

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 612 (First Edition)

SHORT TITLE: Confinement of Animals in Motor Vehicles.

SPONSOR(S): Representatives Harrison, Horn, R. Brown, and Saine

FISCAL IMPACT					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
NET STATE IMPACT	Likely budget cost. See Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
Administrative Office of the Courts, Indigent Defense Service, Department of Public Safety					
EFFECTIVE DATE: December 1, 2013					
TECHNICAL CONSIDERATIONS:					
None					

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address a new chargeable offense being enforced, adjudicated and having penalties applied to those convicted of the new offense. However, given there is no historical data on this new offense, or similar offenses to use as a proxy for predicting the total number of new offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of this crime:

- Administrative Office of the Courts: \$88-\$165
- Indigent Defense Services: \$166 in district court
\$321 in superior court without a trial
\$847 in superior court with a trial
- Prison Section: No cost (offenders would be sentenced to county jail, not prison)
- Community Corrections: Minimum of \$1,416 - \$1,960

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

The proposed legislation enacts new G.S. 14-362.4 making it illegal to confine an animal in a motor vehicle under conditions that are likely to cause suffering, injury, or death. This bill makes violations a Class 2 misdemeanor if the animal does not suffer serious injury or death and a Class 1 misdemeanor if the animal suffers serious injury or dies. Subsequent violations, regardless of the injury to the animal, are Class 1 misdemeanors.

This bill also provides allowances for certain individuals to enter motor vehicles if they have probable cause to believe that this section is being violated, and after making a reasonable effort to locate the owner or other person responsible for the animal in question.

This bill applies to offenses committed on or after December 1, 2013.

ASSUMPTIONS AND METHODOLOGY:

General

The 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.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision (PRS). The Act also created a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. All F-I felons are now subject to nine months of PRS, and PRS for all B1-E felonies has been increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that may be needed as a result of revocations.

Judicial Branch

The Administrative Office of the Courts 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.

This bill creates three new offenses, a Class 2 misdemeanor, and two Class 1 misdemeanors. Since these are new offenses, AOC does not have data upon which to estimate the number of charges that may arise annually. For every person charged with a Class 2 misdemeanor, AOC estimates the average cost to the court system is \$88. For every person charged with a Class 1 misdemeanor, AOC estimates the average cost to the court system is \$165.

The Office of Indigent Defense Services (IDS) provides Fiscal Research with a fiscal impact analysis for criminal penalty bills that will result in greater expenditures for indigent defense. IDS estimates that the cost of a Private Appointed Counsel (PAC) attorney per case for Class 1 or 2 misdemeanors would be \$166 in district court. In superior court, IDS estimates that the cost of a PAC attorney per case for Class 1 or 2 misdemeanors would be \$321 if the case does not go to trial and \$847 if it does.

Department of Public Safety –Prison Section

This bill creates three new misdemeanor offenses. The North Carolina Sentencing and Policy Advisory Commission expect no impact on the prison population because offenders who receive active sentences will serve them in local jail. The Department of Public Safety therefore does not anticipate an impact on prison custody projections. Only felony offenses result in Post Release Supervision (PRS); therefore, there is no additional cost for a misdemeanant sentenced to an active sentence.

Department of Public Safety – Community Correction Section

All active sentences for felony offenses now result in a minimum of twelve months of post-release supervision (PRS) for B1-E level offenses and a minimum of nine months of PRS for F-I level offenses. For felony offense classes E through I, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

Offenders given intermediate or community sanctions requiring supervision are supervised by the Community Corrections Section (CCS); CCS also oversees community service.¹ General supervision of intermediate and community offenders by a probation officer costs \$3.63 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

In FY 2011-12, 26% of offenders convicted of a Class 1 misdemeanor were sentenced to active sentences for an average length of 39 days; 2% received intermediate sentences; and 72% received community punishments. The average lengths of intermediate and community punishment imposed for this offense class were 18 and 15 months, respectively. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives an intermediate sentence is \$1,960 (540 days times \$3.63 per day). Of those convicted to a community sentence, around 40% received supervised sentences. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives community supervision is \$1,634 (450 days times \$3.63 per day). It is not known how many offenders might be convicted and sentenced of this offense under the proposed bill.

In FY 2011-12, 29% of offenders convicted of a Class 2 misdemeanor were sentenced to active sentences for an average length of 39 days; 1% received intermediate sentences; and 70% received community punishments. The average lengths of intermediate and community punishment imposed for this offense class were 16 and 13 months, respectively. The average cost to community corrections for any individual convicted of a Class 2 misdemeanor who receives an intermediate sentence is \$1,742 (480 days times \$3.63 per day). The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives community supervision is \$1,416 (390 days times \$3.63 per day). It is not known how many offenders might be convicted and sentenced of this offense under the proposed bill.

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

¹ CCS incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.

TECHNICAL CONSIDERATIONS: None

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