

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: House 1243

SHORT TITLE: Assault Serious Bodily Injury

SPONSOR(S): Representatives Justus, Thompson, and Sexton

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

FUNDS AFFECTED: General Fund (x) Highway Fund () Local Fund ()
 Other Fund ()

BILL SUMMARY: Amends new G.S. 14-32.4 to provide that unless conduct is covered under some other provision of law [providing greater punishment], a person who assaults another person and inflicts serious injury is guilty of a Class F felony. Defines "serious bodily injury" as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

EFFECTIVE DATE: December 1, 1996

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

FISCAL IMPACT - Department of Correction

	<u>FY</u> 1996-97*	<u>FY</u> 1997-98	<u>FY</u> 1998-99	<u>FY</u> 1999-00	<u>FY</u> 2000-01
TOTAL EXPENDITURES	\$2,677,094	-0-	-0-	-0-	-0-
RECURRING	-0-	-0-	-0-	-0-	-0-
NON-RECURRING	\$2,677,094	-0-	-0-	-0-	-0-

* Although the effective date listed in this bill is December 1, 1996, the fiscal impact is based on an effective date of January 1, 1997. January 1, 1997 was the date originally intended by the Sentencing and Policy Advisory

Commission for this bill and all other Sentencing Commission bills. Further, the prison population projections prepared for Commission bills are based on a January 1, 1997 effective date. It is assumed that the effective date for all Sentencing Commission bills will be amended to January 1, 1997.

POSITIONS: No additional State positions. The supervision of inmates would be provided as part of contracts with facilities located out-of state.

ASSUMPTIONS AND METHODOLOGY: Department of Correction

The following chart shows, for the end of each fiscal year, beds projected to be available, the number of inmates projected under the present Structured Sentencing Act, the deficit or 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 after considering projected prison capacity:

	<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>	<u>June 30</u> <u>2001</u>
No. of Inmates Under Current Structured Sentencing Act	35,522	33,626	32,814	32,466	32,600
Projected Beds Available at 130% Capacity of 50 Sq. Ft./Inmate	35,663*	35,186	35,186	35,186	35,186
No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	+141**	+1,560	+2,372	+2,720	+2,586
<u>No. of Projected Additional Inmates Due to this Bill</u>	267	543	559	576	593
<u>No. of Additional Beds Need Each Fiscal Year Due to this Bill</u>	267	0	0	0	0

*The projected prison capacity for the fiscal year ending June 30, 1997 also includes 2,000 out-of-state beds, 451 local jail beds, and 1,100 segregation/special use beds.

** The Department of Correction is currently using all available prison beds, including segregation/special use beds, to house the spike of inmates resulting from the Repeal of the Prison Cap. Typically, in order to ensure effective prison management, DOC uses their 1,100 special use beds for administrative segregation, mental health cases, and for other special needs. However, with the current emergency situation almost all of these

beds are being used to handle the excess number of inmates in the system. Therefore, Fiscal Research believes the surplus of 141 beds in 1996-97 should be reserved for these special needs to provide the Division of Prisons some management flexibility. As a result, the 267 additional beds required by the proposed HB 1243 would have to be provided through contract with private or public correctional facilities in other states.

The 267 additional beds required in 1996-97 due to this bill are estimated to cost an average of \$54.79 per inmate/per day. This rate is based on the most recent estimates provided by the Department of Correction based on current and projected contract costs. Since the Department will have adequate bed capacity in 1997-98 under current conditions, it is assumed these contracts will be short-term and that inmates will return to North Carolina facilities by June 30, 1997.

FY 1996-97 Costs : 267 inmates at a cost of \$54.79 per inmate/per day
Assume bill is effective 1/1/97 so assume 183 days

$$267 \times \$54.79 \times 183 \text{ days} = \$2,677,094$$

It is not anticipated that the proposed legislation would have a significant impact on the Department of Correction for 1997-98 and beyond. Based on the North Carolina Sentencing and Policy Advisory Commission projections of prison population, including the impact of proposed legislation, and the Department of Correction's estimated prison bed capacity, the Fiscal Research Division believes the fiscal impact of the proposed legislation could be absorbed in future years.

FISCAL IMPACT - Judicial Branch

	<u>FY</u> 1996-97*	<u>FY</u> 1997-98	<u>FY</u> 1998-99	<u>FY</u> 1999-00	<u>FY</u> 2000-01
TOTAL EXPENDITURES					
RECURRING	\$124,767	\$262,012	\$275,112	\$288,867	\$303,
NON-RECURRING					

* As was assumed for the fiscal impact for the Department of Correction, FY 1996-97 costs assume effective date of January 1, 1997.

