

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 967

SHORT TITLE: ASSAULT LEO/FIREFIGHTER/EMS

SPONSOR(S): REPRESENTATIVE HIATT

FISCAL IMPACT: **Expenditures:** **Increase (X)** **Decrease (**
)

 Revenues: **Increase ()** **Decrease (**
)

FUNDS AFFECTED: **General Fund (X)** **Highway Fund ()**
 Local Fund () **Other Fund ()**

BILL SUMMARY: "TO MAKE IT A FELONY TO ASSAULT A LAW ENFORCEMENT OFFICER, A FIREFIGHTER, OR AN EMERGENCY MEDICAL PROVIDER." Adds G.S. 14-34.5 as title indicates. Does not specify class of felony.

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

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

ASSUMPTIONS AND METHODOLOGY: Judicial Branch

The Administrative Office of the Courts has provided the following information regarding the fiscal impact of the proposed legislation. The Fiscal Research Division has reviewed this information and is in agreement with their findings and conclusions.

| | Indigent Defense | Other State Funds | Total |
|-------------|------------------------|-------------------|-------|
| FY 95-96(*) | \$ 51,289 \$117,677 | \$ 66,388 | |
| FY 96-97 | \$ 94,084 \$207,897 | \$121,780 | |
| FY 97-98 | \$100,670 \$226,103 | \$125,433 | |
| FY 98-99 | \$107,717 \$236,913 | \$129,196 | |
| FY 99-00 | \$115,257 \$248,329 | \$133,072 | |

* Effective legislation date of December 1, 1995.

Analysis:

The Administrative Office of the Courts projects that the proposed legislation would have a significant impact on the Judicial Branch. Many defendants whose assault on government official cases had previously been disposed of 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.

Under current law, it is a Class I felony to assault, with a deadly weapon, officers or employees of State or local government while they are performing their duties. The proposed legislation would affect only defendants charged with assaulting law enforcement officers, firefighters, or emergency medical service technicians without a deadly weapon, and defendants charged with committing assaults of any kind upon similar non-governmental personnel during the discharge of their duties.

Extrapolating from 1993 fourth quarter data, the Administrative Office of the Courts estimates that approximately 4,148 defendants who were formerly charged with misdemeanor assaults under G.S. 14-33(b)(8) could now be charged with felony assault under this new section. To obtain the number of these defendants who would actually go to superior court, the Administrative Office of the Courts estimate as follows:

1. 25% (1,037) would likely have companion felony charges, and thus would have been transferred to superior court in any event;
2. 24% (995) would plead guilty to a misdemeanor lesser offense and stay in district court;
3. 20% (830) would have their cases dismissed before going to superior court, and
4. 8.3% (344) would have previously gone to superior court through an appeal de novo.

After deducting these numbers, the Administrative Office of the Courts projects that 942 additional defendants would have their cases disposed in superior court.

New Trials In Superior Court: The Administrative Office of the Courts predicts that in the first year after this law is implemented approximately 59 (6.3% of 942) additional defendants would ask for a trial by jury, rather than plead guilty. The Administrative Office of the Courts estimates that these trials would last approximately one day. Of the 59 defendants, at least 75% (46) would be indigent, and would be represented either by assigned counsel (32) or by the public defender (12).

At the current costs of a day in superior court with a jury (\$1,314), the projected cost for the 59 trials is \$77,526. Cases disposed under current law, in district court, require about 15 minutes of court time per case. At the current cost of a day in district court (\$864), these cases would cost \$2,124. Subtracting these costs from \$77,526, the Administrative Office of the Courts obtained a figure of \$75,402 in increased costs resulting from 59 additional defendants in electing a trial by jury.

Other Dispositions in Superior Court: The Administrative Office of the Courts estimates that 883 defendants (942 minus 59) would have their cases disposed in superior court by methods other than trial by jury. The estimated cost of a day in superior court is \$954. The cases would require an average of one-half hour each, for a total cost of \$70,199 $((883 \times 0.5) / (6) \times \$954)$. Subtracting the costs of disposing the cases in district court (\$31,788), with each cases requiring 15 minutes, the Administrative Office of the Courts arrive at \$38,411 in additional court expenses to hear the cases in superior court.

