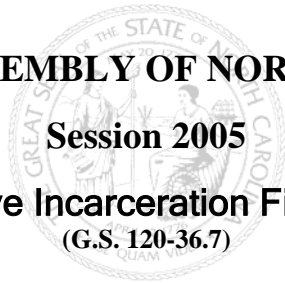


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1279 (Second Edition)

SHORT TITLE: Speeding to Elude Arrest.

SPONSOR(S): Representative Hill

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Exact amount cannot be determined. Convictions elevated to Class H or E felonies due to this bill could lead to an increase in prison population and the need for more prison beds, but the exact number of beds needed and therefore the cost cannot be determined (see pg. 2 for details).				
Judicial	Exact amount cannot be determined (see pg. 2 for details).				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined (see pg. 2 for details).				
POSITIONS: (cumulative)	Exact amount cannot be determined (see pg. 2 for details).				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 2005					
<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>					

BILL SUMMARY:

This bill would amend G.S. 20-141.5 to create a new offense for proximately causing a death while speeding to elude arrest. Speeding to elude arrest is currently a Class 1 misdemeanor unless two or more of the following eight aggravating factors are present, in which case it is a Class H

felony. Under this bill, proximately causing a death while speeding to elude arrest would be punishable as a Class H felony except in the event that two or more of the following eight aggravating factors were present, in which case it would be a Class E felony.

Aggravating Factors

- 1) Speeding in excess of 15 miles per hour of the legal speed limit.
- 2) Gross impairment due to consumption of an impairing substance or a blood alcohol concentration of .14 or more at any relevant time after driving.
- 3) Reckless driving as prohibited by G.S. 20-140.
- 4) Negligent driving resulting in personal injury or property damage exceeding \$1,000.
- 5) Driving with a revoked license.
- 6) Driving in excess of the posted speed limit in a school or highway work zone.
- 7) Passing a stopped school bus in violation of G.S. 20-217.
- 8) Driving with a child under 12 years of age in the vehicle.

ASSUMPTIONS AND METHODOLOGY:

Summary

It is unclear how offenders are currently charged and convicted for proximately causing a death while speeding to elude arrest. At minimum, these individuals would likely be prosecuted as Class 1 misdemeanants, either for misdemeanor speeding to elude arrest or misdemeanor death by vehicle. Offenders eligible to be prosecuted for the new Class E felony (two or more aggravating factors) could be prosecuted currently for felony speeding to elude arrest, but it is possible that some defendants would be prosecuted for involuntary manslaughter (a Class F felony) and some would be eligible for felony death by vehicle, a Class G felony.

Because it is unclear how many existing speeding to elude arrest, death by vehicle, and involuntary manslaughter offenses involved speeding to elude arrest as the proximate cause of a death, the specific prison bed impact, costs to the Department of Correction, and costs to the Courts cannot be determined. However, Class H and E felony convictions resulting from this bill would be expected to increase prison bed needs and therefore prison costs. In addition, increased court workload and costs would be anticipated due to the more vigorous defense and prosecution in these cases resulting from the more severe penalty. Because no estimate of the number of offenses that would be elevated to Class H or E felonies is available, the specific cost associated with the bill cannot be determined.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, 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.*

Under this bill a violation of G.S. 20-141.5(a) – speeding to elude arrest when no aggravating factors are present – would be a Class H felony if the violation were the proximate cause of a death. A violation of G.S. 20-141.5(b) – speeding to elude arrest when two or more aggravating factors are present (see Bill Summary for a list) – would be a Class E felony if the violation were the proximate cause of a death. As this bill creates new offenses, the Sentencing Commission has no historical data from which to project the impact on prison population.

Table 1 below outlines convictions under current statutes for offenses which could be impacted by this bill. It is not known how many of these convictions involved speeding to elude arrest where that violation was the proximate cause of a death and would, therefore, be elevated to Class H or Class E felonies due to this bill. As such, the specific prison bed impact and associated cost to DOC cannot be determined.

Table 1: FY 2003-04 Convictions for Related Offenses

Offense Class (active rate)	Offense	Convictions	Prison Bed Impact
Class 1 Misdemeanor (19%)	Misdemeanor Speeding to Elude Arrest	30	For every three convictions per year elevated from Class 1 misdemeanors to Class H felonies, one additional prison bed would be needed in the first year and two beds in the second year.
Class 1 Misdemeanor (19%)	Misdemeanor Death by Vehicle	80	
Class H Felony (37%)	Felony Speeding to Elude Arrest	465	For every three convictions per year elevated from Class H to Class E felonies, one additional prison bed would be needed in the first year and two beds in the second year.
Class G Felony (44%)	Felony Death by Vehicle	35	For every two convictions per year elevated from Class G to Class E felonies, no additional prison beds would be needed in the first year and one bed would be needed in the second.
Class F Felony (49%)	Involuntary Manslaughter	83	For every two convictions per year elevated from Class F to Class E felonies, no additional prison beds would be needed until the third year.

Non-Active Sentences: For sentences increased to Class H or E felonies under this bill, offenders would be less likely to receive non-active sentences, which would result in short-term cost savings to the Division of Community Corrections (DCC). In the long term DCC would incur the cost of post-release supervision of Class E offenders.

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.

Increases in time to settle charges elevated to Class H or Class E felonies would lead to additional workload in superior court. Table 2 below outlines charges during calendar year 2004 for offenses which could have enhanced sentences due to this bill. It is not known how many of the following charges involved speeding to elude arrest in which that violation was the proximate cause of a death and would, thus, become Class H or E felonies due to this bill.

Table 2: CY 2004 Charges for Related Offenses

Offense Class	Offense	Charges
Class 1 Misdemeanor	Misdemeanor Speeding to Elude Arrest	1,062
Class 1 Misdemeanor	Misdemeanor Death by Vehicle	222
Class H Felony	Felony Speeding to Elude Arrest	2,190
Class G Felony	Felony Death by Vehicle	65
Class F Felony	Involuntary Manslaughter	103

Table 3 below outlines the average estimated per charge increase in cost to dispose of offenses elevated by this bill. As the number of charges that would involve an enhanced offense class due to this bill is unknown, the total cost to the Courts cannot be determined.

Table 3: Estimated Average Per Charge Increase in Settlement Costs

<i>Offense Class</i>	Settled via Trial			Settled via Guilty Plea
	<i>Court/Attorney Costs</i>	<i>Indigent Defense</i>	<i>Total</i>	-
<i>Class 1 → Class H</i>	\$2,216	\$767	\$2,983	\$75
<i>Class H → Class E</i>	\$1,723	\$812	\$2,535	\$54
<i>Class G → Class E</i>	\$755	\$383	\$1,138	\$35
<i>Class F → Class E</i>	\$372	\$208	\$580	\$17

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

TECHNICAL CONSIDERATIONS: None

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Signed Copy Located in the NCGA Principal Clerk's Offices