

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2007**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 1750 (First Edition)  
**SHORT TITLE:** Change Penalty for Special ID Fraud.  
**SPONSOR(S):** Representative Stiller

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>
<b>GENERAL FUND</b>					
Correction		No significant impact anticipated. See pp. 2-3.			
Judicial	\$7,353	\$13,235	\$13,897	\$14,592	\$15,321
<b>TOTAL</b>					
<b>EXPENDITURES:</b>	No significant impact anticipated; exact amount cannot be determined.				
<b>ADDITIONAL PRISON BEDS:</b> (cumulative)*	Amount cannot be determined.				
<b>POSITIONS:</b> (cumulative)	Amount cannot be determined.				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	Department of Correction; Judicial Branch.				
<b>EFFECTIVE DATE:</b>	December 1, 2007				
<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:** Current G.S. 20-37.8(a) provides that it is unlawful for a person to:

1. Use a false or fictitious name, or give a false or fictitious address in any application for a special identification card;
2. Knowingly make a false statement, or knowingly conceal a material fact, or otherwise commit a fraud in any application; or,
3. To obtain or possess more than one special identification card for a fraudulent purpose, or to knowingly permit or allow another to commit the aforementioned acts.

Similarly, current G.S. 20-37.8(b) makes it unlawful to present, display, or use a false special identification card in the commission or attempted commission of a felony. G.S. 20-37.8(c)

provides that violation of subsection (a) is a Class 2 misdemeanor; whereas, violation of subsection (b) is a Class I felony.

H.B. 1750 removes the current, subsection-specific penalties to *make any violation of G.S. 20-37.8 a Class I felony offense.*

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

In effect, H.B. 1750 enhances the penalty for offenses under current subsection (a), from Class 2 misdemeanors to Class I felonies; no effect is presumed for the offenses under subsection (b), as the same penalty level is maintained. Although this penalty enhancement is expected to generate some additional costs for both Corrections and the Courts, *the low numbers of prior year charges and convictions under subsection (a) do not suggest this proposal will have a significant fiscal impact.*

### **Department of Correction – Division of Prisons**

Based on the most recent prison population projections and estimated available bed capacity, *there are no surplus prison beds available over the immediate five-year horizon or beyond.* Therefore, any new felony conviction that results in an active sentence will require an additional prison bed.

There was one Class 2 misdemeanor conviction under G.S. 20-37.8(a) during FY 2005-06. Accordingly, *few additional Class I felony convictions are expected for the enhanced offense.*

However, if additional convictions occur, the proposed enhancement would: 1) potentially increase the rate of active sentencing (incarceration); 2) significantly lengthen the period of incarceration; and 3) necessitate imprisonment within a state facility, thereby increasing the demand for prison beds. In FY 2005-06, 17% of Class 2 misdemeanor convictions received active sentences, with an average estimated time served of 17 days; conversely, 15% of Class I felony convictions received active sentences, with an average estimated time served of approximately 7 months.

For illustration, if twelve Class I convictions were to occur annually, *the combination of active sentences and probation revocations would require one additional prison bed in the first applicable year; four additional beds in the second year; and two new employees in the second year.* Assuming these thresholds and inmate assignment to medium custody, the construction of four additional prison beds within a new, stand alone facility could cost the State \$272,160 in FY 2007-08; conversely, bed construction within an add-on facility could cost approximately \$168,480. These costs are attributed to FY 2007-08 since the construction of additional prison beds, whether within an add-on or stand-alone facility, requires budgeting at least three years in advance. Potential operating costs could total \$116,390 by FY 2009-10.

### **Department of Correction – Division of Community Corrections**

For affected non-active sentences, the proposed enhancement will likely increase sanction severity (i.e. the rate of intermediate sentencing) and the length of offender supervision. In FY 2005-06, 85% of Class I felony convictions resulted in either intermediate or community punishments, predominately special, intensive, or general supervision probation. However, based on the low number of prior year convictions, the Division of Community Corrections should not assume a

significant increase in supervisory workload. Included below is a brief summary of DCC supervisory costs, per offender:

- General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution.
- The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction.
- Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day; on average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

### **Judicial Branch**

Though it is not known how many charges might occur for the enhanced offense, the Administrative Office of the Courts expects that any penalty enhancement will be accompanied by more vigorous defense and prosecution, and would thereby increase court-time requirements and the associated costs of case disposal. Specifically, the AOC estimates that more cases will be prosecuted and result in trial, thereby increasing jury involvement and workloads for district attorneys, superior court judges, clerks, court reporters, and indigent defense counsel (e.g. cases subject to the Class I felony penalty will be elevated to superior court, rather than disposed in district court).

Offense data for CY 2006 show 111 defendants charged under G.S. 20-37.8(a). Thus, assuming the same number of charges occur annually for the enhanced Class I felony penalty, the Administrative Office of the Courts estimates this proposal could cost an additional \$7,353 in FY 2007-08, and \$13,235 in FY 2008-09.<sup>1</sup> As shown, AOC estimates that a higher percentage of Class I felony cases will result in trial (1%), relative to Class 2 misdemeanor cases (0%); the rate of guilty plea is expected to remain the same (47%). Actual costs may vary from this example, contingent upon court-time and workload requirements, as well as the type of case disposition.

<b>Table I. Estimated Court-Time &amp; Indigent Defense Costs</b>							
<i>Trial</i>	<i>Court-Time, District Attorney Preparation, and Jury Costs</i>					<i>Indigent Defense Costs</i>	
<b>Offense Class</b>	<b># Cases</b>	<b>Court-Time*</b>	<b>DA Prep.*</b>	<b>Jury*</b>	<b>Court Costs</b>	<b># Cases</b>	<b>Defense Cost</b>
Class 2 misd.	0	\$ 1,026	\$ 795	\$ 0	\$ 0	0	\$ 0
Class I felony	1	\$ 2,919	\$ 1,491	\$ 640	\$ 5,050	1	\$ 1,932
<i>* Estimated costs per case</i>					<b><i>Difference: \$ 5,050</i></b>	<b><i>Difference: \$ 1,932</i></b>	
<i>Plea</i>	<i>Court-Time, District Attorney Preparation, and Jury Costs</i>					<i>Indigent Defense Costs</i>	
<b>Offense Class</b>	<b># Cases</b>	<b>Court-Time*</b>	<b>DA Prep.*</b>	<b>Jury*</b>	<b>Court Costs</b>	<b># Cases</b>	<b>Defense Cost</b>
Class 2 misd.	52	\$ 53	\$ 99	-	\$ 7,904	5	\$ 405
Class I felony	52	\$ 108	\$ 99	-	\$ 10,764	36	\$ 3,168
<i>* Estimated costs per case</i>					<b><i>Difference: \$ 2,860</i></b>	<b><i>Difference: \$ 2,763</i></b>	

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

<sup>1</sup> Costs shown in the Fiscal Impact Table p.1 are adjusted for the initial seven-month effective period and assumed 5% annual inflation.

**TECHNICAL CONSIDERATIONS:** None

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