

**NORTH CAROLINA GENERAL ASSEMBLY  
LEGISLATIVE FISCAL NOTE  
(INCARCERATION NOTE G.S. 120-36.7)**

**BILL NUMBER:**       —HB 732—2nd Edition

**SHORT TITLE:**       Street Gang Terrorism Prevention Act

**SPONSOR(S):**       Representative Michaux

	<b><u>FISCAL IMPACT</u></b>				
	<b><u>Yes (X)</u></b>	<b><u>No ( )</u></b>	<b><u>No Estimate Available ( )</u></b>		
	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>
<b><u>GENERAL FUND</u></b>					
<b><u>Correction</u></b> <b><u>(Recurring)</u></b> <sup>1</sup>		<i>At least</i> \$1,792,794	<i>At least</i> \$3,077,640		
<b><u>Judicial</u></b>	<u>Unable to determine exact amount; impact could be significant.</u>				
<b><u>Juvenile Justice</u></b>	<u>Unable to determine exact amount; impact could be significant.</u> <u>Unable to determine exact amount; impact could be significant.</u>				
<b><u>TOTAL EXPENDITURES:</u></b>	<u>Unable to determine exact amount; impact could be significant.</u>				
<b><u>ADDITIONAL PRISON BEDS**</u></b>	<u>The Sentencing Commission estimates that this specific legislation will add at least 72 inmates in 2004-2005 and at least 160 inmates by 2005-2006 to the prison system, excluding youth offenders who might be committed to youth development centers and detention centers.</u> <sup>1</sup>				
<b><u>POSITIONS:</u></b> <b><u>(cumulative)</u></b>	<u>It is anticipated that at least 64 positions would be needed to supervise the additional inmates housed under this bill by 2007-08, excluding positions that might be needed in youth development and detention centers.</u> <sup>1</sup>				
<b><u>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</u></b>	<u>Department of Correction;</u> <u>Judicial Branch; Department of Juvenile Justice and Delinquency Prevention</u> <u>Department of Juvenile Justice and Delinquency Prevention</u>				
<b><u>EFFECTIVE DATE:</u></b>	<u>December 1, 2003</u>				
	<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>				

<sup>1</sup> This estimate represents only 1% of the potentially eligible felony and misdemeanor convictions that may occur as a result of this bill and the actual amount could be much higher. Please see pages 5-8 for more information.

**BILL SUMMARY:**<sup>2</sup> This bill creates a new Article 13A entitled “North Carolina Street Gang Terrorism Prevention Act.” New G.S. 14-50.18 creates five new felonies, one of which has the effect of increasing the penalty for communicating threats relating to certain gang activity from a Class 1 misdemeanor to a Class G felony. The bill makes it a Class E felony for any person associated with a criminal street gang to engage in a pattern of criminal gang activity, or for any person to acquire or maintain an interest in property (including money) through a pattern of criminal gang activity. The bill makes it a Class G felony for any person to cause, encourage, solicit, or coerce another to participate in a criminal street gang, or to communicate a threat to another (or his associate or relative) to deter him from assisting a gang member to withdraw from a gang or to punish or retaliate against him for having withdrawn from a gang. Furthermore, the bills make it unlawful for a gang leader to engage in, directly or indirectly, or conspire to engage in a pattern of criminal gang activity. This offense is punishable by imprisonment for an additional 10 years, to be served consecutively with any other sentence imposed. This bill does not specify a felony class under Structured Sentencing for this offense.

The bill provides several definitions that apply in this article. New G.S. 14-50.17 defines “criminal street gang” as any organization, association, or group of three or more persons associated in fact which engages in a pattern of criminal activity. The existence of such organization may be established by evidence of a common name or common identifying signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics. The bill defines “pattern of criminal gang activity” as the commission, attempted commission, conspiracy to commit, or solicitation, coercion, or intimidation of another to commit at least ~~2~~two of the offenses specified in new G.S. 14-50.17(2), provided that at least one of the offenses occurred after July 1, 2003, and the last offense occurred within ~~3~~three years of “prior criminal gang activity” (excluding any periods of imprisonment).

The bill also establishes new G.S. 14-50.19(a) which defines the following property as contraband: (1) all property that is directly or indirectly used in any manner to facilitate violation of this Article; and (2) any property constituting or derived from proceeds obtained from a violation of this Article. New subsection (b) provides that a court may enter a restraining order or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture. New subsection (c) directs the district attorney or Attorney General to initiate a forfeiture proceeding as provided in G.S. 14-2.3 within 60 days of the date of the seizure of contraband.

