

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 364

SHORT TITLE: 1997 Child Protection Act

SPONSOR(S): Senator Page

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	(in millions)				
	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
GENERAL FUND					
Correction			<u>No Fiscal Impact</u>		
Judicial			<u>Expect Substantial Impact; No Dollar Estimate Available</u>		
County Jails (not included in total)	\$233,600	\$496,400	\$496,400	\$496,400	\$496,400
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch County Jails					
EFFECTIVE DATE: December 1, 1997; applies to sentences imposed on or after that date					

BILL SUMMARY: S 364. 1997 CHILD PROTECTION ACT. TO REQUIRE THAT PERSONS CONVICTED OF CERTAIN CRIMES REGARDING MINORS BE SENTENCED TO AN ACTIVE PUNISHMENT OF IMPRISONMENT AND TO AMEND THE LAW REGARDING PRIOR CONVICTIONS AND THEIR EFFECT ON THE PRIOR RECORD LEVEL FOR FELONY SENTENCING. Amends following sections to require that persons convicted of specified crimes involving minors must receive active punishment: GS 14-190.6; GS 14-190.7; GS 14-190.8; GS 14-190.15; GS 14-190.16; GS 14-190.17; GS 14-190.17A; GS 14-190.18; GS 14-190.19; GS 14-202.1; GS 14-401.11; GS 14-318.2; GS 14-318.4; GS 90-95; and GS 90-113.23. Amends GS 15A-1340.14(b)(7) to increase points assigned for offense committed while offender was on probation or parole, or while in prison, or while on escape from prison, from 1 point to 3 points. Amends GS 15A-1340.14(d) to provide that if an offender is convicted of more than one offense in a single superior court during one calendar week, or in a single session of district court, each conviction is used (current law only uses one such conviction).¹

ASSUMPTIONS AND METHODOLOGY:

I. Department of Correction

The following chart shows, for the end of each fiscal year, beds projected to be available, the number of inmates projected under the present Structured Sentencing Act, the deficit or surplus beds, the number of additional inmates projected to be incarcerated under this bill, and the additional beds needed as a result of this bill after considering projected prison capacity: (The following information is specific to each individual bill.)

June 30 June 30 June 30 June 30 June 30

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, 1997

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Projected No. of Inmates Under Current Structured Sentencing Act ²	31,762	30,371	30,060	30,610	31,259
Projected No. of Prison Beds (DOC Expanded Capacity) ³	34,133	35,599	35,599	35,599	35,599
No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	+2,371	+5,228	+5,539	+4,989	+4,430
No. of Projected Additional Inmates Due to this Bill		+3,325	+3,954	+4,288	+4,331
No. of Additional Beds Need Each Fiscal Year Due to this Bill	0	0	0	0	0

As shown in bold in the table above, the Sentencing Commission estimates this specific legislation will add 4,331 inmates to the prison system by 2001-02. These inmates can be absorbed within current DOC capacity.

Note: Other bills introduced this session have a potential impact on the inmate population and bed availability. As of May 9, bills that have passed either the House or Senate together add 1,679 inmates by 2001-2. The total impact of *all* criminal bills introduced is 15,807, *not* counting SB 364. If any of these bills pass, SB 364 will have an impact on bed availability by 2001-2.

² The Sentencing Commission's revised prison population projections (dated December 1996) were estimated under three scenarios: High, Best, and Low. The differences in these scenarios reflect varying assumptions on incarceration rates under Structured Sentencing, probation and revocation rates, and the decline of the stock population. The projections outlined above are included in the "Best scenario" since the Sentencing Commission and the Department of Correction believe this scenario is most likely to occur.

³ Projected number of prison beds based on Department of Correction estimates of expanded bed capacity as of 1/11/97. These numbers do not include the number of beds requested in the Governor's 1997-99 Capital Improvement budget.

Note; Fiscal Notes require a 5 year horizon. However, information is available on the impact of this bill on the prison population through 2005-6 and the effect on available beds increases sharply in those years.

