

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1204 Proposed Committee Substitute

SHORT TITLE: Assault Law Officer/Firefighter

SPONSOR(S): Representative Decker

FISCAL IMPACT: **Expenditures:** **Increase (X)** **Decrease ()**
 Revenues: **Increase ()** **Decrease ()**
 No Impact ()
 No Estimate Available ()

FUNDS AFFECTED: **General Fund (X)** **Highway Fund ()** **Local Fund ()**
 Other Fund ()

BILL SUMMARY: TO MAKE IT A CLASS F FELONY OFFENSE TO ASSAULT A LAW ENFORCEMENT OFFICER AND INFLICT SERIOUS BODILY INJURY AND TO CREATE A NEW CRIMINAL OFFENSE OF ASSAULTING A FIREFIGHTER AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S STUDY COMMITTEE ON CRIMINAL LAWS, PROCEDURES, AND SENTENCING. Adds new G.S. 14-34.7 to create Class F felony of assault on a law-enforcement officer inflicting serious injury. Amends G.S. 14-34.6 to add firefighters to coverage of statute, which makes it a Class A1 misdemeanor to assault one of specified persons while the person is discharging or attempting to discharge officials duties; a Class I felony to assault one of specified persons and inflict serious bodily injury or use a deadly weapon other than a firearm; and a Class F felony to assault one of specified persons with a firearm.

Proposed Committee Substitute - June 13, 1996

Committee substitute adds correctional, probation/parole, and detention officers to the new Class F felony penalty.

EFFECTIVE DATE: January 1, 1997

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch

**TOTAL FISCAL IMPACT
 DEPARTMENT OF CORRECTION AND JUDICIAL DEPARTMENT**

	<u>FY</u> 1996-97*	<u>FY</u> 1997-98	<u>FY</u> 1998-99	<u>FY</u> 1999-00	<u>FY</u> 2000-01
TOTAL EXPEND.	\$421,516	\$250,534	\$260,033	\$269,956	\$280,
CORRECTION	\$300,797	\$0	\$0	\$0	\$0

JUDICIAL	\$120,719	\$250,534	\$260,033	\$269,956	\$280,
		FISCAL IMPACT			

DEPARTMENT OF CORRECTION

	<u>FY</u> 1996-97*	<u>FY</u> 1997-98	<u>FY</u> 1998-99	<u>FY</u> 1999-00	<u>FY</u> 2000-01
TOTAL EXPENDITURES	\$300,797	\$0	\$0	\$0	\$0
RECURRING	\$0	\$0	\$0	\$0	\$0
NON-RECURRING	\$300,797	\$0	\$0	\$0	\$0

* Effective Date January 1, 1997

POSITIONS: No additional State positions. The supervision of inmates would be provided as part of private contracts with facilities located out-of-state.

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:

	<u>June 30</u> <u>1997</u>	<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>
No. of Inmates Under Current Structured Sentencing Act	35,522	33,626	32,814	32,466	32,600
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate		35,663*	35,186	35,186	35,186
No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act		+141**	+1,560	+2,372	+2,720
No. of Projected Additional Inmates Due to this Bill				30	84
No. of Additional Beds Need Each Fiscal Year Due to this Bill				107	142
				167	0

*The projected prison capacity for the fiscal year ending June 30, 1997 also includes 2,000 out-of-state beds, 451 local jail beds, and 1,100 segregation/special use beds. These beds are not included in the projected capacity for FY 1997-98 and beyond.

** The Department of Correction (DOC) is currently using all available prison beds, including segregation/special use beds, to house the spike of inmates resulting from the Repeal of the Prison Cap. Typically, in order to ensure effective prison management, DOC uses their 1,100 special use beds for administrative segregation, mental health cases, and for other special needs. However, with the current emergency situation almost all of these beds are being used to handle the excess number of inmates in the system. Therefore, the Fiscal Research Division believes that the projected surplus of 141 beds in FY 1996-97 should be reserved for these special needs in order to provide the Division of Prisons some management flexibility. As a result, the 30 additional beds required by HB 1204 in FY 1996-97 would have to be provided through contracts with private or public correctional facilities in other states.

The 30 additional beds required in FY 1996-97 are estimated to cost an average of \$54.79 per inmate/per day. This rate is based on the most recent estimates provided by the Department of Correction based on current and projected contracts. Since DOC is projected to have adequate bed capacity for FY 1997-98 and beyond, it is assumed these contracts will be short-term and that the inmates would return to North Carolina facilities by June 30, 1997.

