

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 217 (Fourth Edition)

SHORT TITLE: Driving From/Leaving Scene of Accident.

SPONSOR(S):

FISCAL IMPACT					
	Yes (X)	No ( )	No Estimate Available ( )		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<b>GENERAL FUND</b>					
<b>Correction</b>	Exact amount cannot be determined; no substantial impact anticipated.				
<b>Judicial</b>	Exact amount cannot be determined; no substantial impact anticipated.				
<b>LOCAL GOVERNMENTS</b>	Exact amount cannot be determined; no substantial impact anticipated.				
<b>ADDITIONAL PRISON BEDS*</b>	Exact amount cannot be determined; no substantial impact anticipated.				
<b>POSITIONS: (cumulative)</b>	Exact amount cannot be determined; no substantial impact anticipated.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch; Local Governments					
<b>EFFECTIVE DATE:</b> December 1, 2005					
<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:** Current G.S. 20-166 subsection (a) requires a driver of any vehicle involved in a collision, when the driver knows or reasonably should know that the vehicle has been involved in an accident that has resulted in death or injury, to remain at the scene of that accident, except for the purpose of calling a law enforcement officer or seeking medical attention, until law enforcement completes the investigation or authorizes the driver to leave. A willful violation of this subsection currently constitutes a Class H felony. Current G.S. 20-166 subsection (c) provides that a driver involved in an accident that has caused only property damage immediately stop his vehicle at the scene of the accident. A violation of G.S. 20-166 (c) is a Class 1 misdemeanor.

This bill would amend G.S. 20-166 subsection (a), and subsection (c) for a reportable accident, to require that any *passengers* (in addition to the driver) remain at the scene of an accident *with the vehicle* until law enforcement authorizes *the vehicle to be removed* and the driver *and any passengers* to leave. Subsections (a) and (c) are furthermore amended to prohibit the driver from *facilitating, allowing, or agreeing to the removal of the vehicle from the scene and any passenger from removing or facilitating the removal of the vehicle from the scene*. The penalties for violating subsections (a) and (c) would remain a Class H felony and Class 1 misdemeanor, respectively.

The third edition of the bill specifies that any child less than 12 years of age would not be considered a passenger.

The fourth edition revises the requirement that passengers remain with the vehicle at the scene and return with the vehicle if it has been removed for an authorized purpose to be applicable only “if possible,” and limits the punishment of passengers to only the removal of the vehicle from the scene. The proposed exemption of children under the age of 12 from classification as passengers is also eliminated.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

This bill would have a fiscal impact through two means:

- 1) *Expanding the requirements of drivers to prohibit facilitating, allowing, or agreeing to the removal of a vehicle involved in an accident from the scene.*
- 2) *Extending to passengers the current duty to remain at the scene of the accident, if possible, and prohibiting passengers from removing the vehicle involved in the accident from the scene.*

Because these amendments expand the scope of existing offenses, there may be a greater number of charges and convictions for Class H felonies under subsection (a) of this bill and Class 1 misdemeanors under subsection (c). However, because this bill only refines present law and neither elevates existing penalties nor greatly expands the scope of behavior encompassed by existing offenses, the numbers of additional charges and convictions resulting from the bill are not expected to be significant. As such, any cost associated with this legislation is not expected to be substantial.

As few additional charges and convictions are expected, limiting the offenses with respect to passengers to only the removal of the vehicle from the scene, as provided by the fourth edition of the bill, would not significantly modify the anticipated impact.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

## **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Because this bill expands the scope of existing offenses, the Sentencing Commission has no data from which to project the number of convictions that might result from this legislation. The following number of convictions occurred in fiscal year 2003-04 under current G.S. 20-166:

- 44 convictions under subsection (a), which prohibits drivers from leaving the scene of an accident that caused injury or death of which they are aware or should be aware.
- 791 convictions under subsection (c), which requires that drivers stop at the scene of an accident that causes only property damage.
- 288 convictions under subsection (c1), which requires that drivers provide identifying information to the Division of Motor Vehicles or to the occupants of any other vehicles involved in the accident.

Under this bill, any driver involved in such accidents would, additionally, be prohibited from facilitating, allowing, or agreeing to the removal of the vehicle from the scene. Any passenger involved in such accidents would be prohibited from removing the vehicle from the scene and be required, if possible, to remain at the scene until law enforcement completes an investigation. Because no data exists regarding how often this conduct occurs at present, it is not possible to project the number of convictions that would result from these new provisions.

*Class H Felonies:* If, for example, there were three additional convictions for Class H felonies per year, 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. The average annual operating cost for one prison bed in FY 2006-07 is projected to be \$24,740.

*Class 1 Misdemeanors:* In FY 2003-04, 19 percent of Class 1 misdemeanants received active sentences, and the average estimated sentence length was 43 days. DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per offender per day. Because active sentences of less than ninety days are served in county jails, Class 1 misdemeanor convictions resulting from this legislation are not expected to significantly impact prison population.

*Non-Active Sentences:* In FY 2003-04, 50 percent of Class H convictions resulted in intermediate sanctions and 13 percent in community sanctions; two percent of Class 1 misdemeanants received intermediate sanctions and 79 percent received community punishment. Probation officers in the Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost

estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

**Judicial Branch**

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

For calendar year 2004, AOC data indicates the following number of charges under G.S. 20-166:

- 608 charges for felony hit-and-run under G.S. 20-166 (a).
- 8,085 charges for misdemeanor hit-and-run under G.S. 20-166 (c).

AOC cannot estimate the number of new charges that would result from this legislation because data regarding the prevalence of the conduct that would be criminalized by this bill is not available. The cost to the Courts to process one felony or misdemeanor charge varies depending upon the method of settlement and the severity of the charge. AOC estimates the following costs to process one Class H felony and one Class 1 misdemeanor:

**Table 1: Average Estimated Per Charge Settlement Costs**

Offense Class	Settled via Trial			Settled via Guilty Plea
	<i>Court/Attorney Costs</i>	<i>Indigent Defense</i>	<i>Total</i>	
<i>Class H Felony</i>	\$4,511	\$2,620	\$7,131	-
<i>Class 1 Misdemeanor</i>	\$1,891	\$1,333	\$3,224	\$294

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

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Aaron Paul and Jim Mills

**APPROVED BY:** James D. Johnson, Director  
Fiscal Research Division



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