

officers or employees of the State or of any political subdivision of the state, when the officers or employees are discharging or attempting to discharge their official duties.

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

The Administrative Office of the Courts believes that the proposed legislation would have a substantial impact on the Judicial Branch. Many defendants whose assault on law enforcement officer cases had previously been disposed in district court as misdemeanors would now have their cases transferred to superior court as felonies, with a resulting increase in costs for both superior court time and for indigent defense.

Number of Cases: There were 4,368 defendants charged with assaulting a law enforcement officer without a weapon in the past year. An estimated 10% (437) of these defendants either inflicted or were attempting to inflict serious injury.

According to a sample of district attorneys, 35% of the 437 felony defendants would be allowed to plead guilty to misdemeanor assault in district court. The remaining 65% (284) would be new felony defendants, and would be charged with this offense in superior court.

To obtain the number of these defendants who would actually go to superior court, the Administrative Office of the Courts estimated that 25% (71) of the defendants would likely have companion felony charges, and would have been transferred to superior court in any event. Thus, the Administrative Office of the Courts deducted these 71 defendants from the 284 new felony defendants and projected that 213 additional defendants would have their cases disposed in superior court.

New Trials in Superior Court

The Administrative Office of the Courts estimated that 46% (98) of the additional defendants would ask for a trial by jury, rather than plead guilty. Each jury trial would last an estimated 1 1/3 days with \$1,800/per case in court time. The 98 trials would cost an estimated \$176,400 in court time(*).

* Court time costs, actual time in court, represent the additional workload placed on the Judicial Branch officials and personnel by the proposed legislation. The cost of court time depends on the particular configuration of the case involved. Some, or all, of the following personnel and their related activities are included

in court time costs: Judge, Assistant District Attorney, Deputy Clerk, Court Reporter, Assistant Public Defender, Jury.

Other Dispositions in Superior Court

The Administrative Office of the Courts estimates that 115 defendants would have their cases disposed in superior court by methods other than trial by jury. These cases would require an average of one hour of court time (at a cost of \$159/per case) each, for a total costs of \$18,285.

Indigent Defense

The Administrative Office of the Courts estimates that 70% of the defendants would be indigent. Of those requiring indigent defense, 25% would be represented by public defenders and 75% would be represented by assigned counsel. The Administrative Office of the Courts estimates that the additional defense costs, for both the public and assigned counsel, in the 98 cases tried by jury in superior court would be \$36,518. For cases that are disposed by other means in superior court, the estimated cost for the 115 cases is \$9,824. Therefore, total costs for indigent defense for the first year would be \$46,342.

Judicial Branch Total

Adding together the increased costs for court time, and the increased cost for public defender and assigned counsel representation results in an estimated \$241,437 in additional first-year costs. In the Fiscal Impact table on Page 1, estimates for FY 95-96 reflect the December 1, 1995, effective date. Estimates for years following FY 95-96 assume a 7% annual increase in indigent defense costs, and a 3% annual increase in other costs.

The Administrative Office of the Courts notes that the estimates contained in this fiscal note are conservative for the following reasons:

- 1) No attempts have been made to increase the 1994 case filing projections to account for the caseload growth likely in subsequent years.
- 2) No cost estimates have been provided for additional trial preparation by the prosecutor or the public defender.
- 3) Although the Administrative Office of the Courts does not specify particular additional positions needed as a result of the proposed legislation, the figures contained within this fiscal note, indicate a need for additional personnel, including

assistant district attorneys, superior court judges, assistant public defenders, and deputy clerks. If no personnel resources are added, the result will be a further slowing of case processing times and an increasing pending caseload.

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:

	June 30	June 30	June 30	June 30	June
	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	
30					
<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)	4,032	5,934	5,727	5,132	
	4,176				
No. of Inmates Due to Structured Sentencing					
No. of Projected Additional Inmates	30	84	107	142	
167					
Due to this Bill					
No. of Additional Beds Needed Due to this Bill	0	0	0	0	
0					

* 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.

It is not anticipated that the proposed legislation would 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 many 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 (District Attorneys); North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION
733-4910

PREPARED BY: Whitney A. Obrig
Jim Mills

APPROVED BY: Tom Covington **TomC**

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