

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 671

SHORT TITLE: Local Parks, etc./Drug Free Zones

SPONSOR(S): Representative Cummings

FISCAL IMPACT: Expenditures: Increase () Decrease ()
 Revenues: Increase () Decrease ()
 No Impact (X)
 No Estimate Available ()

FUND AFFECTED: General Fund () Highway Fund () Local Fund ()
 Other Fund ()

BILL SUMMARY: Adds G.S. 90-95(e) to make it a Class E felony punishable by a mandatory prison term of no less than two years to manufacture, sell, or deliver any controlled substance or counterfeit controlled substance on or within 300 feet of a park, playground, or recreational center owned by a local government. Prohibits suspended sentences, probation, early parole, or early release for any person convicted of violating this statute.

EFFECTIVE DATE: October 1, 1993. Applicable to offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department, Department of Correction

FISCAL IMPACT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	0	0	0	0	0
RECURRING					
NON-RECURRING					
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

POSITIONS: No new positions.

ASSUMPTIONS AND METHODOLOGY: It is anticipated that this bill would not have a substantial fiscal impact on the court system. However, it would serve to elevate the sentences of persons over the age of 21 who commit controlled substance violations under G.S. 90-95(a) on the premises of or within 300 feet of a park, playground, or recreational center owned by a local government. As such, this bill is not expected to cause additional people to enter into the criminal justice system. Estimates regarding the number of instances in which sentences would be elevated under this bill are unavailable because the Administrative Office

of the Courts does not retain data on the proportion of G.S. 90-95(a) offenses that are committed in or within 300 feet of the specified areas. There could be a potential impact on the courts if a number of cases that are now misdemeanors were prosecuted as felonies. (Additional costs are required for the court system to process cases in Superior Court rather than in District Court.) Also, longer sentences would result in increased costs for the Department of Correction assuming that the current prison cap were not in place. However, the Administrative Office of the Courts estimates that there would be very few cases involving misdemeanor controlled substance violations as the most serious charged offense and in which the elevated sentence would be applied.

Although no substantial fiscal impact is estimated due to this bill, at some point the cumulative additional workload from bills that impact on the courts cannot simply be absorbed, and additional resources would be required.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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Carolyn H. Wyland

APPROVED BY: Tom Covington **TomC**

DATE: 29-MAR-93

[FRD#003]

COMMITTEE SUBSTITUTE

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 671 (Committee Substitute)

SHORT TITLE: Local Parks, etc./Drug Free Zones

SPONSOR(S): Representative Cummings

FISCAL IMPACT:

Expenditures:	Increase ()	Decrease ()
Revenues:	Increase ()	Decrease ()
No Impact (X)	Judicial Department	
No Estimate Available (X)	Department of Correction	

FUND AFFECTED:

General Fund ()	Highway Fund ()	Local Fund ()
Other Fund ()		

BILL SUMMARY: Adds G.S. 90-95(e) to make it a Class E felony punishable by a mandatory prison term of no less than two years to manufacture, sell, or deliver any controlled substance on or within 300 feet of a park, playground, or recreational center owned by a local government. Excludes for act's coverage transfer of less than five grams of marijuana for no remuneration. Prohibits suspended sentences, probation, early parole, or early release for any person convicted of violating this statute.

EFFECTIVE DATE: October 1, 1993. Applicable to offenses committed on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department, Department of Correction

FISCAL IMPACT - JUDICIAL DEPARTMENT

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
EXPENDITURES	0	0	0	0	0
RECURRING					
NON-RECURRING					
REVENUES/RECEIPTS	0	0	0	0	0
RECURRING					
NON-RECURRING					

POSITIONS: No new positions. (Judicial Department)

FISCAL IMPACT - DEPARTMENT OF CORRECTION

No Estimate Available

ASSUMPTIONS AND METHODOLOGY: It is not anticipated that this bill would have a substantial fiscal impact on the court system. However, it would serve to elevate the sentences of persons over the age of 21 who commit controlled substance violations under G.S. 90-95(a)(1) on the premises of or within 300 feet of a park, playground, or recreational center owned by a local government. As such, this bill is not expected to cause additional people to enter into the criminal justice system.

Estimates regarding the number of instances in which sentences would be elevated as a result of this bill are unavailable. Neither the Administrative Office of the Courts (AOC) nor any other (known) agency retains data on the proportion of G.S. 90-95(a)(1) offenses that are committed in or within 300 feet of the specified areas. However, since the major impact of this bill is to elevate the sentences for what are now Class H felonies (punishable by up to 10 years imprisonment, a fine, or both) and Class I felonies (punishable by up to 5 years imprisonment, a fine or both) to Class E felonies (punishable by a mandatory term of imprisonment of not less than two years under this bill), no significant impact on the Judicial Branch is anticipated. Those cases that would be affected under this legislation would continue to be prosecuted in superior court. The AOC estimates that any additional expense that might result from defendants pursuing more aggressive defense strategies (due to the mandatory two year sentence), would not be significant and could be absorbed within existing resources. [Note that at some point, the cumulative additional workload from bills that impact upon the courts cannot simply be absorbed and additional resources will be required.]

Regarding the Department Of Correction (DOC), the lack of data necessary to estimate the number of G.S. 90-95(a)(1) offenses that occur in or near a park prohibits a dollar estimate. Depending upon the number of defendants sentenced under this bill, impact could be significant. This is because the proposed legislation would require a convicted offender to serve the mandatory two years of active incarceration. Of the Class H drug offenders sentenced under existing law, only 50.1% receive an active sentence. Although the average sentence length for these offenders is approximately 64.9 months, the average time served is about 14 months. Likewise, of the Class I drug felons, only about 23.6% currently receive an active sentence. The average active sentence length for this group is about 41.6 months while the actual time served is equivalent to about 7.9 months. Hence, those offenders affected by this bill would not only receive active sentences 100% of the time, but would also serve longer sentences. Assuming that the current prison cap was lifted and additional inmates could be housed, new expenditures would be required to satisfy the mandatory minimum 24 month sentence.

SOURCES OF DATA: Administrative Office of the Courts; N.C. Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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DATE: Revised 19-MAY-93
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