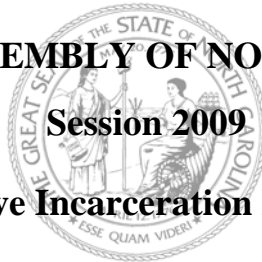


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 817 (Second Edition)

SHORT TITLE: Increase Child Support Collections.

SPONSOR(S): Senator Stein

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available (X)		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES					
GENERAL FUND					
Correction			Indeterminate fiscal impact		
Probation			No fiscal impact anticipated		
Judicial			No significant fiscal impact anticipated		
ADDITIONAL PRISON BEDS:					
(cumulative)*			Indeterminate prison bed impact		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: December 1, 2009					
<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:

Amends GS 5A-12(a) to provide that a person who commits criminal contempt by failing to comply with an order to pay child support is subject to censure, imprisonment up to 30 days, a fine not to exceed \$500, or any combination of the three. Permits the imposition of a sentence of up to 120 days for a single act of criminal contempt for failure to pay child support, provided the sentence is suspended upon conditions reasonably related to the contemnor's payment of child support. Makes technical changes. Effective December 1, 2009, and applies to offenses committed on or after that date.

ASSUMPTIONS AND METHODOLOGY:

General

The North Carolina Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

This bill would amend G.S. 5A-12, Punishment; circumstances for fine and imprisonment; reduction of punishment; other measures (Criminal Contempt), to add a sentence of imprisonment up to 120 days for a single act of criminal contempt resulting from the failure to pay child support. The Sentencing Commission reports that the sentence must be suspended initially upon conditions reasonably related to the contemnor's payment of child support. It is not known whether a person who commits criminal contempt can be sent to the Department of Correction.

Generally, criminal contempt is punishable by a term of imprisonment of no more than 30 days. It is unclear whether a person held in criminal contempt under the proposed bill would serve a term of imprisonment greater than 90 days in a local confinement facility or in state prison. Therefore, *the impact of this section of the proposed bill on the prison system and on local confinement facilities is unknown.*

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

Department of Correction – Division of Community Corrections

The Sentencing Commission *does not anticipate any impact on probation or post-release supervision due to this bill.* The punishment authorized in this bill does not include suspending a term of imprisonment imposed for criminal contempt, nor does it authorize placing a contemnor on probation as a sanction for criminal contempt. Post-release supervision does not apply to offenses of criminal contempt.

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

AOC staff reports that while this bill would increase the potential length of stay for a single instance of failure to comply with an order to pay child support, the court currently has the discretion to treat each missed payment as a separate offense, thus enabling a 120-day sentence due to multiple missed payments if the judge desires. AOC does not anticipate that the new sentence length will substantially change the nature or length of hearings on this issue or result in a more vigorous defense. Therefore, *AOC does not anticipate a significant fiscal impact due to this legislation.*

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

TECHNICAL CONSIDERATIONS: None

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