Finally, the bill creates new G.S. 14-50.21, which provides that any real property that is erected, established, maintained, owned, leased, or used by any criminal street gang for the purpose of conducting criminal gang activity shall constitute a public nuisance and may be abated as provided by Article 1 of Chapter 19 of the General Statutes.

---

<sup>2</sup> Administrative Office of the Courts Research and Planning Division

## **ASSUMPTIONS AND METHODOLOGY:**

A survey of criminal justice professionals administered by the Governor's Crime Commission in 1999 revealed that there were 332 gangs present in North Carolina, with an estimated 5,143 members.<sup>3</sup> No data is available from which to estimate the incidence of crime among gangs, particularly with the respect to the offenses listed in new G.S. 14-50.17(2).<sup>4</sup>

### **Judicial Branch**

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

#### Definition of Criminal Street Gang

The AOC notes that the number of offenses listed in the definition of criminal gang activity include offenses that are relatively high-volume, such as weapons offenses, stalking, sex offenses, and offenses against the public peace. AOC states that this bill could significantly enhance the punishment for defendants involved in gang activity.

#### Forfeiture of Contraband

To the extent that such contraband is currently processed pursuant to G.S. 14-2.3, the AOC does not expect a significant increase in the number forfeiture proceedings as a result of this provision. However, AOC notes that the bill creates broad categories of "contraband." AOC is unable to estimate the number of forfeiture proceedings that may result from this bill.

#### Nuisance Actions

AOC anticipates that to the extent that property used for conducting gang activity already constitutes a public nuisance under G.S. 19-1 (under current G.S.19-1, "nuisances" are defined to include the erection, establishment, use, ownership or leasing of any building or place for the purpose of illegal possession or sale of alcoholic beverages or controlled substances, or wherein are carried on repeated acts which create a breach of the peace). Thus the AOC does not anticipate a significant number in civil actions for abatement as a result of the bill's new provision. However, AOC notes that this bill seems to significantly broaden the scope of properties that could be actionable as nuisance and such actions could involve significant "innocent" property owners and thus be complex and time consuming. AOC has no data from which to estimate the number of civil actions that may result from the new nuisance provision.

---

<sup>3</sup> Administrative Office of the Courts Research and Planning Division and North Carolina Governor's Crime Commission report on gang activity in North Carolina. Perceptions of Youth Crime and Youth Gangs: A Statewide Systemic Investigation. April 2000. Available: <http://www.gcc.state.nc.us/gangstudy.htm>

<sup>4</sup> AOC Research and Planning Division

### Communicating a Threat

The AOC is unable to estimate the number of new or enhanced charges for the new felonies created by the bill. Under current G.S. 14-277.1, communicating a threat is punishable as a Class 1 misdemeanor. AOC data indicate that during calendar year 2002, 23,968 defendants were charged with communicating a threat. It is not reasonable to suggest that a large number of these defendants, or even a moderate number of these defendants, were members of a gang. It is not possible to determine from AOC data the number of charges that involved threats made by a gang member to deter another from assisting a gang member to withdraw from the gang, or to punish or retaliate against another for withdrawing from a gang. If these threats were a result of such behavior, they would be punishable as a Class G felony under this bill.

### Other Felonies

The bill makes it a Class E felony for any person employed by or associated with a criminal street gang or to conduct or participate in the criminal street gang through a pattern of criminal gang activity. It is also a Class E felony to acquire or maintain, directly or indirectly, proceeds derived from any interest in or control of any real or personal property of any nature, including money. AOC is unable to estimate the number of new defendants that may result from ratification of this bill. For offenses that are brought to trial as Class E felonies, the estimated court cost per trial is \$7,188. For Class E felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$341.

The bill makes it a Class G felony for any person to cause, encourage, solicit, or coerce another to participate in a criminal street gang, or to communicate a threat to another (or his associate or relative) to deter him from assisting a gang member to withdraw from a gang or to punish or retaliate against him for having withdrawn from a gang. The AOC is unable to estimate the number of new offenses that may result from ratification of this bill. For offenses that are brought to trial as Class G felonies, the estimated court cost per trial is \$6,199. For Class G felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at \$307.

### **Department of Correction**

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

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 convicted and sentenced for these proposed offenses.

