

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 760 2nd Edition

**SHORT TITLE:** Amend Arson Laws

**SPONSOR(S):** Rep. Sherrill

| <b>FISCAL IMPACT</b>   |   |                          |                                  |                          |                          |
|--|---|--------------------------|----------------------------------|--------------------------|--------------------------|
|  | <b>Yes (X)</b>  | <b>No ( )</b>            | <b>No Estimate Available ( )</b> |                          |                          |
|  | <b><u>FY 1999-00</u></b>  | <b><u>FY 2000-01</u></b> | <b><u>FY 2001-02</u></b>         | <b><u>FY 2002-03</u></b> | <b><u>FY 2003-04</u></b> |
| <b>EXPENDITURES</b>  |   |                          |                                  |                          |                          |
| Judicial Branch  |   |                          |                                  |                          |                          |
| Indigent Defense   | \$55,265  | \$94,740                 | \$98,056                         | \$101,684                | \$105,751                |
| Personnel  | 169,253   | 290,148                  | 300,303                          | 311,414                  | 323,871                  |
| Jury Fees  | 20,930  | 35,880                   | 35,880                           | 35,880                   | 35,880                   |
| <b>Total</b>   | <b>\$245,448</b>  | <b>\$420,768</b>         | <b>\$434,239</b>                 | <b>\$448,978</b>         | <b>\$465,502</b>         |
| Department of Correction   | <p>No direct fiscal impact due to this bill for the Department of Correction because DOC can absorb the additional inmates within current prison bed capacity. However, there are several caveats to this conclusion:</p> <p>1) there is an indirect cost to add additional inmates to the prison system since otherwise funds could be used for other purposes; see page 4 of this note for calculation of that cost:</p> <p>2) based on current bed projections, there is no cost until year 6 but it would require funding to start construction by year 3 or 4:</p> <p>3) if the Governor's budget recommendation to close 2,324 beds is accepted, there would be a need for additional beds by year 4.</p> |                          |                                  |                          |                          |
| <b>POSITIONS:</b>  |   |                          |                                  |                          |                          |
| Judicial Branch  | (4)   | (4)                      | (4)                              | (4)                      | (4)                      |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Judicial Branch, Department of Correction. |   |                          |                                  |                          |                          |
| <b>EFFECTIVE DATE:</b> December 1, 1999 and applies to offenses committed on or after that date.     |   |                          |                                  |                          |                          |

**BILL SUMMARY:**

**AMEND ARSON LAWS. TO INCREASE THE CRIMINAL PENALTIES FOR CERTAIN ARSON OFFENSES.** Amends arson laws as follows: GS 14-58, burning of occupied dwelling, from Class D to Class B2 felony; burning of unoccupied dwelling, from Class G to Class C felony. GS 14-59, burning of public buildings, from Class F to Class C felony. GS 14-60, burning of schoolhouses or other educational institutions, from Class F to Class C felony. GS 14-61, burning of certain bridges and buildings, from Class F to Class C felony. GS 14-62, burning of certain uninhabited buildings, or those used in trade or manufacturing, from Class F to Class C, E, or H depending upon the amount of property damage. GS 14-62.1, burning of buildings under construction, from Class H to Class C, E, or H, depending upon the amount of property damage. GS 14-62.2, burning of religious buildings, from Class E to Class C felony. GS 14-63, burning of boats and barges, from Class H to Class C, E, or H, depending upon the amount of property damage. GS 14-65, fraudulent burning of dwelling houses, from Class H to Class C, E, or H, depending upon the amount of property damage. GS 14-66, burning of personal property, from Class H to Class C, E, or H, depending upon the amount of property damage. GS 14-67.1, burning of buildings not covered by other laws, from Class H to Class C, E, or H, depending upon the amount of property damage. GS 14-136, setting fire to grass, brushlands, and woodlands, from Class I felony to Class 1 misdemeanor, unless with intent to damage the property of another, in which case, Class C, E, or H depending upon the amount of property damage and cost of suppression.

Also amends GS 90-21.20 to exempt from the requirement to report certain types of wounds situations where the patient has been treated earlier for the wound, injury, or illness at another facility that is subject to the reporting requirement. Adds to the reporting requirement cases in which a patient has burns over approximately 10% or more of the patient's body.

Source: Institute of Government, Daily Bulletin, March 31, 1999.

**AMEND ARSON LAWS.** Intro. 3/31/99. House committee substitute makes the following changes to 1st edition. Makes technical changes only.

## **ASSUMPTIONS AND METHODOLOGY:**

### Judicial Branch

According to the Administrative Office of the Courts (AOC) the penalty upgrades in the bill would have a substantial impact on the judicial branch. While there are usually not many arson and burning offenses, the impact due to this bill arises from the significant increases in severity. These upgrades would mean that convicted defendants must serve lengthy active sentences, without being eligible for intermediate sanctions. They also qualify these arson and burning offenses as violent felonies under G.S. 14-7.7(b). The conviction of two violent felonies would result in prosecution as a violent habitual felon and would provide a sentence of life imprisonment without parole.

