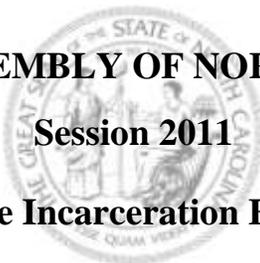


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1052 (First Edition)
SHORT TITLE: Mechanics Liens/Payment Bond Reforms.
SPONSOR(S): Representative Stevens

FISCAL IMPACT table with columns for Yes (), No (), and No Estimate Available (X) across fiscal years FY 2012-13 to FY 2016-17. Rows include GENERAL FUND (Prison, Probation, Judicial), TOTAL EXPENDITURES, and ADDITIONAL PRISON BEDS (cumulative) with values of 0.

BILL SUMMARY:

Current law (G.S. 44A-24) provides that signing a false written statement of the amounts due for work done to improve real property is a Class 1 misdemeanor. The proposed legislation makes it a Class 1 misdemeanor to direct someone else to sign such false statements.

ASSUMPTIONS AND METHODOLOGY:

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. Costs to process cases are based on current practices and resource constraints, not on objective best practices for case disposition. The workload averages used to calculate the monetary value of court personnel resources include all modes of disposition (trials, pleas, dismissals etc.) at their current proportions for each offense, offense class, or case type.

AOC does not have any historical data upon which to estimate the number of charges that may arise from the passage of this bill. Therefore, AOC is unable to estimate the increased cost to the Judicial Branch. New misdemeanor charges would impact district court judges, deputy clerks, assistant district attorneys, and other judge and district attorney support staff; superior court personnel could be impacted due to appeals. Overall, the monetary value of the average workload of a Class 1 misdemeanor case is \$165.

Department of Public Safety

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.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), makes changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision. The Act also creates a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. In addition, all F-I felons are subject to nine months of post-release supervision (PRS). B1-E felony PRS is increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that would be needed as a result of revocations that may occur during the new PRS period.

Prison Section

The proposed offense would make it a Class 1 misdemeanor for any person to knowingly sign or direct another person to sign this type of false written statement. Because a person who aids and abets an offense is punished as a principal, it is not clear that the proposed offense would actually expand liability beyond the existing Class 1 misdemeanor in G.S. 44A-24. AOC currently does not have a specific offense code for violations of G.S. 44A-24. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions.

Since the proposed bill creates a new offense, 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 convicted and sentenced under the proposed bill. In FY 2010-11, 25 percent of Class 1 misdemeanor convictions resulted in active sentences. The average sentence imposed for Class 1 convictions was 41 days. Structured Sentencing misdemeanants who receive an active sentence of 180 days or less are housed in either the Statewide Misdemeanant Confinement Program (91-180 days) or in county jails (90 days or less). Therefore, convictions under the proposed bill would not be expected to have any impact on the prison population. The impact on the Statewide Misdemeanant Confinement Program and local jail populations is not known.

Community Correction Section

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). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

Offenders given intermediate or community sanctions requiring supervision are supervised by the Community Corrections Section (CCS); CCS also oversees community service.¹ General supervision of intermediate and community offenders by a probation officer costs \$3.57 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

In FY 2010-11, 25 percent of Class 1 misdemeanants received active sentences; 72 percent received community punishments; and three percent received intermediate sentences. The average lengths of intermediate and community punishment imposed for this offense class were 19 and 15 months, respectively. Since the proposed bill creates a new offense, the Sentencing Commission is unable to estimate the fiscal impact for Community Corrections. Potential annual costs to CCS for one additional Class 1 misdemeanant serving intermediate and community sentences could total \$2,063 and \$1,628, respectively.²

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

TECHNICAL CONSIDERATIONS: None

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¹ DCC incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.

² Due to the effective date of December 1, 2012, and the typical lag time between charge and conviction (6 months), little impact is assumed for DCC in FY 2011-12. Though some offenders may come under DCC supervision during this time, this note assumes an even entry over the course of FY 2012-13.

APPROVED BY: Mark Trogdon, Acting Director
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