

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 267 (First Edition)

SHORT TITLE: Raise Compulsory School Attendance Age.

SPONSOR(S): Senators Graham and Parmon

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 Services, Department of Public Safety					
EFFECTIVE DATE: July 1, 2013					
TECHNICAL CONSIDERATIONS:					
None					

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address an increase in the scope of the chargeable offense being enforced, adjudicated and having penalties applied to those convicted under the broadening of the current statute. However, given there is no historical data on this new definition 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: \$165 per disposition
- 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 (excess bed space projected for at least five years)
- Community Corrections: Minimum of \$1,634-1,960
- Department of Juvenile Justice: \$6,169,020 annually

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

Senate Bill 267 amends the age requirements of the public school attendance law (G.S. 115C-378(a)), regional school attendance law (G.S. 115C-238.66(3)), the compulsory attendance provision for the N.C. School of Science and Mathematics (G.S. 116-235(b)(2)), and the definition of an “undisciplined juvenile” (G.S. 7B-1501(27) and 143B-805(20)). These amendments expand the potential class of offenders who fail to ensure a child’s attendance at school, and the class of juveniles who can be adjudicated undisciplined for missing school.

G.S. 115C-378(a) requires every parent, guardian or other person in charge of a child between the ages of seven and sixteen to make the child attend school for the entire school session. Failure to do so is a Class 1 misdemeanor. Section 1 of the bill expands the upper limit of the range to eighteen years of age, but amends the statute to require compulsory attendance “unless the child graduates from high school.”

G.S. 115C-238.66(3) requires every parent, guardian, or other person having charge or control of a child who is enrolled in the regional school and who is less than sixteen years of age to make that child attend school continuously for a period equal to the time that the regional school is in session. This statute makes it a Class 1 misdemeanor for any person to aid or abet a student’s unlawful absence from a regional school. Section 2 of the bill amends the age for compulsory attendance from sixteen to eighteen and again provides that the attendance is required “unless the child graduates from high school.”

G.S. 116-235(b)(2) requires every parent, guardian or other person in charge of a child less than sixteen years old and who is enrolled in the NCSSM to make the child attend school for the entire school session. The statute makes it a Class 1 misdemeanor for any person to aid or abet a student’s unlawful absence from NCSSM. Section 3 of the bill changes the age for compulsory attendance from sixteen to eighteen, with the same amendment to compel attendance unless the child graduates.

G.S. 7B-1501(27) and G.S. 143B-805(20) currently defines an “undisciplined juvenile” as a child less than sixteen but older than six who is unlawfully absent from school, disobedient, found in places unlawful for a juvenile to be, or a runaway. Sections 4 and 5 of the bill amend subsection (a) of both sections to raise the upper limit of the range to eighteen years of age and to strike subsection (b) of both sections.

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.

Sections 1 through 3 of the proposed legislation increase the compulsory public school attendance age to 18, unless the child has graduated, and makes conforming changes to the associated statutes for regional schools and NCSSM. By expanding the age requirement for school attendance it is possible that there may be an increase in charges for the three existing Class 1 misdemeanor offenses. AOC data show that there were 2,037 charges for violating G.S. 115C-380 (public school attendance) in FY 2011-12. AOC does not have offense codes for the other two Class 1 misdemeanors: violation of G.S. 115C-238.66(3) (regional school attendance), and G.S. 116-235(b)(2) (NCSSM attendance) referenced in this bill. The lack of offense codes may be some indication that this offense code is not frequently charged. For every additional person charged with a Class 1 misdemeanor offense, AOC estimates the average cost to the court would be \$165.

AOC is not able to estimate the number of additional charges that may result from the passage of this bill. Data obtained from the Fiscal Research Division shows that approximately 3,384 16-year-olds and 4,245 17-year-olds are expected to drop out of school each year over the next five years. Three scenarios, created by AOC, are provided below, resulting in a range from over \$33,000 to nearly \$84,000 annually in fiscal impact to the court system.

Scenarios of potential fiscal impact for Sections 1-3 of SB 267v1			
# charges for public school attendance violation (FY12)	% scenario increase under SB 267v1	# additional charges under SB 267v1	\$ annual impact of additional charges (\$165 per case)
2,037	10%	204	\$33,660
	15%	306	\$50,490
	25%	509	\$83,985

Sections 4 and 5 of the proposed legislation change the maximum age of an undisciplined juvenile to 18. By expanding the age of the definition of an undisciplined juvenile it is possible that there will be an increase in the number of undisciplined petitions, however AOC is unable to estimate any potential increase. AOC does not have data on the cost associated with processing undisciplined cases nor do they have data on the specific situations that lead to an undisciplined petition. Thus, AOC is unable to estimate how many additional petitions may be filed because of the change in compulsory attendance age.

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 PAC attorney per case for an expanded Class 1 misdemeanor would be \$166 in district court. In superior court, IDS estimates that the cost of a PAC attorney per case for a Class 1 misdemeanor would be \$321 if the case does not go to trial and \$847 if it does.

Department of Public Safety –Prison Section

This bill amends the age requirement of public school attendance from sixteen to eighteen. 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 the local jail. Therefore, the Department of Public Safety does not anticipate an impact on prison custody projections.

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2012.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three). Rows four and five in the chart demonstrate the impact of the bill.