FY 1996-97: 30 inmates at a cost of \$54.79 per day/inmate

effective date of January 1, 1997, so assume 183 days

$$\$54.79 \times 30 \text{ inmates} \times 213 \text{ days} = \mathbf{\$300,797}$$

It is not anticipated that the proposed legislation would have a significant impact on the Department of Correction for FY 1997-98 and beyond. Based on the North Carolina Sentencing and Policy Advisory Commission projections of prison population, including the impact of the proposed legislation, and the Department of Correction's estimated prison bed capacity, the Fiscal Research Division believes the fiscal impact of the proposed legislation could be absorbed within existing DOC resources in future years.

FISCAL IMPACT: JUDICIAL DEPARTMENT

	INDIGENT DEFENSE	OTHER STATE FUNDS	TOTAL	
FY-96-97*		\$23,171	\$97,548	\$120,719
FY 97-98		\$49,586	\$200,948	\$250,534
FY 98-99		\$53,057	\$206,976	\$260,033
FY 99-00		\$56,771	\$213,185	\$269,956
FY 00-01		\$60,771	\$219,581	\$280,352

*FY 96-97 dollar amounts are based on an effective date of January 1, 1997.

The proposed legislation makes it a Class F felony to assault a law enforcement officer and inflict or attempt to inflict serious injury when the officer is discharging or attempting to discharge the officer's official duties. Currently, unless a deadly weapon is involved, assault on a law enforcement officer is a Class 1 misdemeanor under G.S. 14-33(b)(8), which covers assaults on any officers or employees of the State or of any political subdivision of the state, when the officers or employees are discharging or attempting to discharge their official duties.

ASSUMPTIONS AND METHODOLOGY: Judicial Department

The Administrative Office of the Courts believes that the proposed legislation would have a fiscal impact on the Judicial Branch. Many defendants whose assault on law enforcement officer cases had previously been disposed in district court as misdemeanors would now have their cases transferred to superior court as felonies, with a resulting increase in costs for both superior court time and for indigent defense.

Number of Cases: There were 4,368 defendants charged with assaulting a law enforcement officer without a weapon in the past year. An estimated 10% (437) of these defendants either inflicted or were attempting to inflict serious injury.

According to a sample of district attorneys, 35% of the 437 felony defendants would be allowed to plead guilty to misdemeanor assault in district court. The remaining 65% (284) would be new felony defendants, and would be charged with this offense in superior court.

To obtain the number of these defendants who would actually go to superior court, the Administrative Office of the Courts estimated that 25% (71) of the defendants would likely have companion felony charges, and would have been transferred to superior court in any event. Thus, the Administrative Office of the Courts deducted these 71 defendants from the 284 new felony defendants and projected that 213 additional defendants would have their cases disposed in superior court.

New Trials in Superior Court

The Administrative office of the Courts estimated that 46% (98) of the additional defendants would ask for a trial by jury, rather than plead guilty. Each jury trial would last an estimated 1 1/3 days with \$1,800/per case in court time. The 98 trials would cost an estimated \$176,400 in court time(*).

*Court time costs, actual time in court, represent the additional workload placed on the Judicial Branch officials and personnel by the proposed legislation. The cost of court time depends on the particular configuration of the case involved. Some, or all, of the following personnel and their related activities are included in court time costs:

Judge, Assistant District Attorney, Deputy Clerk, Court Reporter, Assistant Public Defender, Jury.

Other Dispositions in Superior Court

The Administrative Office of the Courts estimates that 115 defendants would have their cases disposed in superior court by methods other than trial by jury. These cases would require an average of one hour of court time (at a cost of \$159/per case) each, for a total cost of \$18,285.

Indigent Defense

The Administrative Office of the Courts estimates that 70% of the defendants would be indigent. Of those requiring indigent defense, 25% would be represented by public defenders and 75% would be represented by assigned counsel. The Administrative Office of the Courts estimates that the additional defense costs, for both the public and assigned counsel, in the 98 cases tried by jury in superior court would be \$36,518. For cases that are disposed by other means in superior court, the estimated cost for the 115 cases is \$9,824. Therefore, total costs for indigent defense for the first year would be \$46,342.

Judicial Branch Total

Adding together the increased costs for court time, and the increased cost for public defender and assigned counsel representation results in an estimated \$241,437 in additional first-year costs. In the Fiscal Impact table on Page 3, estimates for FY 96-97 reflect the January 1, 1997 effective date. Estimates for years following FY 96-97 assume a 7% annual increase in indigent defense costs, and a 3% annual increase in other costs.

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

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION

733-4910

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DATE: June 14, 1996



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