Year	2002-3	2003-4	2004-5	2005-6
Available Beds	3,548	2,752	1,858	969
Projected Impact of SB 364	4,543	4,574	4,682	4,947
Inmates Beyond Capacity	995	1822	2,824	3,978

The cost of this larger need is not included in the fiscal note however, since it is beyond the 5 year horizon.

III. County Jails

Senate Bill 364 also has a slight impact on the county jail population, as shown below. The cost to counties is calculated at \$14,600 (=365x\$40) per inmate for an annual cost. A recent survey of 69 of the states 115 county jails found an average per inmate per day cost of \$40 with a range from \$6 to \$236. (NC Association of County Commissioner’s Survey, analysis by Sentencing Commission).

<u>Year</u>	<u>1997-8</u>	<u>1998-9</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
Increase in Jail Population	16	34	34	34	34
Cost to Counties	\$233,600	\$496,400	\$496,400	\$496,400	\$496,400

Sentences under 90 days are served in county jails. However, if the sentence is over 30 days the state reimburses the counties \$14.50 per inmate day. Class 1 misdemeanor sentences range from 1-120 days so this increase in jail population may impose some costs on the state. For instance, if the 34 additional jail inmates in 1998-9 received 45 day sentences (the maximum at prior record levels I and II, it would cost the state \$22,185 and the county cost would fall to \$474,215. Information is not available to predict the exact length of the sentences nor the exact division of cost between the state and counties.

IV Judicial Branch

The Administrative Office of the Courts feels that this bill would have a “quite substantial” impact on the Judicial Branch because the increase in the severity of penalties for certain crimes will increase the trial rate. However, they are unable to estimate a dollar figure for the impact. They analyzed the three sections of the bill separately:

- A) **Mandatory Active Sentences for Certain Crimes** SB 364 requires that the court impose active punishments for certain crimes (dissemination of material that is obscene or harmful to minors, sexual exploitation of a minor, promoting or participation in prostitution, distributing certain substances at Halloween, child abuse) even if the Structured Sentencing grid allows community or intermediate punishments. Sentencing Commission data shows that in general, trial rates increase from 53% to 100% (depending on offense class) with mandatory active sentences. (This analysis compares the trial rates in cells of the grid with mandatory active sentences with cells without mandatory active sentences). The Judicial Branch expects the biggest impact from mandatory active sentences for indecent liberties and felony and misdemeanor child abuse. The chart below shows their conservative estimate of the expected impact for these crimes.

<u>Crime</u>	<u>#charges 1996</u>	<u>trial rate 1996</u>	<u>projected trial rate after SB364</u>	<u># new trials</u>	<u>cost per trial</u>	<u>extra* cost</u>
Indecent Liberties	1,445	6.7%	10 %	48	3,467	\$ 192,516
Felony Child Abuse	224	7.0%	10.5%	8	3,666	\$ 34,328
Misdemeanor Child Abuse	739	?	?	?	?	?

(* includes indigent costs of \$26,100 and \$5,000 respectively)

B) Three Prior Record Level Points This provision specifies that if an offense is committed while an offender is on probation, parole or escape or in prison, the offense is counted as 3 points instead of one. According to Sentencing Commission data, over 1,000 people would be shifted into higher prior record levels in the remainder of 1997-8. Since these individuals will face stiffer punishments, the Judicial Branch anticipates an significant increase in trial rates. However, information is not available to give a specific estimate of the fiscal impact.

C) Count all Prior Convictions Current law specifies that multiple convictions in the same court session are counted as one offense for purposes of prior record level determination. SB364 would change the law so that *each* prior conviction would be counted towards prior record. This provision would add 2,896 inmates to the prison system in 1998-9. Given that the trial rate increases along with the probability of active time, the Judicial Branch expects this provision to have a very substantial impact on their workload. However, there is not information available to give a specific dollar estimate.

SOURCES OF DATA: Department of Correction, Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

FISCAL RESEARCH DIVISION

733-4910

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