

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 1255

**SHORT TITLE:** Amend Criminal Penalties

**SPONSOR(S):** Representative Brawley

**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:** AMEND CRIMINAL PENALTIES. To reclassify or change the penalties for various criminal offenses as recommended by the North Carolina Sentencing and Policy Advisory Commission. Amends GS 14-7 to provide that unless a different classification is expressly stated in act, an accessory after the fact to a felony shall be punished for an offense that is two classes lower than the felony committed by the principal felon. Amends GS 14-18 to classify voluntary manslaughter as a Class D felony.

Amends GS 14-74 to classify larceny by servants or other employees with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a Class H felony. Amends GS 14-90 to classify embezzlement of property received by virtue of office or employment with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a class H felony. Amends GS 14-91 to classify embezzlement of State property with a value of \$100,000 or more by public officers and employees as a Class C felony; with a value of less than \$100,000 as a Class F felony. Amends GS 14-92 to classify embezzlement of money, funds, securities, or other property with a value of \$100,000 or more by public officers and trustees as a Class F felony; with a value of less than \$100,000 as a Class F felony. Amends GS 14-93 to classify embezzlement by treasurers of charitable and religious organizations of \$100,000 or more as a Class C felony; of less than \$100,000 as a Class H felony. Amends GS 14-94 to classify embezzlement by officers of railroad companies of money, bonds, or other valuable funds or securities with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a Class H felony. Amends GS 14-97 to classify appropriation of partnership funds with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a Class H felony. Amends GS 14-98 to classify embezzlement by a surviving partners of property, money, or other effects with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a Class H felony. Amends GS 14-99 to classify embezzlement of taxes with a value of \$100,000 or more by officers as a Class C felony; with a value of less than \$100,00 as a Class F felony. Amends GS 14-100(a) to classify obtaining property with a value of \$100,000 or more by false pretenses as a Class C felony;

with a value of less than \$100,000 as a Class H felony. Amends GS 53-129 to classify embezzlement of money, funds, credit, or property with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a Class H felony. Amends GS 58-2-162 to classify embezzlement by insurance agents, brokers, or administrators of money, negotiable instruments or other consideration with a value of \$100,000 or more as a Class C felony; with a value of less than \$100,000 as a Class H felony. Amends GS 90-210.70(a) to classify embezzlement of preneed funeral funds with a value of \$100,000 or more as a Class C felony; with a value of \$100,000 or less as a Class H felony.

Amends GS 14-255 to classify escape of working prisoners from custody a Class 1 misdemeanor. Amends GS 14-256 to classify prison breach and escape from county or municipal confinement facilities or officers a Class H felony. Amends GS 148-45 to classify escaping or attempting escape from prison system guilty of a misdemeanor for the first offense except as statute provides for felony escapes. Amends GS 90-95(e)(9) to classify a violation of GS 90-95(a)(3) on the premises of a penal institution or local confinement facility is guilty of a Class H felony. Amends GS 148-46.1 to classify inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties as a Class H felony. Amends GS 20-138.5(b)(habitual impaired driving) to require the court to impose an active term of imprisonment consistent with the durations specified for that class of offense and prior records level.

**EFFECTIVE DATE:** December 1, 1996, and applies to offenses committed on or after that date.

**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
<b>TOTAL EXPENDITURES</b>	\$501,329	\$0	\$0	\$0	\$0
<b>RECURRING</b>	\$0	\$0	\$0	\$0	\$0
<b>NON-RECURRING</b>	\$501,329	\$0	\$0	\$0	\$0

\* Although the effective date in this bill is December 1, 1996, the fiscal impact outlined above 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. Thus, it is anticipated that this bill and all other Sentencing Commission recommendations to the 1996 Short Session of the General Assembly will be changed to the January 1, 1997 effective date as well.

**POSITIONS:** No additional State positions. The supervision of inmates would be provided as part of private 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	35,523,626		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
No. of Projected Additional Inmates Due to this Bill	50	166	321	476	640
No. of Additional Beds Need Each Fiscal Year Due to this Bill	50	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. These beds are not included in the projected capacity for FY 1997-98 and beyond.

\*\* The Department of Correction (DOC) 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, the Fiscal Research Division believes that the projected surplus of 141 beds in FY 1996-97 should be reserved for these special needs in order to provide the Division of Prisons some management flexibility. As a result, the 50 additional beds required by HB 1255 in FY

**1996-97 would have to be provided through contracts with private or public correctional facilities in other states.**

The 50 additional beds required in FY 1996-97 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 contracts. Since DOC is projected to have adequate bed capacity for FY 1997-98 and beyond, it is assumed these contracts will be short-term and that the inmates would return to North Carolina facilities by June 30, 1997.

**FY 1996-97:** 50 inmates at a cost of \$54.79 per day/inmate

Sentencing Commission estimates are based on an effective date of January 1, 1997, so assume 183 days

\$54.79 X 50 inmates X 183 days = **\$501,329**

It is not anticipated that the proposed legislation would have a significant impact on the Department of Correction for FY 1997-98 and beyond. 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's estimated prison bed capacity, the Fiscal Research Division believes the fiscal impact of the proposed legislation could be absorbed within existing DOC resources in future years.

**ASSUMPTIONS AND METHODOLOGY: Judicial Branch**

The Administrative Office of the Courts (AOC) does not anticipate that this legislation would have a substantial fiscal impact on the Judicial Branch. Currently, there are no reliable data available from which the AOC can estimate the number of new filings which may result from three of the changes (Reclassify Accessory after the Fact; Create Property Criminal Offenses; Commit Crime in Jail/Active Time) outlined in this bill. However, the AOC predicts the number of new filings would be relatively low since there is no offense code listed for these three crimes in the AOC Criminal Information System. Therefore, the AOC does not anticipate that these changes would have a substantial fiscal impact on judicial costs.

Likewise, the AOC believes that the other proposed changes outlined in the bill (Sentence for Habitual DWI; Active Time for Jail Break; Up Voluntary Manslaughter Penalty) would not have a significant fiscal impact as there would not be any major changes of how cases are processed or disposed. They anticipate the small number of additional cases could be absorbed within existing judicial resources.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

**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**

**PREPARED BY:** Charles Perusse

**APPROVED BY:** Tom L. Covington /s/ TomC

**DATE:** June 3, 1996



**Signed Copy Located in the NCGA Principal Clerk's Offices**