

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 488 (Second Edition)¹

SHORT TITLE: Exploitation of Elder or Disabled Adults/POA.

SPONSOR(S): Senator Dannelly

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Exact amount cannot be determined; no substantial impact anticipated.				
Judicial	Exact amount cannot be determined; no substantial impact anticipated.				
LOCAL GOVERNMENTS					
	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*					
	Exact number cannot be determined; no substantial impact anticipated.				
POSITIONS: (cumulative)					
	Exact number cannot be determined; no additional positions anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments					
EFFECTIVE DATE: December 1, 2005					
*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.					

BILL SUMMARY: This bill would amend G.S. 14-32.3(c) to eliminate as an element of the offense of exploitation of an elder or disabled adult that the victim must be residing in a domestic setting. As a result, any caretaker of an elder or disabled adult who intentionally deprives such person of property through false representation, abuse of trust, or coercion would be guilty of a Class H felony if the property is of a value greater than \$1,000 and a Class 1 misdemeanor if the property is of a value equal to or less than \$1,000. The second edition of the bill specifies that the term caretaker would include an attorney-in-fact for a disabled or elder adult.

¹ The second edition of the bill makes a clarifying change that does not alter the previous fiscal impact assessment.

ASSUMPTIONS AND METHODOLOGY:

General

Because this bill would make the offense of exploitation of an elder or disabled adult applicable to additional individuals, it would be expected to result in additional Class 1 misdemeanor and Class H felony charges and convictions and would consequently incur a fiscal impact. As the offense would apply to a new class of individuals, we have no historical data from which to estimate the exact number of additional charges and convictions that would result. However, due to the small number of charges and convictions for this offense under current G.S. 14-32.3(c), the numbers of additional charges and convictions resulting from the bill are not expected to be significant, and the cost associated with this legislation is not expected to be substantial.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

In FY 2003-04, there were three felony Class H and two misdemeanor Class 1 convictions under current G.S. 14-32.3(c) for exploitation of an elder or disabled adult. Because this bill would make this offense applicable to a new class of individuals, the Sentencing Commission has no historical data from which to estimate how the legislation would impact prison population.

Class 1 Misdemeanors: In FY 2003-04, 19 percent of Class 1 misdemeanants received active sentences, and the average estimated sentence length was 43 days. DOC reimburses the county for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per offender per day. Because active sentences of less than ninety days are served in county jails, Class 1 misdemeanor convictions resulting from this legislation are not expected to significantly impact prison population.

Class H Felonies: In FY 2003-04, 37 percent of Class H felony convictions resulted in active sentences. If, for example, there were three additional Class H convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Non-Active Sentences: In FY 2003-04, 50 percent of Class H convictions resulted in intermediate sanctions and 13 percent in community sanctions; two percent of Class 1 misdemeanants received intermediate sanctions and 79 percent received community punishment. Probation officers in the Division of Community Correction (DCC) supervise offenders with intermediate sanctions at an

estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

For calendar year 2004, AOC data indicates that 13 defendants were charged with a Class H felony and 3 defendants were charged with a Class 1 misdemeanor for exploitation of an elder or disabled adult. As this bill would make this offense applicable to a new class of individuals, no data is available to estimate the number of additional charges that might result from this bill. For any new Class 1 misdemeanor or Class H felony charge due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing district and superior court workload, respectively. AOC estimates the costs to process one Class 1 misdemeanor or one Class H felony charge as shown in Table 1 below. Based on prior-year data, the majority of charges that are not dismissed are likely to be settled via guilty plea.

Table 1: CY 2004 Estimated Per Charge Settlement Costs

Offense Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	-
Class 1 Misdemeanor	\$1,880	\$1,333	\$3,213	\$284
Class H Felony	\$4,096	\$2,100	\$6,196	\$359

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: April 22, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices