45,000	45,000	45,000
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0	0
<b>RECURRING</b>						
<b>NON-RECURRING</b>						

**POSITIONS:** No new positions.

**ASSUMPTIONS AND METHODOLOGY:** The above cost estimates are based on an analysis performed by the Administrative Office of the Courts (AOC). In the time frame within which this fiscal note was requested, detailed cost estimates for all of the various components of the proposed legislation were unable to be generated. However, the AOC had previously contacted several district attorneys for the impact of the bill before amended. Based on information previously obtained (i.e., necessary expenditure as a result of 14-269.2(b) within the current committee substitute), the above cost estimates are made and explained below. Based on initial analysis of the

committee substitute as a whole, the AOC does not estimate significant additional fiscal impact.

#### **Felony Possession of A Weapon on School Property**

"This bill would amend G.S. 14-269.2, to elevate possessing or carrying a firearm or explosives on school property from a misdemeanor to a Class I felony. (Possession of knives and certain other weapons would remain a misdemeanor.) The AOC Juvenile Services Division estimates that there will be no fiscal impact from this change as regards juveniles processed in juvenile court. As to all other offenders, the change in the severity of the charge, from misdemeanor to felony, will result in an increase in the number of trials, and some additional work for defense counsel and district attorneys in cases that are plead.

"Based on information from District Attorneys and AOC data, we estimate that there will be some 45 additional felony trials, and some 162 guilty pleas involving more work. The felony trials will average about four hours; the overall cost impact from additional court time is approximately \$45,000. We estimate that private assigned counsel in indigency cases would devote about an additional five hours to the representation in cases that are tried, and one hour in cases that are plead. We estimate a cost for private assigned counsel in the trials of about \$5,000, and about an additional \$1,000 for cases disposed by guilty pleas.

#### **Cause, Encourage, Aid Any Person to Carry Weapon**

"The bill creates the new offense of causing, encouraging or aiding another person to carry or possess a weapon on school property. The offense is a Class I felony as to firearms or explosives, and a misdemeanor as to knives and other weapons.

"We have not had the opportunity to contact district attorneys with regard to these offenses. Based on AOC data for calendar 1992, we estimate that there are some 502 defendants in district court per year for carrying a weapon on school property.

"(The cases discussed above related only to the proportion that would be felonies.) Although no actual data are currently available, we would not expect there to be very many charges. These charges are likely to arise only in connection with cases involving possession of a weapon on school property (that is, would be a subset of such violations). It would probably be difficult for the police to learn about persons who aid or encourage a violation, and difficult for the prosecution to prove the violation.

#### **Duty to Report Suspicion of Violations**

"The bill would add a new misdemeanor offense in new section G.S. 14-269.7, which requires any person who suspects that any person

possess a weapon in school in violation of G.S. 14-269.2(b) or (c), to make a report to the principal or to law enforcement.

"Although we have not had the opportunity to contact district attorneys with regard to this offense, we estimate that there will be relatively few charges. These charges are also likely to be a subset of violations for carrying a weapon on school property, and it seems likely that only in relatively few cases will there be adequate proof of a violation of a failure to report information.

**Fail to Store Firearms Safely**

"The bill would add a new misdemeanor offense in new section G.S. 14-315.1, requiring persons to store firearms safely from access by minors, including storage in a securely locked box or secured with a trigger lock; the violation only exists if a minor gains possession of the firearm and commits some act with it, including possessing it on school property in violation of G.S. 14-269.2(b). The bill includes a prima facie presumption of unsafe storage if the gun that the minor possessed was the property of an adult living in the home of the minor.

We have not had the opportunity to contact district attorneys with regard to this offense. Again, however, we estimate that there will be relatively few charges. Although other circumstances can give rise to charges under this new section, it seems likely that most charges will arise from cases involving violations for carrying a weapon on school property. However, the charges under this provision would be new cases, brought against (typically, it is expected) the minor's parent. Although it is possible that a large number of cases could be brought (especially considering considering the prima facie provision in the bill), there will probably be difficulties in discovering and proving violations.

**Notice to Buyers**

"We do not estimate a substantial fiscal impact from provisions of the bill requiring commercial gun sales to include certain notices to buyers."

**DEPARTMENT OF CORRECTION**

**FISCAL IMPACT**

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u>
<b>EXPENDITURES*</b>	\$436,583	\$714,932	\$522,534	\$544,219	\$5
<b>RECURRING**</b>	151,139	477,062	498,747	520,432	54
<b>NON-RECURR.</b>	285,444	237,870	23,787	23,787	23
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0
<b>RECURRING</b>					

**NON-RECURRING**

**\* Expenditures would not be realized unless the current prison cap is removed. Under the existing prison cap, no additional expenditures would result within the Department of Correction (DOC).**

**\*\* Recurring expenditures do not include salary or inflationary increases.**

**POSITIONS:** 5 New Positions

**ASSUMPTIONS AND METHODOLOGY:** The above cost estimates are calculated from the projected increase in prison populations that would result upon ratification of this bill. Projections apply to all relevant offenses committed on or after December 1, 1993.

