

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** House Bill 389  
**SHORT TITLE:** Felony Child Abuse/Increase Penalty  
**SPONSOR(S):** Representative Rayfield

<b>FISCAL IMPACT</b>					
	Yes ( )	No (X)	No Estimate Available ( )		
	(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>
<b>GENERAL FUND</b>					
<b>Correction</b>	<u>No Fiscal Impact Above Existing Resources</u>				
Recurring					
Nonrecurring					
<b>Judicial</b>	<u>No Fiscal Impact</u>				
Recurring					
Nonrecurring					
<b>TOTAL EXPENDITURES</b>	_____	_____	_____	_____	_____
<p><b>POSITIONS:</b> It is anticipated that approximately 0 positions would be needed to supervise the additional inmates housed under this bill. This is based on inmate to employee ratios, provided by the Division of Prisons, for close, medium, and minimum custody facilities (These position totals include security, program, and administrative personnel.).</p> <p style="text-align: center;">Close – 2 to 1 Medium – 3 to 1 Minimum – 4 to 1</p>					
<p><b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Dept. of Correction; Judicial Branch</p>					
<p><b>EFFECTIVE DATE:</b> December 1, 1997, and applies to offenses committed on or after that date.</p>					

**BILL SUMMARY:** **FELONY CHILD ABUSE/INCR. PENALTY. TO INCREASE THE PENALTY FOR THE CRIMINAL OFFENSE OF FELONY CHILD ABUSE.** Amends GS 14-318.4 to reclassify felonious child abuse as class D felony (now, class E). Applies to offenses committed on or after Dec. 1, 1997.<sup>1</sup>

**ASSUMPTIONS AND METHODOLOGY:**

<sup>1</sup> *Daily Bulletin*, Institute of Government, UNC-Chapel Hill: Vol. 1997, No. 20.

*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.)

	<b><u>June 30</u></b> <b><u>1998</u></b>	<b><u>June 30</u></b> <b><u>1999</u></b>	<b><u>June 30</u></b> <b><u>2000</u></b>	<b><u>June 30</u></b> <b><u>2001</u></b>	<b><u>June 30</u></b> <b><u>2002</u></b>
Projected No. of Inmates Under Current Structured Sentencing Act <sup>2</sup>	31,762	30,371	30,060	30,610	31,259
Projected No. of Prison Beds (DOC Expanded Capacity) <sup>3</sup>	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	<b>0</b>	<b>17</b>	<b>42</b>	<b>75</b>	<b>101</b>
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 101 inmates to the prison system by 2001-02. There is no additional 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. This analysis is based on the following assumptions and methodology:

1. There will be an estimated surplus of 4,430 beds by FY 2001-02, based on current prison population projections by the Sentencing Commission and the estimated expanded prison bed capacity (see table above);

<sup>2</sup> 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.

<sup>3</sup> 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.

2. The expanded prison capacity includes all beds available when currently funded prison construction is completed, as well operating funds for food, clothing, health, and security of prisoners as the units begin housing inmates;
3. The Department of Correction will continue operating most dormitory units at 130% of capacity, as allowed by court consent decrees; and,
4. The expanded prison capacity numbers do not include out-of-state beds, jail contract beds, or the 2,000 net new beds which would be established if the projects receiving planning and design funds in the 1996 Session were fully funded.

**Note:** The number of additional inmates projected to be incarcerated if the 17 Sentencing Commission recommendations are approved by the 1997 General Assembly is 2,044 inmates by FY 2001-02 and 2,944 inmates by FY 2006-07. If all of the Sentencing Commission recommendations are approved, the estimated surplus of prison beds will be 2,296 by the end of FY 2001-02. These recommendations, along with other criminal penalty bill enhancements, 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.

### ***Judicial Branch***

The Judicial Branch does not anticipate this bill to have a significant impact on the court system. In fiscal year 1993-94, when the Fair Sentencing Act was in effect, and felony child abuse was a Class H felony, 104 felony child abuse cases were filed and 104 were disposed in superior court. Of these, 10.6% (11) went to trial. (These 11 cases could have represented fewer than 11 defendants since sometimes defendants face multiple child abuse charges.) The following fiscal year, 1994-95, Structured Sentencing went into effect on October 1, 1994. Structured Sentencing raised felony child abuse to a Class E felony. In that year, 131 cases were filed and 111 cases disposed in superior court, with 5.4% (6) disposed by trial. In fiscal year 1995-96, the first full year of Structured Sentencing, 135 cases were filed and 139 cases disposed in superior court, with 7% (10) going to trial. Since structured sentencing began, the percentage of child abuse cases disposed by trial appears to have decreased, despite the increase in felony class from Class H to Class E. Therefore, the Judicial Branch does not believe there would be a substantial increase in the number of trials, if the felony class were raised from E to D. Even if there is a small increase in the percentage going to trial (as a result of sentences in Class D being substantially longer than those in Class E, with active time as the only option), the Judicial Branch believes the number of defendants would be small enough that there would be no fiscal impact on the court system.

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

**FISCAL RESEARCH DIVISION**  
**733-4910**

**PREPARED BY:** Andy Willis

**APPROVED BY:** Tom L. Covington **TomC**

**DATE:** March 17, 1997



**Signed Copy Located in the NCGA Principal Clerk's Offices**