Indigent Defense Costs: The above figures do not include expenses for either private assigned counsel or public defender representation. Private assigned counsel expenses, at a rate of \$50 per hour, as well as public defender expenses, at approximately \$239 per day, are incurred more frequently in superior court cases than in district court cases. The offenses charged in superior court are more serious, and therefore, far fewer defendants waive counsel in superior court. Also, the additional attorney fees for handling cases in superior court make them unaffordable for a larger number of defendants. Thus, indigent defense costs would increase because it would take more time in superior court (and superior court time is more expensive), and because defendants who would not have received state-paid counsel in district court would more likely do so in superior court.

The Administrative Office of the Courts estimates the additional indigent defense costs, for both the public defender and assigned counsel, in the 59 cases tried by jury in superior court to be \$24,427. For cases that are disposed by other means in superior court, the estimated cost for the 883 cases is \$63,502. Therefore, total costs for indigent defense for the first year

would be \$87,929. Estimates for years after FY 95/96 assume a 7% annual increase in indigent defense costs, and a 3% annual increase in other costs.

ASSUMPTIONS AND METHODOLOGY: Department of Correction

Two alternatives are provided for the possible fiscal impact on the Department of Correction. Alternative 1 assumes that the current beds available could be utilized to fulfill the requirements of the proposed legislation. Alternative 2 assumes that all of the beds required by the proposed legislation would have to be supplied by the construction and operation of new facilities or the utilization of private provider beds.

ALTERNATIVE 1: FISCAL IMPACT: DEPARTMENT OF CORRECTION

NO FISCAL IMPACT

After analyzing the proposed legislation thoroughly, the Department of Correction estimates the following distribution of beds as needed under the proposed legislation.

| | |
|------------------|-----|
| Close Custody: | 25% |
| Medium Custody: | 37% |
| Minimum Custody: | 38% |

The time required for the state to site, design, and construct each type of facility is listed below:

| | |
|-------------------|-----------|
| Close Custody - | 30 months |
| Medium Custody - | 24 months |
| Minimum Custody - | 21 months |

ALTERNATIVE 1 assumes that the current beds available could be utilized to fulfill the requirements of this proposed bill.

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, the number of additional inmates projected to be incarcerated under this bill, 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> | <u>2000</u> |
| No. of Inmates Under Structured Sentencing Effective 10/1/94 | 25,822 27,694 | 25,936 | 26,143 | 26,738 | |
| 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 +4,176 | +5,934 | +5,727 | +5,132 | |
| No. of Inmates Due to Structured Sentencing | | | | | |
| No. of Projected Additional Inmates Due to this Bill | 48 | 49 | 50 | 52 | 54 |
| 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.

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.

ALTERNATIVE 2 assumes that all of the beds required by the proposed legislation would have to be provided through the construction and operation of new facilities.

ALTERNATIVE 2: FISCAL IMPACT: DEPARTMENT OF CORRECTION

| | RECURRING | NON-RECURRING | TOTAL |
|----------|-------------|---------------|-------|
| FY 95/96 | \$1,068,950 | \$780,650 | |
| | \$1,849,600 | | |
| FY 96/97 | \$1,091,332 | \$104,542 | |
| | \$1,195,874 | | |
| FY 97/98 | \$1,119,095 | \$110,814 | |
| | \$1,229,909 | | |
| FY 98/99 | \$1,175,084 | \$ 32,831 | |
| | \$1,207,915 | | |
| FY 99/00 | \$1,227,210 | \$ 75,945 | |
| | \$1,303,155 | | |

See Appendix A for the detailed cost analysis for alternative 2.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION (733-4910)

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DATE: May 10, 1995

[FRD#003]



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APPENDIX A: ALTERNATIVE 2 - COST ANALYSIS

The state would be unable to meet the immediate demand for beds resulting from the proposed legislation. Thus, the minimum and medium security beds required in FY 95-96 are costed out at the private provider rates of \$54.46 and \$59.46 respectively. Since these are long-term contracts, it is assumed that the individuals housed by private providers in FY 95-96 would remain in private facilities throughout the time-period covered by this fiscal note.