**Added Inmate Population:** The number of additional beds that would be required by the DOC was estimated by Rob Lubitz, Executive Director of the N.C. Sentencing and Policy Advisory Commission using the Commission's correctional population simulation model. (See Appendix IV of the Commission's "1993 Report to the General Assembly" for further explanation.) The projected increase in prison population is based on the following assumptions:

- 1) The overall average sentences for misdemeanors convicted of weapons on campus or other educational property under current statutes are similar to the overall average sentences imposed for similar misdemeanors. [Note: Average sentence served by the 19% of offenders receiving an active sentence is 2.4 months.]
- 2) The overall average sentences for Class I felons convicted of weapons on campus or other educational property under the proposed legislation would be similar to the overall average sentences imposed for other Class I felons. [Note: Average sentence served by the 26% of Class I felons receiving an active sentence is 8 months.]
- 3) This bill would apply to 51% of all offenders convicted in 1992 of misdemeanor weapons on campus or other educational property offenses. [Note: In 1992 there were 428 arrests and 303 convictions for weapons on campus or other educational property offenses. Applying data compiled by the Task Force on School Violence during FY 91-92, it is estimated that 51% of the convictions noted above would involve firearms, rather than knives etc., and would become Class I felonies under the proposed legislation.]
- 4) The growth rate for these crimes will match the growth rate used in the Commission's correctional population simulation model.

Based on the above assumptions, the Commission calculated the total number of DOC or jail beds projected under current sentencing laws and practices and then projected the expected DOC and jail

population under the elevated sentencing laws prescribed in this bill. The following table illustrates the projected increases in prison populations for the next five years. [Note: Since the average sentence that is estimated to be served by the new felons is 8 months, expenditures are based on costs for housing the relevant offenders within the Division of Prisons.]

Fiscal Year	Added Inmate Population
1993/94	12
1994/95	22
1995/96	23
1996/97	24
1997/98	25

**Additional Costs: Additional costs are realized only if it is assumed that the current prison cap is removed.**

**Recurring Expenditures** - Recurring or operating costs have been estimated according to the expected classification (i.e., minimum, medium, or close custody) of the offenders who would be sentenced under G.S. 14-269.2(b) of the proposed legislation. Based on a telephone interview with Nevelle Jones, Chief of Classifications for the Division of Prisons, it is assumed that all of the relevant offenders would be initially placed in medium security confinement and would remain there while serving an estimated 8 months of incarceration. (Any person convicted of a felony and then admitted to the Department of Correction (DOC) is automatically placed in medium custody or above.) Hence, for the purpose of estimating the fiscal impact of this proposed bill, all costs are estimated on the basis of medium security confinement.

Operating costs are calculated as follows:

- For FY 93-94, 12 additional inmates x \$59.41 (operating cost per medium security bed per day) x 7 months (relevant period from this bill's 12/1/93 effective date) or 212 days = \$151,139

- For the remaining FYs, 94-95 through 97-98, # of additional inmates x \$59.41 x 1 year or 365 days

**Non-Recurring Expenditures** - Non-recurring or capital costs would be estimated to total \$594,675 over the five year period. As noted from the table on the preceding page, 12 new medium security beds would be required in FY 93-94. Costs to construct these beds are calculated according to the average cost per medium security bed (averages are based on costs for both beds constructed in a new facility and in an expanded facility) taken from page VI of the DOC Master Plan. For FY 93-94, 12 new medium security beds x \$23,787 (average cost per bed) yields an expenditure of \$285,444. Costs for the remaining years are calculated based on the number of beds required minus the number of new beds already constructed in the preceding year(s).

**Additional Positions:** Based on the 1992 recommendation of the Government Performance Audit Committee (GPAC), approximately 5 new positions would be required if the prison cap was removed and 25 additional beds were built. Page 8.15 of the Public Safety Section of the GPAC report entitled "Our State Our Future" recommends a staffing ratio of 1 to 5. The above noted operating costs could be lower if this ratio were in effect. (Note that the above GPAC recommendation/ratio has been used to calculate the number of additional positions because the Division of Prisons is unable to provide relevant information to otherwise calculate said positions.)

**Additional Considerations:** The above cost estimates are based only on estimated impact from 14-269.2(b) of the proposed legislation. It is anticipated that this section is the primary section that would result in a fiscal impact. However, four new misdemeanor offenses and one additional Class I felony offense are created under this bill. Due to the short period of time available for analysis an preparation of this fiscal note, it is assumed that any additional impact that could result would be minimal as few convictions are expected.

**SOURCES OF DATA:** Administrative Office of the Courts; N.C. Sentencing and Policy Advisory Commission; Department of Correction

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**

733-4910

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