

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2015**

**Legislative Incarceration Fiscal Note**

**BILL NUMBER:** Senate Bill 310 (First Edition)

**SHORT TITLE:** Domestic Violence/Bail & Aggravating Factor.

**SPONSOR(S):** Senators Daniel and Stein

<b>FISCAL IMPACT</b>					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
<b>State Impact</b>					
General Fund Revenues:					
General Fund Expenditures					
State Positions:					
<b>NET STATE IMPACT</b>	<b>Likely budget cost. See Assumptions &amp; Methodology section for additional details.</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
Administrative Office of the Courts; Indigent Defense Services; Department of Public Safety					
<b>EFFECTIVE DATE:</b> December 1, 2015					
<b>TECHNICAL CONSIDERATIONS:</b>					
None					

**BILL SUMMARY:**

This bill amends G.S. 15A-1340.16(d) Aggravating Factors. Section 1 amends the statute by adding subdivision (13a), creating an aggravating factor for defendants who knew or reasonably should have known that the offense was being witnessed, by sight or hearing, by a person under the age of 18, such person who was not involved in the commission of the offense.

**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. All F-I felons are now subject to nine months of post-release supervision (PRS). B1-E felony PRS 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.

JRA also created the Statewide Misdemeanant Confinement Program (SMCP) for housing misdemeanants with sentences between 90 and 180 days in county jails (misdemeanants with shorter sentences were already the responsibility of the counties). County participation in the program is voluntary. The SMCP pays participating counties for misdemeanants' housing, transportation, and medical costs. In 2014, the program was expanded to include all misdemeanants with sentences longer than 90 days. The Sentencing and Policy Advisory Commission does not track county jail capacity, so it is not possible to estimate the impact of new or increased misdemeanor penalties on county jails.

This Section amends G.S. 15A-1340.16(d) Aggravating Factors. Section 1 amends the statute by adding subdivision (13a), creating an aggravating factor for defendants who knew or reasonably should have known that the offense was being witnessed, by sight or hearing, by a person under the age of 18, such person who was not involved in the commission of the offense.

It is not known how many sentences might be aggravated if this conduct is added as an aggravating factor. Therefore, it is not possible to determine the impact this proposal would have on the prison population. The aggravated sentence range allows the judge to impose a sentence that is up to 25% longer than the longest sentence in the presumptive sentence range. During FY 2013-14, 4% (n=454) of all felony convictions receiving an active sentence fell in the aggravated sentence range. The Administrative Office of the Courts' Automated Criminal Infractions System does not contain data on the application of aggravating or mitigating factors. The impact of aggravated sentences varies considerably by offense class with increasing impact as one moves up the grid (i.e., ranging from little impact for low-level felonies to a substantial impact for Class B1 felonies).

Currently, G.S. 14-33(d) provides that any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. In FY 2013-14, there were 38 convictions for violations of G.S. 14-33(d).

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** John Poteat

**APPROVED BY:**

Mark Trogdon, Director  
Fiscal Research Division

**DATE:** April 29, 2015



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