Based on the current offenses charged and historical trial rates for the higher class of felonies involved, the AOC estimates that there would be 39 new jury trials. Also, they estimate that 15 current trials that would last longer with the offense upgrades. Of the new jury

trials, 15 are estimated to last 4.5 days, 22 to last 3.5 days, and 2 to last 2 days for a total of about 149.5 additional court days. The trial time for the 15 cases under current law would be lengthened by an estimated 26 days. This would add 175.5 jury trial court days or 1,053 in-court hours for trials. The first full year of jury fees are expected to be **\$35,880** for the 39 new jury trials.

In addition to the trials, there would be an estimated 202 guilty pleas requiring at least an hour of court time each. This represents an estimated total of 1,255 additional court hours which would represent the equivalent of one position each for a superior court judge, assistant district attorney, deputy clerk, and a court reporter. The total personnel costs would be **\$290,148** for the first full fiscal year. However, these personnel costs represent the estimated additional workload anticipated on a centralized, statewide level when in reality the additional caseload would be spread across the state.

An estimated 75% of the defendants would be indigent and need court-appointed counsel. Assuming 10 additional hours of preparation for each trial would be needed for the higher offense, 1.5 hours of preparation for each guilty plea, and 1,255 additional in-court hours, 1,579 additional hours of assigned counsel would be provided for a total of **\$94,740** in counsel fees (\$60 x 1,579).

#### Department of Correction

The Sentencing Commission anticipates that there would be 174 additional full time equivalent inmates during the first full year and 589 by the end of the fifth year.

The following chart shows, for the end of each fiscal year, prison beds estimated to be available, the projected inmate population, the deficit or surplus of available beds compared to population, 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: (In the following chart, rows 4 and 5 are specific to this bill.)

|  | June 30<br><u>2000</u> | June 30<br><u>2001</u> | June 30<br><u>2002</u> | June 30<br><u>2003</u> | June 30<br><u>2004</u> |
|--|------------------------|------------------------|------------------------|------------------------|------------------------|
| 1. Projected No. Of Inmates Under Current Structured Sentencing Act <sup>1</sup> | 31,467                 | 31,472                 | 31,936                 | 32,750                 | 33,685                 |
| 2. Projected No. of Prison Beds (DOC Expanded Capacity) <sup>2</sup>             | 34,493                 | 34,717                 | 34,717                 | 34,717                 | 34,717                 |
| 3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act | +3,026                 | +3,245                 | +2,781                 | +1,967                 | +1,032                 |
| <b>4. No. of Projected Additional Inmates Due to this Bill</b>                   | <b>+5</b>              | <b>+174</b>            | <b>+311</b>            | <b>+451</b>            | <b>+589</b>            |
| <b>5. No. of Additional Beds Needed Each Fiscal Year Due to this Bill</b>        | <b>0</b>               | <b>0</b>               | <b>0</b>               | <b>0</b>               | <b>0</b>               |

As shown in bold in the table above, the Sentencing Commission estimates this specific legislation will add 589 inmates to the prison system by the end of FY 2003-04. There is no direct fiscal impact resulting from the passage of this bill because these additional beds and their associated costs can be absorbed within the Department of Correction's existing budget. However, even though costs can be absorbed due to available bed capacity, there is a daily cost for each inmate added to the system that will have to be expended in lieu of using available funds or other purposes or reverting these funds. The average cost per day for one inmate was the following in 1997-98:

<sup>1</sup> The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The population projections used for incarceration fiscal notes are based on January, 1999 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rates forecast by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

<sup>2</sup> Projected number of prison beds based on Department of Correction estimates of available prison bed Expanded Operating Capacity (EOC) for beds completed or funded and under construction as of 2/19/99. The EOC is the number of beds above 100% capacity (Standard Operating Capacity). The EOC is authorized by previous court consent decrees or departmental policy. These bed capacity figures do not include any State prison beds that are contracted through local jails or any beds that would be lost to the system if any proposals to close small prisons are approved by the General Assembly during the 1999 Session.

**DAILY INMATE COST**

|                               |                |               |              |                          |
|-------------------------------|----------------|---------------|--------------|--------------------------|
| Custody Level                 | <u>Minimum</u> | <u>Medium</u> | <u>Close</u> | <u>Statewide Average</u> |
| Daily Cost Per Inmate (97-98) | \$51.27        | \$67.44       | \$78.64      | \$62.41                  |

These costs include security, inmate costs (food medical etc.) and administrative overhead costs for the Department and the Division of Prisons.

NOTE: This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly. Other criminal penalty bill enhancements being considered by the General Assembly reduce the availability of prison beds in future years. The Fiscal Research Division is monitoring the cumulative effect of all criminal penalty bills on the prison system.

FISCAL IMPACT BEYOND FIVE YEARS -- Fiscal Notes look at the impact of a bill through the year 2004. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

|                          | <u>2004-5</u> | <u>2005-6</u> | <u>2006-7</u> | <u>2007-8</u> |
|--------------------------|---------------|---------------|---------------|---------------|
| Inmates Due to This Bill | 741           | 861           | 957           | 1044          |
| Available Beds           | 117           | -757          | -1,708        | -2,557        |
| New Beds Needed          | 624           | 1,618         | 2,665         | 3,601         |

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

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Tammy Lester

**APPROVED BY:** Tom Covington

**DATE:** Wednesday, April 21, 1999



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