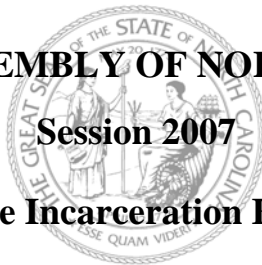


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1172 (First Edition)

SHORT TITLE: Restraining of Dogs.

SPONSOR(S): Senator Cowell

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND					
Correction					
Recurring	Some fiscal impact expected on DOC and local jails, but the amount should not be significant.				
Judicial					
Recurring	Some fiscal impact expected, but amount not significant.				
TOTAL EXPENDITURES:					
ADDITIONAL PRISON BEDS:					
(cumulative)*	No additional prison beds expected. May be minor impact on local jails.				
POSITIONS:					
(cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: December 1, 2007					
*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.					

BILL SUMMARY:

This bill amends the crime of restraining a dog in a cruel manner (GS 14-362.3). It prohibits tethering for more than specified periods of time and requires that tethering conform to specified requirements. It provides that counties, cities, and towns may by ordinance modify the permitted times for tethering. Violation of current law results in a Class 1 misdemeanor but, also constitutes cruelty under GS 19A-1 (2).

More specifically, this bill would create several new offenses under a substantially-amended G.S. 14-362.3. The proposed offenses are all Class 1 misdemeanors (per subsection (a)), and prohibit:

- (b) tethering a dog to a stationary object for more than 3 hours out of 24 or with tethers that are too short or present a danger of entanglement;
- (c) tethering a dog to a “cable trolley system” (not defined) for more than 6 hours out of 24 or with a tether or trolley system that is too short;
- (d) attaching a dog’s tether via a choke-type or pronged collar; or
- (e) attaching a tether that does not allow the dog access to water and shelter.

ASSUMPTIONS AND METHODOLOGY:

General

The 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 Corrections – Division of Prisons

Since the proposed bill creates new offenses, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. In FY 2005/06, 20% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 misdemeanor convictions was 31 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for these proposed offenses would not be expected to have a significant impact on the prison population. Most offenders that would be sentenced to active time would be sent to local jails. The impact on local jail populations is not known.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation,

house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or those who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

In FY 2005/06, 20% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 31 days. Offenders serving active sentences of 90 days or less are housed in county jails. It is assumed that most offenders convicted and sentenced under to the contents in this bill will be sentenced to non active sentences that would require DCC supervision. Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200.

Judicial Branch

The Administrative Office of the Courts 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.

Currently, violation of this statute is a Class 1 misdemeanor. The new offenses created by this bill would remain Class 1 misdemeanors. This bill adds new subsections (b), (c), (d), and (e), specifying the amount of time for tethering, chaining, or restraining dogs within a 24 hour time period, allowing three hours for dogs to be restrained by a stationary device and 6 hours for restraining dogs with a moveable device, specifying the length in feet required for restraining devices (stationary or moveable), prohibiting certain attachments to restraining devices, banning choke type or pronged dog collars, and forbidding tethering dogs in a such manner that disallows them access to water or food or that could cause strangulation or other injuries.

New subsection (g) allows a county, city, or town to enact certain ordinances to reduce or increase the amount of time for tethering dogs, or to prohibit tethering altogether.

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

New subsection (h) provides that restraining a dog in a manner prohibited under G.S. 14-362.3 constitutes cruelty to animals as defined in G.S.

19A-1(2), in effect, providing for the civil penalties and injunctive relief authorized in Article 1 of G.S. Chapter 19A.

The AOC does not have an offense code for this offense, which offers some indication that there are relatively few charges. Some defendants charged under this bill could probably be charged under provisions of existing law such as for cruelty to animals, G.S. 14-360(a), a Class 1 misdemeanor (although the offenses under that section seem to relate to conduct, such as tormenting or injuring, that the prohibition in this bill would not reach).

AOC data for calendar year 2006 indicate 446 charges under current GS 14-360(a). We cannot determine how many of these charges involved restraining a dog as would be prohibited under this bill. The evident impact would be from the new additional restraining requirements. We would expect an increase in the workload of district court judges, district attorneys, clerks, and indigent defense.

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

TECHNICAL CONSIDERATIONS:

According to the Sentencing and Policy Advisory Commission, the actual offense class for violations of the proposed bill is unclear. Because subsection (g) grants authority to cities, towns, and counties to alter the elements of the offenses in subsections (b) and (c), it is unclear whether convictions in municipalities that enact ordinances with altered elements would be Class 1 misdemeanors (per subsection (a)) or Class 3 misdemeanors under G.S. 14-4 (Violation of local ordinances misdemeanor)

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DATE: May 15, 2007



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