ASSUMPTIONS AND METHODOLOGY:

HB 1243 will increase costs to the Judicial Branch. A number of defendants who under current law would have their cases disposed as misdemeanors at the district court level, could, under this bill, be charged with Class F felonies, with disposition in Superior court. Costs will increase for two reasons: (1) Superior court cases are more expensive than district court cases, and (2) a portion of these new felony defendants are likely to want

a jury trial because of the increased penalty for these offenses; jury trials greatly increase case disposition costs.

Under this bill, defendants who commit an assault that results in serious bodily injury can be charged with Class F felonies. Misdemeanor assaults that satisfy these conditions are a relatively small proportion of all misdemeanor assaults. If a deadly weapon were involved in the offense, the defendant would already be charged with a felony under G.S. 14-32 (felonious assault with deadly weapon with intent to kill or inflicting serious injury). "Deadly weapon" is broadly defined under current case law as any instrument likely to produce death or bodily injury under the circumstances of each individual case. Fists can be deadly weapons under this definition. As a result, many of the most serious injury assaults are already disposed in superior court.

District attorneys and public defenders were surveyed to obtain for the following categories of misdemeanor assault cases their estimates of the proportion of defendants who could be charged with Class F felonies under this bill. There was some variation in their responses; averages of their estimates are as follows:

	Statute	Percent Eligible
G.S. 14.33(c) (1)	Assault inflicting serious injury	10.0% (352 cases)
G.S. 14-33(c) (2)	Assault on a female	4.0% (1226 cases)
G.S. 14-33(c) (3)	Assault on child under 12	2.5% (28 cases)
G.S. 14-33(c) (4)	Assault on governmental official	1.0% (39 cases)
G.S. 14-33(c) (5)	Assault on school bus driver	0.8% (0 cases)
G.S. 14-33(b) (9)	Assault on sports official	0.5% (0 cases)
G.S. 14-34.6	Assault on emergency medical personnel	0.7% (0 cases)
G.S. 14-288.9	Assault on emergency personnel	0.7% (0 cases)

These percentage estimates were multiplied by the estimated number of defendants charged with each of these offenses in 1995 to estimate a total number of 1,645 additional defendants eligible for Class F felony charges under this bill.

However, district attorneys and public defenders estimated that 35% of these defendants would have their cases disposed in district court, either by plea to a reduced charge or by dismissal, which leaves 1,069 who would have their cases disposed in superior court. As a further reduction in impact, district attorneys estimated that 37% of these defendants would have already been in superior court on other charges, leaving an estimated 673 new felony defendants in superior court.

Jury Trials

Of these 673 defendants, district attorneys estimated that 9%, or 61, would have their cases disposed by jury trial, with each trial requiring approximately 1 3/4 days. The cost of each trial would be approximately \$2,254 (without a public defender involved).

The AOC estimates that 70% (43) of the defendants would be indigent, with 25% (11) represented by the public defender (at an average of \$423 per trial) and 75% (32) by assigned counsel (at an average of \$1,000 per case).

At current rates, these 61 trials would have an estimated annual cost of \$137,494 in court time and \$36,653 for indigent defense.

Guilty Pleas - No Jury Trial

The AOC estimated that of the remaining 612 defendants, 25% (153) would have their cases dismissed, and 75% (459) would plead guilty. For those defendants whose cases are disposed by plea in superior court, we estimate an average of 1/2 hour of court time each, at a cost of \$82 per disposition (without a public defender involved). For these 459 defendants, court time costs are estimated to be \$37,638, and indigent defense costs \$37,750, with assigned counsel receiving an average of \$150 per case. (The costs for disposing the cases formerly in district court have not been deducted from these figures on the assumption that the costs of additional required hearings before final disposition in superior court will more than offset these costs.)

Adding the "Jury Trial" and "No Jury Trials" together, it is estimated the annual costs will be \$175,132 in court time and \$74,403 in indigent defense costs. The cost would be for six months in FY 96-97 or \$124,767 (See Judicial Fiscal Impact table). The annual costs are estimated to increase by 5% each year.

NOTE: The Judicial cost estimates are conservative. Since caseload growth is difficult to project, no attempts have been made to adjust for caseload growth in subsequent years. There may also be costs for additional trial preparation by the prosecutor or the public defender and for superior court hearings held before the dismissals of the 153 defendants' cases, but costs are difficult to estimate.

SOURCES OF DATA: Department of Correction; North Carolina Sentencing and Policy Advisory Commission; Judicial Branch - District Attorneys; Public Defenders; AOC Court Information System

TECHNICAL CONSIDERATIONS: It is anticipated that the effective date of this bill, and all Sentencing Commission bills, will be amended from December 1, 1996 to January 1, 1997, the effective date originally intended by the Commission.

FISCAL RESEARCH DIVISION

733-4910

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DATE: June 3, 1996



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