

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 399

**SHORT TITLE:** Increase Some Felony Penalties/AB

**SPONSOR(S):** Representative Baker

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

**BILL SUMMARY:** "TO LENGTHEN THE MINIMUM SENTENCES FOR CLASS B2, C, AND D FELONY OFFENSES AND TO AUTHORIZE AN ACTIVE PUNISHMENT FOR PRIOR RECORD LEVELS I AND II OF CLASS H FELONY OFFENSES." Amends G.S. 15A-1340.17(c) as title indicates; both minimum and maximum sentence ranges are increased in all sentence categories for Class B2, C, and D felonies.

**EFFECTIVE DATE:** December 1, 1995; applies to offenses committed on or after that date.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Branch;  
Department of Correction

FISCAL IMPACT

	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	<u>FY</u> 99-00
<b>RECURRING</b>					
<b>NON-RECURRING</b>	NO ESTIMATE AVAILABLE				

**ASSUMPTIONS AND METHODOLOGY:** Judicial Branch

**Lengthen minimum sentences for Class B2, C, and D felony offenses:** The Administrative Office of the Courts has no way of estimating the increased number of trials that may result from the proposed legislation as it is difficult to estimate the impact of the increased sentences in each cell of the B2, C and D offense classes. Each convicted defendant in these classes is already serving a lengthy sentence, particularly as the prior record level increases. The increased punishments may motivate some defendants to plead guilty rather than go to trial, in hopes of a more favorable plea bargain. Other defendants may feel a trial is a good risk, given the lengthy sentence they are facing.

**Authorize an active punishment for prior record levels I and II of Class H felony offenses:** The Administrative Office of the Courts is unable to determine what effect this change would have on the number of trials requested. Extrapolating from Sentencing Commission numbers, the Administrative Office of the Courts estimates that in these two Class H cells alone, there would be 3,867 defendants convicted in the seven months of 1995-96, and 6,762 convicted in 1996-97. Thus, if the trial rate were to increase even a small percentage, the impact could be substantial.

**ASSUMPTIONS AND METHODOLOGY:** Department of Correction

With present beds, beds that have been funded but not completed, and beds retained by renovating the existing Polk Youth Center, enough beds are projected to be available at 130% capacity of 50 square feet per inmate until June 30, 2000, for inmates incarcerated under the Structured Sentencing Act which became effective October 1, 1994.

The following chart shows, for the end of each fiscal year, the above-noted projected beds to be available, the number of inmates projected under Structured Sentencing effective October 1, 1994, the surplus beds, and the additional beds needed as a result of this bill:

	<u>June 30</u> <u>1996</u>	<u>June 30</u> <u>1997</u>	<u>June 30</u> <u>1998</u>	<u>June 30</u> <u>1999</u>	<u>June 30</u> <u>2000</u>
No. of Inmates Under Structured Sentencing Effective 10/1/94	25,822	25,936	26,143	26,738	27,694
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate*	29,854	31,870	31,870	31,870	31,870
No. of Beds Over/(Under) No. of Inmates Due to Structured Sentencing	4,032	5,934	5,727	5,132	4,176
<b>No. of Projected Additional Inmates Due to this Bill</b>	<b>412</b>	<b>686</b>	<b>763</b>	<b>800</b>	<b>885</b>
<b>No. of Additional Beds Needed Due to this Bill</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* The projected prison bed capacity also includes 656 beds likely to be funded by the 1995 General Assembly that will be added due to double-bunking in selected single cells, and 827 beds gained through the most recent modification of Small v. Martin.

The proposed legislation is not anticipated to have a significant fiscal impact on the Department of Correction. Based on the North Carolina Sentencing and Policy Advisory Commission projections of prison population, including the impact of the proposed legislation, and the Department of Correction estimated prison bed capacity, the Fiscal Research Division believes that the proposed legislation would not have any fiscal impact on the Department of Correction at this time.

**Other Assumptions:**

This fiscal note does not account for the Repeal Prison Cap legislation and its related potential use of the currently available prison beds. The effect of repealing the cap is not considered since no decision has been made by the General Assembly as to the effective date of the legislation. It is necessary to have an effective date prior to incorporating the related bed utilization into the fiscal analysis of Session 1995 proposed legislation.

These projections do not include the 2,424 beds which are being requested in the Governor's 1995-97 Capital Improvement budget at a cost of \$86,000,000 in 1995-96 and \$14,000,000 in 1996-97. The estimated annualized costs for these beds is \$50,000,000.

**SOURCES OF DATA:** Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**  
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**DATE:** April 11, 1995

[FRD#003]



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