

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB909
SHORT TITLE: Break & Enter/Steal Gun
SPONSOR(S): Senator Dalton, et al.

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	(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	No Estimate Available; however, bill has potential significant fiscal				
Nonrecurring	impact on DOC (see pages 2 and 3)				
Judicial					
Recurring	No Estimate Available; however, bill has potential minor fiscal				
Nonrecurring	impact on judicial system				
TOTAL EXPENDITURES	_____	_____	_____	_____	_____
POSITIONS: None					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 1997					

BILL SUMMARY: Adds new G.S. 15A- 1340 to provide that if a person is convicted of first or second degree burglary or breaking and entering, or breaking out of dwelling house **and** the defendant also possessed or took a dangerous weapon during commission of the underlying offense, the judge must increase the minimum prison term by 60 months. Defines “dangerous weapon” as a firearm, knife, or other instrument with a point or sharp edge subject to ready use as a weapon, destructive device or object or substance designed, altered, used, or possessed to inflict or threaten serious bodily injury.

ASSUMPTIONS AND METHODOLOGY: 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	+4,340
No. of Projected Additional Inmates Due to this Bill	Cannot be determined				
No. of Additional Beds Need Each Fiscal Year Due to this Bill					

The Sentencing Commission was unable to accurately estimate the impact of SB 909 on the prison population. The Commission did review the history of convictions for first and second degree burglary and breaking and entering and found that 1.5% of all persons convicted of these offenses (as their most serious charge) were also convicted of a weapon offense. It is likely most of these offenders would receive the enhanced sentence under this bill. **Thus, the minimum impact is estimated at 337 new prison beds by the year 2002, a number DOC can absorb within current resources based on current inmate population projections compared to available prison capacity.**

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.

However, what cannot be determined is how many additional offenders convicted for the underlying offenses might meet new conditions specified in SB 909. SB 909 makes “taking a weapon” during commission of the underlying a basis for the enhanced penalty, not just possession. More significantly, SB 909 also adds new definitions of a “dangerous weapon.” **If over 15% of offenders for first and second degree burglary or breaking and entering were given the enhanced penalty in this bill, it is likely all of the current surplus prison capacity, and additional prison resources would be needed to handle the fiscal impact of this bill.**

The potential fiscal impact and the impact on prison population of this bill should be considered in conjunction with other criminal penalty bills the House and Senate have passed or are considering. The prison system is only currently funded to absorb up to 4,340 beds by 2002. The General Assembly has introduced bills with a total impact of 9,764 inmates by the end of 1998-99 and 23,357 inmates by 2002. Additional prison resources will be needed if the number of inmates added by various bills exceed current projected bed capacity.

The basic assumptions and methodology for criminal penalty bills is as follows:

1. There will be an estimated surplus of 4,340 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,
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.

ASSUMPTIONS AND METHODOLOGY: Judicial Department

Enhanced criminal penalties typically increase costs for the judicial system. Mandatory minimum prison sentences have typically lead a small percentage of defendants who would otherwise have plea-bargained a case to request a trial. More trials lead to additional court time and resource needs. However, the Administrative Office of the Courts cannot estimate how often defendants charged with offenses under this bill will “possess or take a dangerous weapon.”

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Jim Mills

APPROVED BY: Tom L. Covington

DATE: June 18, 1997

Official

Fiscal Research Division

Publication



Signed Copy Located in the NCGA Principal Clerk's Offices