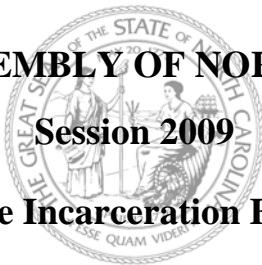


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2009**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 1303 (First Edition)

**SHORT TITLE:** False Report to Law Enforcement.

**SPONSOR(S):** Representative Blust

<b>FISCAL IMPACT</b>					
	<b>Yes ( )</b>	<b>No ( )</b>	<b>No Estimate Available (X)</b>		
	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>
<b>EXPENDITURES</b>					
<b>GENERAL FUND</b>					
Correction					<b>Indeterminate fiscal impact</b>
Probation					<b>Indeterminate fiscal impact</b>
Judicial					<b>Indeterminate fiscal impact</b>
<b>ADDITIONAL PRISON BEDS:</b>					
<b>(cumulative)*</b>					<b>Indeterminate prison bed impact</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Correction; Judicial Branch.					
<b>EFFECTIVE DATE:</b> December 1, 2009					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

**BILL SUMMARY:**

Under current G.S. 14-225 it is a Class 2 misdemeanor to make a false report to a law enforcement agency or officer for the purpose of interfering with the operation of the agency or officer. This bill would make it a Class H felony for a person, in response to an official inquiry by a sworn agent of the State Bureau of Investigation (SBI) who is investigating a Class A through G felony to:

1. Falsify or conceal by any trick, scheme, or device a material fact.
2. Make any materially false, fictitious, or fraudulent statement or representation.
3. Use any false writing or document knowing the writing or document to contain any materially false, fictions, or fraudulent statement or entry.

Unlike current law, the new offense would not be limited to making false statements for the purpose of interfering, obstructing, or hindering. This bill would become effective December 1, 2009.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

The North Carolina Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

### **Department of Correction – Division of Prisons**

Persons eligible for conviction of the proposed offense currently may be convicted of the existing offense of giving a false report to a law enforcement agency or officer under G.S. 14-225, a Class 2 misdemeanor, or of the common law offense of obstructing justice, a Class 1 misdemeanor. In FY 2007-08, there were 315 convictions under G.S. 14-225, and there were 108 convictions for obstructing justice. The proposed offense is limited to false information given only to a sworn SBI agent who is investigating a Class A, B, C, D, E, F, or G felony, but is broader than the existing offense in that it does not require that false information be given for the purpose of hindering the agent's investigation. *It is not known how many of the convictions under the current offenses would meet the elements of the proposed offense or how many new convictions would result from the broader coverage.*

In FY 2007-08, 36% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. If, for example, there were three Class H convictions for this proposed offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

### **Department of Correction – Division of Community Corrections**

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.<sup>1</sup>

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to

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<sup>1</sup> DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined.*

### **Judicial Branch**

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

In 2008, there were 1,200 defendants charged with the Class 2 misdemeanor offense of making a false report to a law enforcement agency or officer, and 181 defendants charged with the common law Class 1 misdemeanor offense of obstruction of justice. The new Class H felony offense would be narrower in that it would only apply to statements to SBI agents, and broader in that it would not limit the purpose of those false statements.

*AOC cannot determine how many of the misdemeanor charges would have been elevated to Class H felonies under this bill.* SBI agents account for approximately 1.5% of law enforcement personnel in the state, but their cases are more complex and may have more potential for false statements compared to those handled by local law enforcement.

For each new charge, costs would vary depending on whether another lower offense would have been charged instead under existing law, on the mode of disposition of the case (trial, plea, etc.) and on indigency (Office of Indigent Defense – OIDS):

<b>Per Case Costs to the Court System</b>		
	<b>AOC</b>	<b>OIDS</b>
New Class H felony charge	\$555 to \$7,577	\$540
Elevate Class 1 misdemeanor to Class H felony charge	\$418 to \$7,296	\$315
Elevate Class 2 misdemeanor to Class H felony charge	\$472 to \$7,417	\$315

Source: NC Administrative Office of the Courts

The low end of the AOC cost range is for a disposition by plea; the high end is for a disposition by trial. Indigent defense costs are based on the average hours billed for indigent defendants in an offense class, regardless of how the case was disposed, at \$75 per hour.

- If, for example, 18 charges (1.5% of 1,200) were elevated from Class 2 misdemeanors to Class H felonies under this bill, the cost would be approximately \$16,500 annually for court personnel and indigent defense.
- If, for example, 60 charges (5% of 1,200) were elevated from Class 2 misdemeanors to Class H felonies under this bill, the cost would be approximately \$46,300 annually for court personnel and indigent defense.

In FY 2007-08, a typical felony case took approximately 220 days to dispose in Superior Court. A typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

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

**TECHNICAL CONSIDERATIONS:** None

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**DATE:** May 11, 2009



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