The Sentencing Commission reports that based on current data, it is not possible to determine who would qualify as a member of a “criminal street gang.” They do state that it is possible to

determine the potentially eligible felony and misdemeanor convictions based on the proposed definition of “a pattern of criminal gang activity.” In FY 2001—2002 there were 925 felony convictions and 5,839 misdemeanor convictions under the statutes included in the proposed definition of “a pattern of criminal gang activity.”<sup>5</sup> Of the 925 felony convictions, 763 fell in Prior Record Level II or higher, indicating at least one prior conviction.<sup>6</sup> Four hundred seventy-nine (479 or 63%) of those convictions were for Possession of Firearm by Felon. Of the 5,839 misdemeanor convictions, 3,115 fell in Prior Conviction Level II or higher, indicating at least one prior conviction.<sup>7</sup> One thousand eight hundred sixty-two (1,852 or 60%) of those convictions were for Communicating Threats, 578 (19%) were for Carrying a Concealed Weapon, and 300 (10%) were for Carrying a Concealed Gun.

The Sentencing Commission reports that of the 763 felony convictions in Prior Record Level II or higher, 193 were for Class B1 through E offenses and, therefore, may not result in additional prison impact with regard to the Class E or G offenses in this proposed bill. However, the Sentencing Commission anticipates that additional convictions for the Class E or G offenses could result in substantial impact if consecutive sentencing is applied. The remaining 570 convictions for Class F through I offenses could result in substantial prison impact. Substantial impact may occur if the offender’s most serious conviction would be a Class E or G felony as opposed to a less serious felony conviction. The large number of misdemeanor convictions potentially affected by this proposed bill could also result in substantial prison impact. Substantial impact may occur if the offender’s most serious conviction would be a Class E or G felony as opposed to a misdemeanor conviction. The additional ten10–year –sentence (subsection (c)) would result in additional impact for every offense to which it is applied.

The following table demonstrates the prison bed impact if 1% of the potentially eligible felony and misdemeanor convictions are convicted of offenses resulting from this bill.

---

<sup>5</sup> The Sentencing and Policy Advisory Commission notes that the proposed definition of “pattern of criminal gang activity” refers to a sequence of “offenses.” It is assumed that “offenses” mean “convictions” and the defendant is eligible at the time he or she is convicted of their second offense. This assumption is based on the legal process for habitual felon status under current law. The proposed bill does not set out the legal process for establishing the proposed offenses.

<sup>6</sup> While the AOC database contains information on the number of prior record/conviction points, it does not contain information about the specific offenses that are used to calculate the number of prior record/conviction points or about the timing of prior convictions.

<sup>7</sup> See Footnote 4.

**Table 1: Prison Bed Impact if 1% of Eligible Population is Convicted Under Provisions Listed in This Bill**

<u>Offense</u>	<u>Felony Charge</u>	<u>Number of Convictions</u>	<u>First Year Prison Bed Impact</u>	<u>Second Year Prison Bed Impact</u>	<u>Note:</u>
<u>G.S. 14-50.18(a) Any person employed or associated with a criminal street gang conducting or participating in the criminal street gang through a pattern of criminal gang activity.</u>	<u>Class E</u>	<u>39</u>	<u>20</u>	<u>48</u>	<u>If there were two Class E convictions under the proposed statute per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.</u>
<u>G.S. 14-50.18(b) Any person who acquires or maintains, directly or indirectly, through a pattern of criminal gang activity or proceeds derived therefrom there from any interest in or control of any real or personal property.</u>	<u>Class E</u>	<u>39</u>	<u>20</u>	<u>48</u>	<u>If there were two Class E convictions under the proposed statute per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.</u>
<u>G.S. 14-50.18(c)</u>	<u>Please See Table 2</u>				
<u>G.S. 14-50.18(d) Any person who causes, encourages, solicits, or coerces another to participate in a criminal street gang.</u>	<u>Class G</u>	<u>39</u>	<u>16</u>	<u>32</u>	<u>If there were five Class G convictions under this proposed statute per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and four additional prison beds the second year.</u>
<u>G.S. 14-50.18(f) Any person who communicates with another any threat or injury or damage to the person or property of another person... with the intent to deter the person from assisting a member or associate of a criminal street gang to withdraw from a criminal street gang.</u>	<u>Class G</u>	<u>39</u>	<u>16</u>	<u>32</u>	<u>If there were five Class G convictions under this proposed statute per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and four additional prison beds the second year.</u>

The Sentencing Commission estimates that this specific legislation will add at least 160 inmates to the prison system by FY 2005-2006. This estimate represents only 1% of the potentially eligible felony and misdemeanor convictions that may occur as a result of this bill and the actual amount could be much higher. It is anticipated that at least 64 positions would be needed to supervise the additional inmates housed under this bill by 2007-08. These position totals include security, program, and administrative personnel at a ratio of one employee for every 2.5 inmates. This ratio is the combined average of the last three prisons opened by DOC and the three new prisons under construction. In 2001-2002, the statewide average operating cost for one inmate was \$62.43/day or \$22,786.95/year. Using the same 1% estimate, if 72 beds are created in year 1, operating costs could equal \$4,912/ day or \$1,792,794/year. If 160 beds are created in year 2, operating costs would equal \$8,432/day or \$3,077,630/year.

