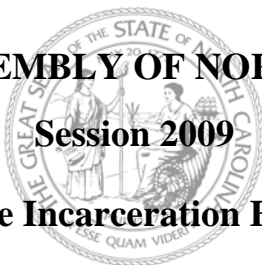


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 710 (First Edition)
SHORT TITLE: False Pretenses/Increase Some Penalties.
SPONSOR(S): Senator Allran

FISCAL IMPACT table with columns for Yes, No, and No Estimate Available across fiscal years 2009-10 to 2013-14. Includes rows for EXPENDITURES (Correction, Probation, Judicial), ADDITIONAL PRISON BEDS, and PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED.

BILL SUMMARY:

Amends GS 14-100 to create the following five (was, two) punishment classes for the offense of obtaining property by false pretenses:

- Class C felony Property value of \$100,000 or more
Class E felony Property value of \$50,000 or more and less than \$100,000
Class F felony Property value of \$25,000 or more and less than \$50,000
Class G felony Property value of \$5,000 or more and less than \$25,000
Class H felony Property value less than \$5,000

Effective for offenses committed on or after December 1, 2009.

Source: Bill Digest S.B. 710 (03/19/0200)

ASSUMPTIONS AND METHODOLOGY:

General

This bill amends G.S. 14-100, Obtaining property by false pretenses, to change the punishments. Currently, obtaining property with a value of \$100,000 or more is a Class C felony; obtaining property with a value of less than \$100,000 is a Class H felony. The bill separates the Class H offense into Classes H, G, F, and E offenses based on property value, as follows:

Value of the Property	Current Offense Class	Proposed Offense Class
Less than \$5,000	H Felony	H Felony
\$5,000 or more but less than \$25,000		G Felony
\$25,000 or more but less than \$50,000		F Felony
\$50,000 or more but less than \$100,000		E Felony
\$100,000 or more	C Felony	C Felony

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

Sentencing Commission staff provided the following table, showing the frequency of convictions for relevant offenses during FY 2007-08:

Offense Description	Current Offense Class	FY 2007-08 Convictions
Obtain Property False Pretense	H Felony	1,478
Attempt to Obtain Property False Pretense	H Felony	105
Aid & Abet Obtain Property False Pretense	H Felony	8
Conspiracy Obtain Property False Pretense	I Felony	14
Obtain Property False Pretense >= \$100,000	C Felony	7
Total Felony Convictions		1,612

Source: NC Sentencing and Policy Advisory Commission

As shown in the above table, there were 1,612 felony convictions for obtaining property by false pretense in FY 2007-08. *Because there are no data available on the specific value of the property/goods, the impact of this proposal cannot be determined.* Any convictions that would move from Class H to a more serious offense class would result in the need for additional prison beds.

For the purposes of this analysis, it was assumed that 10 convictions would move from Class H to each of the proposed offense classes:

If, for example, there were 10 Class H felony convictions that would become Class G felony convictions under the proposed bill, this would result in the need for one additional prison bed the first year and two additional prison beds the second year.

If, for example, there were 10 Class H felony convictions that would become Class F felony convictions under the proposed bill, this would result in the need for two additional prison beds the first year and five additional prison beds the second year.

If, for example, there were 10 Class H felony convictions that would become Class E felony convictions under the proposed bill, this would result in the need for two additional prison beds the first year and seven additional prison beds the second year. In addition, because a period of Post-Release Supervision follows the release from prison for offenders convicted of Class B1-E felonies, there will be some impact on Post-Supervision caseloads and prison beds due to revocations.

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond*. Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined*.

Judicial Branch

The Administrative Office of the Courts (AOC) 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.

In 2008, there were 8,891 defendants charged with the Class H felony for obtaining property under false pretenses, and 20 defendants charged with the Class C felony. *AOC does not know the number of charges that would be elevated under this bill*. However, the amount could be substantial. As an example, AOC has provided two scenarios below. Both scenarios assume that the number of charges in each category will increase exponentially as the value of the property decreases. Scenario 1 gives each offense category equal

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

weight. Scenario 2 weights the categories using \$5,000 value increments grouped according to new offenses.

Value	Current Offense:	New Offense:	Scenario 1		Scenario 2	
			Charges	Cost Increase	Charges	Cost Increase
\$100,000+	Class C	Class C	20	<i>No change</i>	20	<i>No change</i>
\$50,000-\$99,999	Class H	Class E	86	\$88,994	845	\$864,537
\$25,000-\$49,999	Class H	Class F	370	\$326,697	1,969	\$974,925
\$5,000-\$24,999	Class H	Class G	1,591	\$472,670	4,263	\$1,264,057
<\$5,000	Class H	Class H	6,844	<i>No change</i>	1,814	<i>No change</i>
Total:			8,911	\$888,361	8,911	\$3,840,533

Source: Administrative Office of the Courts

There were another 1,236 defendants charged with attempting, aiding and abetting, or conspiring to obtain property by false pretenses. *AOC cannot project the number of those charges that would be elevated under this bill.*

In FY 2007-08, a typical felony case took approximately 220 days to dispose in Superior Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

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

TECHNICAL CONSIDERATIONS: None

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