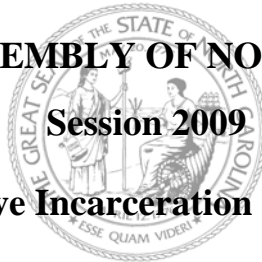


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1690 (First Edition)

SHORT TITLE: Susie's Law.

SPONSOR(S): Representatives Jeffus, Harrison, Adams, and Wiley

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available (X)		
	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>
EXPENDITURES					
GENERAL FUND					
Correction	Indeterminate fiscal impact; minimal impact anticipated*				
Probation	Indeterminate fiscal impact; minimal impact anticipated*				
Judicial*	\$37,935	\$68,281	\$69,647	\$71,040	\$72,461
<i>*See Assumptions and Methodology</i>					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: December 1, 2010					
<i>*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.</i>					

BILL SUMMARY:

This bill amends G.S. 14-360 to raise the classification for two existing offenses. Section 1 amends G.S. 14-360(a1) to make it a Class H felony for a person to maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance. It is currently a Class A1 misdemeanor. Section 2 amends G.S. 14-360(b) to make it a Class H felony for a person to maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal. It is currently a Class I felony. Section 3 appropriates \$50,000 from the General Fund for the 2010-2011 fiscal year to implement the provisions included in the bill.

ASSUMPTIONS AND METHODOLOGY:

General

The North Carolina 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

Section 1:

In FY 2008-09, there was one Class A1 misdemeanor conviction under G.S. 14-360(a1). Given the small number of convictions for this offense, it is unlikely that the proposed reclassification of the Class A1 misdemeanor offense would result in substantial impact to the prison population. In FY 2008-09, 35% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. If, for example, there were three Class A1 convictions per year that would become Class H convictions under the proposed bill, 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.

Section 2:

In FY 2008-09, there were 11 Class I felony convictions under G.S. 14-360(b). Due to the small number of convictions, a more detailed impact projection using the Structured Sentencing Simulation Model would not be reliable. Impact on the prison population will occur if Class I convictions become Class H convictions under the proposed statute, because of the higher rate of active sentences (35% for Class H compared to 17% for Class I) and longer average estimated time served (11 months compared to 7 months for Class I). If, for example, there were eleven Class I felony convictions that were reclassified as Class H felony convictions, this would result in the need for three additional prison beds the first year and four additional prison beds the second year.

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 fiscal year 2008-09, approximately 17 defendants were charged with the Class A1 misdemeanor under G.S. 14-360(a1), and 213 defendants were charged with the Class I felony under G.S. 14-360(b). Of these, only one (1/17) was convicted of a Class A1 misdemeanor under G.S. 14-360(a1), and 11 (11/213) were convicted of a Class I felony under G.S. 14-360(b). The impact of increasing the offense class in those cases to Class H is estimated to be as follows:

	FY 2010-11	FY 2011-12
G.S. 14-360(a1): Increase Class A1 misdemeanor to Class H felony		
In-Court Time and DA Office Prep	\$ 18,376	\$ 33,076
Jury Fees	\$ 2,147	\$ 3,864
Subtotal NCAOC	\$ 20,523	\$ 36,940
Indigent Defense	\$ 1,470	\$ 2,646
Total for Increase A1 to H	\$ 21,993	\$ 39,586
G.S. 14-360(b): Increase Class I felony to Class H felony		
In-Court Time and DA Office Prep	\$15,872	\$28,569
Jury Fees	\$0	\$0
Subtotal NCAOC	\$15,872	\$28,569
Indigent Defense	\$70	\$126
Total for Increase I to H	\$15,942	\$28,695
GRAND TOTAL:	\$ 37,935	\$ 68,281

In FY 2008 09, a typical felony case took approximately 203 days to dispose in Superior Court. A typical misdemeanor case took approximately 88 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

SOURCES OF DATA: North Carolina Sentencing and Policy Advisory Commission; Judicial Branch

TECHNICAL CONSIDERATIONS: None

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