

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 493 < 1st Edition>
SHORT TITLE: Increase Penalty for Indecent Exposure
SPONSOR(S): Representatives Hensley, Blue, and Goodwin

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
REVENUES					
EXPENDITURES					
Indigent Defense Funds	\$4,500	\$9,900	\$10,890	\$11,979	\$13,177

County Jails (*if* sentencing under this new law follows the pattern of sentencing for existing Class 1 Misdemeanors, it could result in up to 4,145 additional inmate days in county jails per year)

POSITIONS: 0

*Indigent defense funds in the first year are at 50% because the bill is effective Dec 1, 2001. Also, costs include an anticipated 10% growth annually.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch; Local Jails

EFFECTIVE DATE: Applies to offenses committed on or after December 1, 2001

BILL SUMMARY:

Rewrites GS 14-190.9(a) to change indecent exposure from a Class 2 to a Class 1 misdemeanor. That statute makes it a crime for any person to willfully expose the private parts of his or her person in any public place and in the presence of any person of the opposite sex, or to aid or abet, or procure another to perform such act. It is also an offense to knowingly hire, lease or permit the land, building or premises over which a person has control to be used for purposes of such act.

ASSUMPTIONS AND METHODOLOGY:

Sentencing Commission

According to the Sentencing Commission, there were 259 convictions under this statute during FY 1999/2000. Notwithstanding, this reclassification is not expected to have a significant impact on the prison population. However, it is estimated to have an impact on local jail populations. While we cannot project the number of new jail inmates due to this bill, we do know that in FY 1999/2000, 15% of all Class 1 misdemeanor convictions resulted in active sentences. The average sentence length imposed was 45 days. Offenders serving active sentences of less than 90 days are housed in county jails.

The AOC database showed 614 defendants convicted under GS14-190.9(a) in calendar year 2000. *If* we assume that 15% of offenders sentenced under this new law receive active sentences averaging 45 days, this would result in 4,145 ($=.15\% * 614 * 45$) additional jail days for the counties to absorb. There is no recent data available on the average cost per day in county jail because it varies so widely among the counties. In the past, FRD had used the figure of \$40/day, based on a 1996 survey. However, that data is too old to be used here.

If Judges sentence offenders of this crime differently than the average Class 1 misdemeanor (different % active sentences, different length sentences) or if some of the offenders face prison sentences for other offenses, the number of county jail inmate days will be affected.

Judicial Branch

Under current law, an active sentence would not be authorized for conviction of indecent exposure, a Class 2 misdemeanor, unless the defendant had at least five prior convictions (of any offense). In contrast, as a Class 1 misdemeanor under this bill, conviction could result in an active sentence if the defendant has any prior convictions. Additionally, it must be assumed that the reclassification in offense sought by this bill would be accompanied in some cases with more time and cost for the courts to dispose of the cases and longer sentences (active or suspended) authorized.

In calendar year 2000, there were 614 defendants charged with the indecent exposure offense under G.S. 14-190.9. AOC projects that it would take an average of ten additional minutes of court time per case, or 102 additional hours of court time for disposition of the 614 total charges under that statute. Given a cost of \$1,022 per day, this would amount to \$17,374 in district court costs. However, Fiscal Research does not include these costs in its calculation if the workload increase is less than 3600 hours (3600 hours = 2 fulltime positions).

Assuming an indigency rate for these cases of 25% or 154 cases, the cost for private assigned counsel would total \$9,000 (based on \$50 per hour times 180 additional hours, which consists of 26 additional in-court hours (10 minutes per case) and 1 hour of additional preparation time per case).

TECHNICAL CONSIDERATIONS: None
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