

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 1168 (First Edition)

SHORT TITLE: Yancey Right-of-Way Safety.

SPONSOR(S): Representative Presnell

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:

Administrative Office of the Courts; Indigent Defense Services; Department of Public Safety

EFFECTIVE DATE October 1, 2014

TECHNICAL CONSIDERATIONS:

None

FISCAL IMPACT SUMMARY:

The proposed bill is a local bill applicable only to Yancey County. The bill is unlikely to have a significant impact. Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

H.B. 1168, Yancey Right-of-Way Safety, makes it unlawful to discharge a firearm or bow and arrow from, on, across, or over the roadway or right-of-way of any State maintained road. The penalty for violation of this act is a Class 3 misdemeanor. This bill only applies to Yancey County.

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. 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. In addition, 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.

This is a local bill applicable only to Yancey County. The Sentencing Commission does not provide prison population estimates for local bills. However, since this bill is creating a misdemeanor, it will not have an impact on the prison population. Misdemeanants sentenced to 180 days or less are housed in local confinement facilities through the Statewide Misdemeanant Confinement Program. It is not known how many offenders might be convicted and sentenced under the new statute.

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 a new Class 3 misdemeanor offense in Yancey County. Because this is a new offense, AOC does not have historical data upon which to estimate the number of charges that might occur. AOC provides estimates of the average cost to the court for a charge by offense class. For every additional person charged with a Class 3 misdemeanor, the average cost to the court would be \$31.

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 new Class 3 misdemeanor will be \$182 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost would be \$359 if the case does not go to trial and \$847 if it does. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

Department of Public Safety –Prison Section

This bill creates a new Class 3 misdemeanor offense in Yancey County. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because offenders who receive active sentences of less than 180 days will serve them in a local confinement facility through the Statewide Misdemeanant Confinement Program.

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. Additionally, 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). 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.

All types of post-release supervision, including intermediate or community sanctions, are supervised by the Community Corrections Section (CCS); CCS also oversees community service. General post-release supervision and supervision of intermediate and community offenders by a probation officer costs \$123.50 per offender, per month; 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 active sentences requiring post-release supervision, intermediate sanctions and supervised probations.

In FY 2012-13, 32 percent of Class 3 misdemeanor offenders received active sentences; less than one percent received intermediate sentences; and 68 percent received community punishments. Active misdemeanor sentences of less than 180 days are served in local jails and do not require any post-release supervision. The average lengths of intermediate and community punishment imposed for this offense class were 14 and 12 months, respectively. Therefore, at a minimum, one conviction resulting in either intermediate or community punishment will require at least 12 months of supervision. The cost of 12 months of supervision is \$1,482 per offender (\$123.50 per month times 12 months).¹

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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