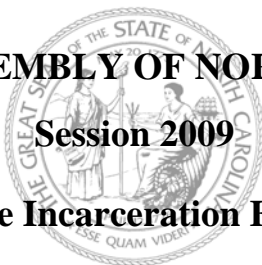


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1256 (First Edition)
SHORT TITLE: Larceny of a Motor Vehicle Part.
SPONSOR(S): Representatives Holloway, Braxton, and Tillis

FISCAL IMPACT table with columns: Yes (X), No (), No Estimate Available (X) and rows for EXPENDITURES (Correction, Probation, Judicial), ADDITIONAL PRISON BEDS, and PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED.

BILL SUMMARY:

Enacts new GS 14-72.8 making larceny of a motor vehicle part valued at \$1,000 or less a Class 1 misdemeanor for a first offense and a Class I felony for second or subsequent offenses. Makes larceny of a motor vehicle part valued at more than \$1,000 a Class H felony for a first offense and Class G felony for second or subsequent offenses. Effective for offenses committed on or after December 1, 2009. Source: Bill Digest H.B. 1256 (04/08/0200)

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

This bill creates a new office by adding G.S. 14-72.8(a) and (b), Larceny of motor vehicle parts, to Article 16 of Chapter 14 of the General Statutes.

G.S. 14-72.8(a)

This subsection would make it unlawful for any person to commit larceny of a motor vehicle part valued at \$1,000 or less. A first-time offender is guilty of a Class 1 misdemeanor, and for second or subsequent offenses, the offender would be guilty of a Class I felony.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. *It is not known how many offenders might be convicted and sentenced under the proposed section.* The following estimate of the impact is provided for violations of the proposed section:

- *First Offense:* In FY 2007-08, 21% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 misdemeanor convictions was 30 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, Class 1 misdemeanor convictions for this proposed offense *would not be expected to have a significant impact on the prison population.* The Department of Correction (DOC) reimburses county jails for misdemeanants, starting on the 31st day at a rate of \$18 per day. Because the average active sentences for Class 1 misdemeanors are less than 31 days, the State would incur no costs for convictions under the proposed bill. The impact on local jail populations is not known.
- *Second or Subsequent Offense:* In FY 2007-08, 16% of Class I felony convictions resulted in active sentences, with an average estimated time served of seven months. If, for example, there were twelve Class I felony 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 four additional prison beds the second year.

Persons eligible for conviction under the proposed subsection may currently be convicted of misdemeanor larceny of goods valued at not more than \$1,000 under G.S. 14-72(a) (a Class 1 misdemeanor offense). (See Table 1) Of the 14,799 misdemeanor larceny convictions during FY 2007-08, 59.8% of the convictions had one or more prior convictions. It is unknown how many of these prior convictions were for misdemeanor larceny of a motor vehicle part valued at not more than \$1,000. Impact would occur if any of the 8,845 misdemeanor larceny convictions having one or more prior convictions met the elements of the proposed Class I felony offense (second or subsequent offense).

Table 1
Potential Eligible Pool for G.S. 14-72.8(a)

G.S. Number	Offense Description	Offense Class	Number of Convictions	Convictions with 1 or more Prior Convictions
G.S. 14-72	Misd. Larceny of Motor Vehicle	Class 1 misdemeanor	28	21
	Misdemeanor Larceny	Class 1 misdemeanor	14,458	8,627
	Aid & Abet Misd. Larceny	Class 1 misdemeanor	77	45
	Attempted Misd. Larceny	Class 2 misdemeanor	236	152
Total			14,799	8,845

Source: NC Sentencing and Policy Advisory Commission, FY 2007-08 Felony and Misdemeanor Simulation Data

G.S. 14-72.8(b)

This subsection would make it unlawful for any person to commit larceny of a motor vehicle part valued at more than \$1,000. A first-time offender would be guilty of a Class H felony, and for second or subsequent offenses, the offender would be guilty of a Class G felony offense.