Population Projections and Bed Capacity					
Five Year Impact					
	June 30 2013	June 30 2014	June 30 2015	June 30 2016	June 30 2017
1. Inmates ²	36,838	36,967	37,107	36,861	36,748
2. Prison Beds (Expanded Capacity)	40,718	40,970	40,970	40,970	40,970
3. Beds Over/(Under) Inmate Population	(3,880)	(4,003)	(3,863)	(4,109)	(4,222)
4. Additional Inmates Due to this Bill³	<i>No Additional Inmates Expected</i>				
5. Additional Beds Required					

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.⁴ General supervision of intermediate and community offenders by a probation officer costs \$3.63 per offender, per day; no cost is

¹ Expanded Operating Capacity (EOC) is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of Standard Operating Capacity) and 50 (SOC) square feet per inmate.

² The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in February 2013.

³ Criminal penalty bills effective December 1, 2013 should not affect prison population and bed needs until FY 2014-15 due to the lag time between offense charge and sentencing - six months on average. No delayed effect is presumed for the Court System.

⁴ CCS incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.

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.

There were 379 Class 1 misdemeanor convictions under G.S. 115C-378(a) for violations of compulsory school attendance during FY 2011-12. Of those 379 convictions, 16 (4.2%) received an active sentence. It is not known how many convictions may result from the proposed broadening of the current statute. The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 115C-238.66(3) or of G.S. 116-235(b)(2). The lack of AOC offense codes is some indication that these offenses are infrequently charged and/or infrequently result in convictions. It is not known how many convictions may result from the proposed broadening of the current statute. The North Carolina Sentencing Commission does not maintain information on juveniles adjudicated undisciplined. While amending the age requirements for public school attendance may result in an increase in the number of juveniles adjudicated undisciplined, these juveniles are not eligible to be committed to a youth development center (YDC); therefore, it is not anticipated that this bill will have an impact on YDC resources.

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. Only felony offenses result in Post Release Supervision (PRS), therefore there is no additional cost for a misdemeanant sentenced to an active sentence. 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).

Division of Juvenile Justice

Currently, a juvenile may be considered undisciplined who is 16 or 17 years of age and who (1) is regularly disobedient to and beyond the disciplinary control of the juvenile’s parents, guardian, or custodian; (2) is found in places where it is unlawful for a juvenile to be; or (3) has run away from home for a period of more than 24 hours. The only undisciplined behavior that applies to juveniles under 16 but not to those 16 and 17 is being unlawfully absent from school. The proposed legislation would increase the number of juveniles being supervised by juvenile court counselors to include those 16 and 17 year olds who have complaints for truancy.

Looking at the offense dates of truancy related complaints filed in the past three years in the table below, there has been an annual average of 1,200 truancy related complaints and it is almost a 1:1 ratio of truancy offense to juvenile.

	CY 2010	CY 2011	CY 2012	Total	Annual Average
Truancy Status Offenses	1,289	1,226	1,085	3,600	1,200

New truancy complaints that may result from the bill were estimated utilizing the rate of dropouts as compared to truancy complaints for juveniles ages 6-15. Since the recent average of truancy related offenses is 1,200 DJJ then applied that figure to determine a rate of truancy related complaints for juveniles ages 6-15. Taking the juvenile population aged 6-15 which is estimated at 1,278,207 (source: State

Demographer for July 1, 2011), DJJ derived an annual rate of .94 truancy complaints for every 1,000 juvenile aged youth in the state. Recognizing that it is likely that the age group of 16 and 17 year-olds will have a higher rate of disengagement to school, DJJ then chose to project the volume of truancy complaints to be received as 2 complaints per 1,000 youth ages 16 and 17. The population of 16 and 17 year-olds in NC is 254,233 (source: State Demographer for July 1, 2011). Calculating a rate of 2 per 1,000 DJJ estimated a total of 5,085 new truant offenses filed annually should Senate Bill 267 become law.

In the juvenile justice system, DJJ court counselors receive the complaints, review the complaints for legal sufficiency, and, if there is a finding of legal sufficiency, receive the complaint for intake. In the 2010 final report from the youth Accountability Task Force it was reported that the average intake evaluation cost by DJJ is \$175 per intake. It will cost DJJ a total additional intake cost of \$889,875 (\$175 times 5,085 offenders) to sufficiently assess the truant population that will come to Division Court Services offices.

Under Senate Bill 267, as written, there will be many more 16 and 17 year-old youth who will need support services (i.e. structured day, mentoring, parent/family skill building, among others) to help them stay in school and not be truant. The average annual cost of a Juvenile Crime Prevention Council (JCPC) funded program to the state is \$748.02. The entire new population coming into DJJ offices with truancy complaints will need services managed by the Community programs section. An additional \$3,803,681.70 (5,085 offenders times \$748) will be needed to fully fund JCPC should SB 267 become law.

On average, 40% of juveniles who have any type of status offense filed in a DJJ office end up on protective supervision. Protective supervision is court-ordered and managed by juvenile court counselors for a minimum of 90 days and has the same requirements of work as many other types of court-ordered supervision (home visits, school visits, counseling the family, etc.). DJJ estimates that a total of 2,034 offenses will require supervision of the juveniles adjudicated (5,085 offenders times 40%). DJJ estimates that a total of 183,060 protective supervision days will be needed annually (2,034 offenses times 90 days). The average daily cost of supervision as reported in the Youth Accountability Task Force final report is \$8.06. DJJ estimates that a total of \$1,475,464 would be needed to supervise the new population in the community (183,060 days annually times \$8.06). Taking into consideration the intake, community programs, and supervision costs projected in this analysis, the total cost to the DJJ is estimated to be \$6,169,020.

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

TECHNICAL CONSIDERATIONS: None

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