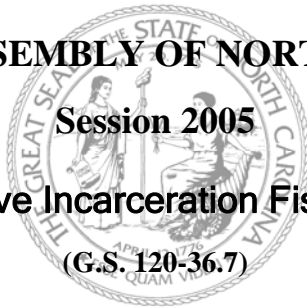


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 2145 (First Edition)
SHORT TITLE: Secret Compartments in Motor Vehicles.
SPONSOR(S): Representative Moore

		FISCAL IMPACT				
		Yes (X)	No ()	No Estimate Available ()		
		<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-1</u>	<u>FY 2010-11</u>
GENERAL FUND						
Correction	Fiscal impact anticipated but amount cannot be determined – see page 2 Assumptions and Methodology.					
Recurring						
Nonrecurring						
Judicial	Fiscal impact anticipated but exact amount cannot be determined – see page 3 Assumptions and Methodology.					
Crime Control	\$100,000					
TOTAL EXPENDITURES:	\$100,000 grant to Crime Control in bill. Fiscal impact of bill anticipated in other areas but exact amount cannot be determined.					
ADDITIONAL PRISON BEDS*	Potential impact; number cannot be determined.					
POSITIONS: (cumulative)	Number cannot be determined.					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.						
EFFECTIVE DATE: October 1, 2006.						
<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: Adds new GS 90-108.1 to make it unlawful to own or operate a vehicle a person knows to contain a false or secret compartment -- defined as any enclosure attached to or integrated into a vehicle that is intended and designed to conceal, hide, or prevent discovery by law enforcement officers of the false, hidden or secret compartment or its contents. The act also makes it unlawful to install, create, build, or fabricate a false, hidden, or secret compartment in any vehicle. It provides that intent to use a secret compartment may be inferred from factors that include, but are not limited to, the discovery of a person, firearm, controlled substance, alcoholic beverage, or other contraband in the compartment, or evidence of the previous placement of such items in the compartment. The act also provides that any vehicle containing such a compartment and any items in the compartment may be seized by any law enforcement agency or officer in whose jurisdiction the property is found. Seized property is subject to the forfeiture procedures in GS 90-112, but not to the remission and mitigation provisions of GS 90-112.1. Violation of the section is a Class I felony. Appropriates from the General Fund to the Department of Crime Control and Public Safety \$100,000 for 2006-07 for grants to local law enforcement agencies to offset costs of enforcing the act.

Source: Adapted from Bill Digest H.B. 2145 (05/17/0200)

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

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. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available over the immediate five-year horizon, or beyond.*

Because this bill creates new offenses, there are no historical data to estimate its impact on the State's prison population. Thus, it is not known how many offenders might be sentenced as a result. In 2004-05, 15% of Class I convictions resulted in active sentences, with an average estimated time served of 7 months; most Class I convictions resulted in community and intermediate sentencing, primarily special and intensive supervision probation.

Though it is not known how many additional violations might occur as a result of this bill, if *twelve additional convictions occur per year, the combination of active sentences and probation revocations would require one additional prison bed the first year, four additional prison beds the second year, and 2 new employees in the second year. Assuming this threshold and a medium custody level, the construction of additional prison beds could cost the State \$65,340 the first year, and \$282,269 the second year; potential operating costs could be \$26,680 in the first year, and \$109,922 in the second year.*

Assuming some intermediate and community punishment, additional costs for probation supervision could also be incurred. Presently, general supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs. Intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender per day and is for an average of six

months; electronic house arrest costs \$6.71. Such costs are projected to begin in FY 2007-2008, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee; those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of a 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.

Data are not available on how frequently hidden or secret compartments are used to conceal contraband from law enforcement. Hence, the AOC cannot estimate the number of new Class I felony charges that might result under this bill. For a single Class I felony case, the AOC estimates court-time costs of \$6,028 per trial and \$274 per plea.

Research suggests that secret compartments are most often used in drug trafficking. Accordingly, this bill could elevate the penalty for some offenses that are currently charged as misdemeanors, such as G.S. 90-113.22, which makes it a Class 1 misdemeanor for any person to knowingly use, or to possess certain drug paraphernalia. Under this bill, a person charged under current G.S. 90-113.22 could also be charged with a Class I felony offense if the person used a hidden or secret compartment in a vehicle. Given the large pool of persons charged with cases involving controlled substances, the number of cases involving secret compartments could potentially increase, resulting in an increase in court workload. In addition, some cases currently charged as misdemeanors in district court could instead be prosecuted as felonies in superior court under the bill. In 2004-05, there were more than 30,000 controlled substance cases filed in superior court, and in calendar year 2005, 45,040 defendants were charged with possessing drug paraphernalia under G.S. 90-113.22.

Law Enforcement

A slight increase in the workload of law enforcement personnel may also occur as a result of this bill, particularly for local patrolmen (sheriffs and police) and State Highway Patrol; however, the potential cost of such increased workload cannot be determined. In addition, this act appropriates to the Department of Crime Control and Public Safety \$100,000 for FY 2006-07 to be allocated through grants to local law enforcement agencies. Though the appropriation is intended to offset the potential costs of enforcing the act, Fiscal Research cannot project the dispersal of additional cases among law enforcement types, nor can it confirm that the appropriation is sufficient to cover the potential costs of enforcement.

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

TECHNICAL CONSIDERATIONS: None

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Signed Copy Located in the NCGA Principal Clerk's Offices