Sine the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. *It is not known how many offenders might be convicted and sentenced under the proposed section.* The following estimate of the impact is provided for violations of the proposed section:

- *First Offense:* In FY 2007-08, 36% of Class H felony convictions resulted in active sentences, with an average estimated time served of 11 months. If, for example, there were three Class H felony 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.
- *Second or Subsequent Offense:* In FY 2007-08, 42% of Class G felony convictions resulted in active sentences, with an average estimated time served of 16 months. If, for example, there were two Class G 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.

Persons eligible for conviction under the proposed subsection may currently be convicted of felony larceny of goods valued at \$1,000 or more under G.S. 14-72(a) (a Class H felony offense). (See Table 2) Of the 1,444 felony larceny convictions during FY 2007-08, 82.3% of the convictions had one or more prior convictions. It is unknown how many of these prior convictions were for felony larceny of a motor vehicle part valued at more than \$1,000. Impact would occur if any of the 1,188 felony larceny convictions having one or more prior convictions met the elements of the proposed Class G felony offense (second or subsequent offense).

Table 2
Potential Eligible Pool for G.S. 14-72.8(b)

G.S. Number	Offense Description	Offense Class	Number of Convictions	Convictions with 1 or more Prior Convictions
G.S. 14-72	Felony Larceny of Motor Vehicle	Class H felony	361	286
	Felony Larceny	Class H felony	993	826
	Aid & Abet Felony. Larceny	Class H felony	11	8
	Attempted Felony Larceny	Class I felony	79	68
Total			1,444	1,188

Source: NC Sentencing and Policy Advisory Commission, FY 2007-08 Felony and Misdemeanor Simulation Data

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.¹

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 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.

¹ 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.

The conduct covered under this bill currently falls under G.S. 14-72 (see offenses listed in table below). The overall impact would be to elevate some second or subsequent offenses of larceny by one offense class, thus shifting some charges from misdemeanor offenses handled in District Court to felony offenses in Superior Court. In FY 2007-08, a typical felony case was disposed in Superior Court in about 220 days. Any increase in judicial caseload without additional resources could further delay the disposition of cases. In 2008, there were 38,906 defendants charged with relevant Class 1 misdemeanor larceny offenses; approximately 16 percent had a prior misdemeanor larceny conviction. There were 11,414 defendants charged with relevant Class H felony larceny offenses. AOC cannot identify the number of past larceny charges that were specifically related to motor vehicle parts, but the number may be substantial.

Offense	Class	2008 Charges
Misd. Larceny of Motor Vehicle	1	201
Misd. Larceny	1	38,249
Aid & Abet Misd. Larceny	1	456
Attempted Misd. Larceny	2	681
Felony Larceny of Motor Vehicle	H	2,971
Felony Larceny Class H	H	8,341
Aid & Abet Felony Larceny	H	102
Attempted Felony Larceny	I	476

For offenders whose crime was larceny of a motor vehicle part, and who had no prior conviction for that offense, this bill would not change the criminal penalty imposed and therefore would have no fiscal impact. For offenders with at least one prior conviction for larceny of a motor vehicle part, this bill would elevate the charge – from a Class 1 misdemeanor to a Class I felony or from a Class H felony to a Class G felony, depending on the value of the stolen item(s). The most significant impact would be for offenses that are elevated from misdemeanors to felonies under this bill. For each elevated charge, costs would vary depending on the level of the offense, on the mode of disposition of the case (trial, plea, etc.) and on indigency (Office of Indigent Defense – OIDS):

Cost per Charge	NC AOC	OIDS
Elevate Class 1 misdemeanor to Class I felony	\$306 to \$6,334	\$255
Elevate Class H to Class G felony	\$148 to \$1,253	\$143

The low end of the NC 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. *While the judicial costs cannot be determined, the bill is expected to have significant fiscal impact.*

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Danielle Seale, Denise Thomas

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: May 12, 2009



Signed Copy Located in the NCGA Principal Clerk's Offices