

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 361 (First Edition)

SHORT TITLE: Justice Reinvestment Technical Corrections.-AB

SPONSOR(S): Representative Faircloth

FISCAL IMPACT

(\$ in millions)

Yes No 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	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

None

EFFECTIVE DATE Section 6 effective October 1, 2013; the remainder of the act is effective when it becomes law

TECHNICAL CONSIDERATIONS:

None

FISCAL IMPACT SUMMARY:

This bill will have no fiscal impact.

BILL SUMMARY:

The proposed legislation amends G.S. 15A-1343(b)(3a), providing that a defendant must not abscond, willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer, if the defendant is placed on supervised probation (previously, no requirement of being on supervised probation).

The proposed bill amends G.S. 15-205, deleting the requirement that a person on probation be taken, within 30 days, to the local prison unit.

The bill also amends G.S. 15A-1344(d2) and 15A-1340.17(e) making clarifying and technical changes.

The proposed legislation repeals G.S. 143B-1159, the North Carolina Sentencing and Policy Advisory Commission Report. Also repeals G.S. 15A-1368.4(e)(14) listing submitting to supervision under the Intensive Post-Release Suspension Program as a controlling condition, the violation of which may have resulted in revocation of post-release supervision.

Section 6 of this act, amending the sentencing grid for B1 through Class E felonies, is effective October 1, 2013, and applies to offenses committed on or after that date. The rest of the act goes into effect when the legislation passes.

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 does not contain any changes to existing law that are anticipated to have a fiscal or workload impact on AOC.

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. This bill will have no fiscal impact on IDS.

Department of Public Safety –Prison Section

The proposed legislation adds an additional month to three maximum sentences. Custody projections are based on the assumptions used in the Sentencing Policy Advisory Commission’s (SPAC) population projection model and custody assignment practice. Since the model assumes inmates will serve their minimum sentence and no changes in earn time policies are anticipated, the Department of Public Safety (DPS) does not expect the proposed changes to have an impact on prison custody needs.

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. As shown, the Sentencing Commission estimates that this specific legislation will add no inmates to the prison system by the end of FY 2014-15.

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 Estimated Impact</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.

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.

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 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.

The Sentencing Policy Advisory Commission estimates that there will be no fiscal impact to the Community Corrections Section (CCS). Section 6 of the bill adds one month to three maximum sentences. This will not impact CCS, since all offenders convicted and sentenced to active sentences are subject to nine or twelve months of post-release supervision (PRS).

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

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Maggie Morrissey

Lisa Fox

APPROVED BY:

Mark Trogon, Director
Fiscal Research Division

DATE: April 22, 2013



Signed Copy Located in the NCGA Principal Clerk's Offices

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