In addition, the costs associated with the construction and operation of the close security facility in FY 95-96 and FY 96-97 are only hypothetical in nature. These numbers are included so as to encompass the full cost of the legislation. However, it would not be possible to construct and begin operation of close security facilities within this time frame.

| Fiscal Year | Total Beds Minimum | Annual Bed Increase | Close | Medium |
|----------------|-----------------------|---------------------|-------|--------|
| FY 95-96 18 | 48 | 48 | 12 | 18 |
| FY 96-97 1 | 49 | 1 | | |
| FY 97-98 | 50 | 1 | | 1 |
| FY 98-99 | 52 | 2 | 1 | 1 |
| FY 99-00 1 | 54 | 2 | 1 | |

FY 95/96: 48 Additional Inmates: 12 close security beds
18 medium security beds
18 minimum security beds

Minimum Security

\$45.00 per day/inmate
\$ 3.56 administrative cost
\$ 4.84 extraordinary medical
\$.88 day/clothing
\$.18 SIPs for employees/
office supplies
\$54.46 Total per day

Medium Security

\$50.00 per day/inmate
\$ 3.56 administrative cost
\$ 4.84 extraordinary medical
\$.88 day/clothing
\$.18 SIPs for employees/
office supplies
\$59.46 Total per day

MINIMUM AND MEDIUM SECURITY:

| | | |
|--------------------|-----------|--------------------------------|
| Per Diem Rate (*): | FY 95-96: | \$54.46 X 18 X 365 = \$357,802 |
| | | \$59.46 X 18 X 365 = \$390,652 |
| | FY 96-97: | \$54.46 X 18 X 365 = \$357,802 |
| | | \$59.46 X 18 X 365 = \$390,652 |
| | FY 97-98: | \$54.46 X 18 X 365 = \$357,802 |
| | | \$59.46 X 18 X 365 = \$390,652 |
| | FY 98-99: | \$54.46 X 18 X 365 = \$357,802 |
| | | \$59.46 X 18 X 365 = \$390,652 |
| | FY 99-00: | \$54.46 X 18 X 365 = \$357,802 |
| | | \$59.46 X 18 X 365 = \$390,652 |

(*) - No inflationary cost is included in these costs.

Hypothetical new close security facility would house 12 inmates in FY 95-96.

| | | |
|---------------|-----------|---------------------------|
| Construction: | FY 95-96: | \$62,757 X 12 = \$753,084 |
| Operation: | FY 95-96: | \$26,708 X 12 = \$320,496 |
| | FY 96-97: | \$27,015 X 12 = \$324,180 |
| | FY 97-98: | \$27,326 X 12 = \$327,912 |
| | FY 98-99: | \$27,640 X 12 = \$331,680 |
| | FY 99-00: | \$27,958 X 12 = \$335,496 |

FY 96/97: 1 Additional inmate: 1 minimum security bed

| | | | |
|---------------|----------|-----------|-------------------------|
| Construction: | Minimum: | FY 95/96: | \$27,566 X 1 = \$27,566 |
| Operation: | Minimum: | FY 96/97: | \$18,698 X 1 = \$18,698 |
| | Minimum: | FY 97/98: | \$18,913 X 1 = \$18,913 |
| | Minimum: | FY 98/99: | \$19,130 X 1 = \$19,130 |
| | Minimum: | FY 99/00: | \$19,350 X 1 = \$19,350 |

FY 97/98: 1 Additional inmate: 1 medium security bed

| | | | |
|---------------|---------|-----------|-------------------------|
| Construction: | Medium: | FY 96/97: | \$38,020 X 1 = \$38,020 |
| Operation: | Medium: | FY 97/98: | \$23,816 X 1 = \$23,816 |
| | Medium: | FY 98/99: | \$24,090 X 1 = \$24,090 |
| | Medium: | FY 99/00: | \$24,367 X 1 = \$24,367 |

FY 98/99: 2 Additional inmates: 1 close security bed
1 medium security bed

Construction: Medium: FY 97/98: \$40,301 X 1 = \$40,301
Close: FY 96/97: \$66,522 X 1 = \$66,522

Operation: Medium: FY 98/99: \$24,090 X 1 = \$24,090
Close: FY 98/99: \$27,640 X 1 = \$27,640

Medium: FY 99/00: \$24,367 X 1 = \$24,367
Close: FY 99/00: \$27,958 X 1 = \$27,958

FY 99/00: 2 Additional inmates: 1 close security bed
1 minimum security bed

Construction: Minimum: FY 98/99: \$32,831 X 1 = \$32,831
Close: FY 97/98: \$70,513 X 1 = \$70,513

Operating: Minimum: FY 99/00: \$19,350 X 1 = \$19,350
Close: FY 99/00: \$27,958 X 1 = \$27,958