

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

REVISED FISCAL NOTE: This fiscal note is a revision of the note issued on April 1, 1997. The note has been revised to reflect additional information on the impact on state prison populations and the community service work program from the Sentencing Commission. This information was omitted in error. The impact on the Judicial Branch remains "...no estimate available...." and there is still no impact projected on the Department of Correction.

However, there is a fiscal impact on the Community Service Work Program.

BILL NUMBER: House Bill 507

SHORT TITLE: Mandatory Jail – Some DWI

SPONSOR(S): Rep R Hunter

FISCAL IMPACT					
	Yes (X)	No ()	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>
GENERAL FUND					
Correction					
Recurring					
Nonrecurring	<u>No Fiscal Impact</u>				
Judicial					
Recurring					
Nonrecurring	<u>No Estimate Available</u>				
Crime Control & Public Safety	\$223,912	\$223,912	\$223,912	\$223,912	\$223,912
TOTAL EXPENDITURES	<u>\$223,912+</u>	<u>\$223,912+</u>	<u>\$223,912+</u>	<u>\$223,912+</u>	<u>\$223,912+</u>
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch, Crime Control and Public Safety Division of Victims and Justice Services, County Jails					
EFFECTIVE DATE: Applies to offenses committed on or after Jan. 1, 1998.					

BILL SUMMARY: H 507. MANDATORY JAIL FOR SOME D.W.I. TO REQUIRE MANDATORY ACTIVE JAIL SENTENCES FOR PERSONS CONVICTED OF DRIVING WHILE IMPAIRED WITH BLOOD ALCOHOL LEVELS OF MORE THAN FIFTEENTH HUNDREDTHS PERCENT. Amends GS 20-179 as title indicates. Requires person convicted of D.W.I with alcohol concentration of 0.16 be sentenced to two days in jail; and that two additional days be required for each additional alcohol concentration of 0.01. For defendants punished at levels three, four, or five, permits sentencing judge to order 24 hours of community service in lieu of each day of mandatory jail. Judge may suspend mandatory jail time only if condition of special probation is imposed to require defendant to serve a term of imprisonment equal to the number of mandatory days required by bill. Directs that mandatory D.W.I. sentence must be served in county jail unless defendant is sentenced to an active sentence in prison and mandatory days are served concurrently with prison sentence.

Amends GS 15A-534.2 to require a defendant charged with impaired driving offense under GS 20-138.1, 20-138.2, or 20-138.3, with evidence of alcohol concentration above 0.15, to post secured appearance bond of at least \$500.

Intro. by Hunter of McDowell

ASSUMPTIONS AND METHODOLOGY: The North Carolina Sentencing and Policy Advisory Commission analyzed the impact of this bill on the state prison population, the county jail population and the community service work program. They based their analysis on (1) 1993 data on the number of DWI arrests (16,752) where blood alcohol levels were at least .16; (2) Data from the Administrative Office of the Courts on the percentage of arrests that end up in convictions (.948); (4) data from AOC on the percentage of DWI convictions that fall in the different punishment levels; (5) a calculation of the number of days incarcerated based on the bill's formula of 2 days per percentage point over .16 ; (6) historical data on the percentage of sentences that are active sentences (5.5% at lower punishment levels); and (7) the percentage of lower punishment level sentences that are served in county (86.8%) rather than state jails.

The Sentencing Commission analysis assumes

15,880 Convictions
44,445 Additional Days of Sentence for Punishment
Levels I and II – 13.2% in State Prison
86.8% in County Jails
98,006 Additional Days of Sentence for Punishment
Levels III-V - 5.5% Active Sentences in Jail
94.5% Community Service

That results in

5,867 State Prison Inmate Days
43,968 County Jail Inmate Days
92,616 Community Service 24 hour units

The analysis is based on 1993 data collected by the Division of Motor Vehicles on blood alcohol levels (BAC) for individuals arrested for DWI. Unfortunately, DMV no longer collects this information. However, the data collected 1991-3 showed a declining percentage of arrests with very high BAC levels. The use of 1993 data may represent a maximum estimate of the impact of the bill.

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.)

	<u>June 30</u> <u>1998</u>	<u>June 30</u> <u>1999</u>	<u>June 30</u> <u>2000</u>	<u>June 30</u> <u>2001</u>	<u>June 30</u> <u>2002</u>
Projected No. of Inmates Under Current Structured Sentencing Act ¹	31,762	30,371	30,060	30,610	31,259
Projected No. of Prison Beds (DOC Expanded Capacity) ²	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	4	16	16	16	16
No. of Additional Beds Need 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 16 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);
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,

¹ 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.

² 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.

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.

II. Community Service Work Program

The Judicial Branch assumes, based on historical data, that the bill would result in 98,006 additional days of punishment for offenders at punishment levels three, four and five. The bill allows a judge to order community service in lieu of active time at the rate of 24 hours of service per day of sentence. Assuming, based on historical data, that 94.5% of sentences will order community service rather than active time, there would be an increase in the number of community service hours ordered of 2.2 million hours. This would roughly double the size of the Community Service Work Program in terms of hours (2.3 million hours were performed in 1995-6) but would have a less dramatic impact on the number of offenders since most level III-V offenders are already sentenced to lower amounts of community service. The Program does not believe they could absorb this kind of increase without substantial expansion and restructuring to provide for more weekend placements with supervision. In particular, they would need to hire part-time weekend worksite supervisors since existing community agencies do not have the capacity to accept more weekend workers. Their minimum requirements would involve a part-time worker to work 16 hours each weekend in each of 26 Judicial Districts where Community Service Work Program Supervisors are available. Assuming \$10/hour and 50 weeks of work and accounting for wages and social security, the cost would be $16 \times 50 \times \$10 \times 26 \times 1.0765 = \$223,912$ in wages.

III. Impact on County Jails

The Sentencing Commission Analysis projects an additional 43,968 annual inmate days in county jails from this bill. A recent survey of 69 of the state's 115 county jails found an average inmate cost of \$40 per day with a range from \$6 to \$236. Based on that average, this bill would cost counties \$1.759 Million.

If Judges order a higher percentage of active sentences, the impact on the Community Service Work Program would fall and the impact on County Jails would rise. This analysis assumes a low rate of active sentences, based on historical data.

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

FISCAL RESEARCH DIVISION

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