The bed impact described above does not include the additional prison beds that may result from new G.S. 14-50.18(c) which adds ten years to the underlying sentence if a person who occupies a position of organizer/supervisor with regard to criminal street gangs engages in or conspires to engage in a patter of criminal gang activity. It is not known how many offenders might receive an additional 10 years or in which offense class it might be applied. Table 2 shows the average estimated time served by offense class for FY 2001-2002 and under this proposal. The additional ten-year sentence would result in additional impact for every offense to which it is applied.

**Table 2: Additional Impact Resulting From New G.S. 14-50.18(c)<sup>8</sup>**

<u>Offense Class</u>	<u>Average Estimated Time Served</u>	<u>Average Estimated Time Served Plus 10 Years</u>
<b><u>Felonies</u></b>	<b><u>Months</u></b>	<b><u>Months</u></b>
<u>B1</u>	<u>274</u>	<u>394</u>
<u>B2</u>	<u>188</u>	<u>308</u>
<u>C</u>	<u>101</u>	<u>221</u>
<u>D</u>	<u>74</u>	<u>194</u>
<u>E</u>	<u>33</u>	<u>153</u>
<u>F</u>	<u>20</u>	<u>140</u>
<u>G</u>	<u>16</u>	<u>136</u>
<u>H</u>	<u>11</u>	<u>131</u>
<u>I</u>	<u>7</u>	<u>127</u>
<b><u>Misdemeanors</u></b>	<b><u>Days</u></b>	<b><u>Months</u></b>
<u>A1</u>	<u>56</u>	<u>122</u>
<u>1</u>	<u>36</u>	<u>122</u>
<u>2</u>	<u>16</u>	<u>121</u>
<u>3</u>	<u>4</u>	<u>121</u>

<sup>8</sup> NC Sentencing and Policy Advisory Commission

### **Department of Juvenile Justice and Delinquency Prevention**

Because of the additional violent and serious adjudications under the proposed bill, this bill may have a potential impact on the Department of Juvenile Justice and Delinquency Prevention (DJJDP) resources. Governor’s Crime Commission survey data indicate that approximately one-fifth of North Carolina gang members are under 16 years of age.<sup>9</sup> DJJDP’s impact will likely involve juvenile court counselors who are responsible for receiving and investigating complaints related to undisciplined or delinquent juveniles under the age of 16. In addition, there will be cost associated with diverting some of these offenders to alternative dispositions such as ~~community programs (e.gas: Eckerd Campor;~~ multi-purpose group homes and costs associated with ~~probation and supervision). DJJDP will incur costs f~~For those offenders who are ~~not diverted, there will be costs associated with youth offenders being committed to detention centers or youth development centers. -~~ However, data is unavailable regarding the number of youth gang offenders who might be committed to a youth development or detention center or given a community based sanction. Thus, a specific impact on youth development center resources is not known.

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

### **TECHNICAL CONSIDERATIONS:**

1. New G.S. 14-50.17(2) is somewhat difficult to interpret since the term “criminal gang activity” is not defined. The offenses listed in the definition include some that are relatively high-volume, such as weapons offenses, stalking, sex offenses, and offenses against the public peace. This bill could significantly enhance the punishment for defendants involved in gang activity.

2. The bill does not make it clear as to how and when these offenses are to be charged and tried. It is unclear whether these offenses would be at the time of trial for second offenses or anytime after being convicted for the second offense OR in place of the sentence for the second offense.

### **BILL SUMMARY:**

---

<sup>9</sup> North Carolina Governor’s Crime Commission report on gang activity in North Carolina. Perceptions of Youth Crime and Youth Gangs: A Statewide Systemic Investigation. April 2000. Available: <http://www.gcc.state.nc.us/gangstudy.htm>



**ASSUMPTIONS AND METHODOLOGY:**  
**Department of Correction**

The chart below compares the projected inmate population to prison bed capacity and shows whether there is adequate bed capacity for any population increases caused by a specific bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* That means the number of beds needed (Row 5) is always equal to the projected additional inmates due to a bill (Row 4).

Rows 4 and 5 in the chart show the impact of this specific Bill. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation will add \_\_\_ inmates to the prison system by the end of FY 2007-08.

