

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2013**

**Legislative Incarceration Fiscal Note**

(G.S. 120-36.7)

**BILL NUMBER:** Senate Bill 463 (Third Edition)

**SHORT TITLE:** Jail Dormitory Minimum Standards.

**SPONSOR(S):** Senators Woodard and McKissick

<b>FISCAL IMPACT</b>					
(\$ 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
<b>State Impact</b>					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
<b>NET STATE IMPACT</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>
<b>Local Impact</b>					
Revenues:					
Expenditures:					
<b>NET LOCAL IMPACT</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Administrative Office of the Courts, Indigent Defense Services and the Department of Public Safety					
<b>EFFECTIVE DATE:</b> December 1, 2013					
<b>TECHNICAL CONSIDERATIONS:</b> None					

**BILL SUMMARY:**

Section 1 of SB 463 proposes to amend the minimum standards for jail dormitories housing up to 64 inmates as long as certain criteria are met.

Section 2 adds an amendment to G.S. 14-256 to make a person guilty of a Class H felony upon escaping from a county or city confinement facility or officers if the person has been charged with or convicted of a felony (was convicted of a felony) and has been committed to the facility pending trial or transfer (was pending transfer) to the State prison system. Currently, violators of G.S. 14-256 are charged with Class 1 misdemeanors, except for those violators convicted of a felony or pending transfer to a State prison facility.

### **FISCAL IMPACT SUMMARY:**

This bill is expected to have a minimum fiscal impact.

The proposed bill may have a fiscal impact to address new chargeable offenses being enforced, adjudicated and having penalties applied to those convicted of the new offenses. However, given the limited number of current charges, 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 these crimes:

- Administrative Office of the Courts: \$501 per disposition
- Indigent Defense Services: \$235 in district court  
\$446 in superior court without a trial
- Prison Section: No cost
- Community Corrections: Minimum of \$980

Please see the Assumptions and Methodology section for additional information

### **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.

In calendar year 2012 approximately 42 defendants were charged with the Class 1 misdemeanor and 3 defendants were charged with the Class H felony. AOC cannot estimate how many of the 42 misdemeanor charges would have been Class H felonies under this proposal. Presently, the AOC estimates a cost of \$501 per trial for a Class H felony. Class H felony charges that would have been a Class 1 charge will cost \$336 more per case.

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 H will result in an increase of \$235 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost of a PAC attorney per case for a Class H would be \$446 if the case does not go to trial and \$1,180 if it does.

## **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.<sup>1</sup> 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, 35% of Class H offenders received active sentences; 42% received intermediate sentences; and 23% received community punishments. All active sentences result in 9 months of post-release supervision (PRS) for this felony class. The average lengths of intermediate and community punishment imposed for this offense class were 29 months and 26 months, respectively. Therefore, at a minimum, one conviction resulting from Section 2 of this bill will require at least nine months of PRS. The cost of nine months of PRS is \$980 per offender (\$3.63 per day times 270 days).<sup>2</sup>

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

<sup>2</sup> Due to the effective date of December 1, 2013 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2012-13. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2013-14.

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