

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 494 < 1st Edition >
SHORT TITLE: Increase Penalty/Carrying Concealed Weapon
SPONSOR(S): Representatives Hensley and Blue

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06

REVENUES

EXPENDITURES

Indigent Defense Funds \$59,625 \$131,175 \$144,293 \$158,722 \$174,594

County Jails (*if* sentencing under this new law follows the pattern of sentencing for existing Class 1 Misdemeanors, it could result in up to 22,329 additional inmate days in county jails per year)

POSITIONS: 0

*Indigent defense funds include an anticipated 10% increase annually.

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch; Local Jails

EFFECTIVE DATE: Applies to offenses committed on or after December 1, 2001

BILL SUMMARY:

Amends GS 14-269(c) to make the first offense of unlawfully carrying concealed weapon (14-269(a) or 14-269(a1)) a Class 1 misdemeanor (now, Class 2). This bill does not amend the punishment level for the second or subsequent offense under G.S. 14-269(a1).

ASSUMPTIONS AND METHODOLOGY:

Sentencing Commission

According to the Sentencing Commission, there were 2,316 convictions where this was the most serious offense during FY 1999/2000. Notwithstanding, this reclassification is not expected to have a significant impact on the prison population. It is estimated to have an impact on local jail populations. While we cannot project the number of new jail inmates due to this bill, we do know that in FY 1999/2000, 15% of all Class 1 misdemeanor convictions resulted in active sentences. The average sentence length imposed was 45 days. Offenders serving active sentences of less than 90 days are housed in county jails.

The AOC database showed 3,308 defendants convicted for 14-269(a) and 14-269(a1). *If* we assume that 15% of offenders sentenced under this new law receive active sentences averaging 45 days, which would result in 22,329 ($=.15*3,308*45$) additional jail days for the counties to absorb. There is no recent data available on the average cost of a day in county jail because it varies so widely among the counties. In the past, FRD had used the figure of \$40/day, based on a 1996 survey. However, that data is too old to be used here.

If Judges sentence offenders of this crime differently than the average Class 1 misdemeanor (different % active sentences, different length sentences) or if some of the offenders face prison sentences for other offenses, the number of county jail inmate days will be affected.

Judicial Branch

Under current law, an active sentence would not be authorized for conviction of carrying a concealed weapon, a Class 2 misdemeanor, unless the defendant had at least five prior convictions (of any offense). In contrast, as a Class 1 misdemeanor under this bill, conviction could result in an active sentence if the defendant has any prior convictions. Additionally, it must be assumed that the reclassification in offense sought by this bill would be accompanied in some cases with more time and cost for the courts to dispose of the cases and longer sentences (active or suspended) authorized.

In calendar year 2000, there were 4,974 defendants charged for carrying a concealed weapon under G.S. 14-269(a), and 2,947 defendants charged for the misdemeanor offense of carrying a concealed pistol or gun under G.S. 14-269(a1). AOC projects that it would take an average of ten additional minutes of court time per case, or 1,320 additional hours of court time for disposition of the 7,921 total concealed weapons charges under that statute. Given a cost of \$1,022 per day, this would amount to \$222,840 in district court costs. However, Fiscal Research does not include these costs for personnel in its calculation if the workload increase is less than 3600 hours (3600 hours = 2 fulltime positions).

Assuming an indigency rate for these cases of 25.8% or 2,044 cases, the cost for private assigned counsel would total \$119,250 (based on \$50 per hour times 2,385 additional hours, which consists of 341 additional in-court hours (10 minutes per case) and 1 hour of additional preparation time per case).

TECHNICAL CONSIDERATIONS: None
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