	<b>June 30</b> <b><u>2004</u></b>	<b>June 30</b> <b><u>2005</u></b>	<b>June 30</b> <b><u>2006</u></b>	<b>June 30</b> <b><u>2007</u></b>	<b>June 30</b> <b><u>2008</u></b>
1. Projected No. Of Inmates Under Current Structured Sentencing Act <sup>10</sup>	35,851	36,787	37,739	38,687	39,557
2. Projected No. of Prison Beds (DOC Expanded Capacity) <sup>11</sup>	34,561	34,729	34,729	34,729	34,729
3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	1,290	2,058	3,010	3,958	4,828
4. No. of Projected Additional Inmates <b><u>Due to this Bill</u></b> <sup>12</sup>					
5. No. of Additional Beds Needed Each Fiscal Year <b><u>Due to this Bill</u></b> <sup>3</sup>					

<sup>10</sup> The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

<sup>11</sup> Projected number of prison beds is based on beds completed or funded and under construction as of 12/14/02. The number of beds assumes the Department of Correction will operate at an Expanded Operating Capacity (EOC), which is the number of beds above 100% or Standard Operating Capacity. The EOC is authorized by previous court consent decrees or departmental policy. **These bed capacity figures do not include the potential loss in bed capacity due to any proposals in the 2003 Session to eliminate prison beds or close prisons. Figures include three new prisons due to open in 2003-04.**

<sup>12</sup> Criminal Penalty bills effective December 1, 2003 will only affect inmate population for one month of FY 2003-04, June 2004, due to the lag time between when an offense is committed and an offender is sentenced.

**POSITIONS:** It is anticipated that approximately \_\_\_ positions would be needed to supervise the additional inmates housed under this bill by 2007-08. These position totals include security, program, and administrative personnel at a ratio of one employee for every 2.5 inmates. This ratio is the combined average of the last three prisons opened by DOC and the three new prisons under construction.

**FISCAL IMPACT BEYOND FIVE YEARS:** Fiscal Notes look at the impact of a bill through the year FY 2008. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Inmates Due to —This Bill				
Available — Beds (over/under)	-5,616	-6,339	-7,039	-7,684
New Beds Needed				

**DISTRIBUTION OF BEDS:** After analyzing the proposed legislation, the Department of Correction estimates the following distribution of beds as needed under this bill:

- \_\_\_\_\_ Close Custody \_\_\_\_\_
- \_\_\_\_\_ Medium Custody \_\_\_\_\_
- \_\_\_\_\_ Minimum Custody \_\_\_\_\_

**CONSTRUCTION:** Construction costs for new prison beds, as listed in the following chart, are based on estimated 2002-03 costs for each custody level as provided by the Office of State Construction and an assumed inflation rate of 5% per year.

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Construction — Cost Per Bed <u>2002-0203</u>	\$38,595	\$73,494	\$85,444

Construction costs, where applicable, are shown as non-recurring costs in the Fiscal Impact Table on Page 1 of this note. These costs assume that funds to construct prison beds should be budgeted in advance. Based on previous prison construction projects we are assuming it will typically require three years for planning, design and construction of new beds.

**OPERATING:** Operating costs are based on actual 2001-02 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate will be added each year to the base costs for FY 2002 shown below and included in the recurring costs estimated in the Fiscal Impact Table on Page 1.

## Daily Inmate Operating Cost 2001-02

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (2001-02)	\$50.04	\$65.17	\$80.19	\$62.43

~~Only operating costs of new prison beds, not construction costs, will be included in the fiscal estimate under the following circumstances: (1) when a bill increases the inmate population in the first two years of the fiscal note horizon, FY 2004 and 2005, this is based on the assumption that Correction cannot build prisons quickly enough to house additional offenders before 2005-06 and, (2) if the number of beds is anticipated to be less than 400 beds total since it is not practical to assume DOC would construct a general population prison with fewer than 400 beds.~~

~~In practice under these circumstances, DOC will have to take all or one of several actions: purchase additional beds out of state or in county jails; pay counties to increase jail backlog; or, establish temporary beds in the State system. For these circumstances, FRD will use the DOC statewide average operating cost, plus 3% annually, to calculate the prison bed cost.~~

### ~~ASSUMPTIONS AND METHODOLOGY:~~

#### Judicial Branch

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

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

### ~~TECHNICAL CONSIDERATIONS:~~

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** Nicole Kreiser and Denise Thomas

**APPROVED BY:** James D. Johnson, Director, Fiscal Research Division

**DATE:** July 9, 2003 ~~April 17, 2003~~



**Signed Copy Located in the NCGA Principal Clerk's Offices**