

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 31 (First Edition)

SHORT TITLE: 0.00 Alcohol Restriction-All DWI.

SPONSOR(S): Representative Jackson

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
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL 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 December 1, 2015

TECHNICAL CONSIDERATIONS:

None

BILL SUMMARY:

This bill expands the scope of two existing offenses. The first, under G.S. 20-17.8, Restoration of a license after certain driving while impaired convictions; ignition interlock, states that if the installation of an ignition interlock system is required as a condition of restoring a license after a conviction of driving while

impaired (DWI), the operator of the vehicle shall have 0.00 alcohol concentration (the previous statute required 0.04 alcohol concentration). Individuals found to be in violation of this condition shall be charged with a Class 1 misdemeanor. The second section amends G.S. 20-19(c3)(1), Period of suspension or revocation; conditions of restoration, to require that the restoration of a driver's license following a DWI conviction be conditional upon the person having an alcohol concentration of 0.00 while operating a motor vehicle. Individuals found to be in violation of the conditions in Section 2 of this bill shall be charged with a Class 3 misdemeanor.

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address the expanded scope of an existing offense. However, given there is no historical data on the expanded scope of this offense, 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: \$31-\$165 per disposition
- Indigent Defense Services: \$173.80 in district court
\$305.40 in superior court without a trial
\$799 in superior court with a trial
- Prison Section: No cost
- Community Corrections: \$1,482-\$1,853 for non-active sentences

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. 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.

During FY 2013-14, there was one conviction for Driving While License Revoked (DWLR) as a result of violation of a restored license requirement and 22 convictions for DWLR as a result of a violation of limited driving privileges. These are Class 1 misdemeanors under G.S. 20-17.8(b)(3)a. The Sentencing Commission cannot estimate how many additional convictions may result from the proposed broadening of the current 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.

Violations of the modified restriction in Section 1 of this bill would be charged with the Class 1 misdemeanor of DWLR while on a restored license, G.S. 20-17.8(f). In calendar year 2014, there were 120 defendants charged with this offense. Violations of the modified restriction in Section 2 of this bill would be charged with the Class 3 misdemeanor offense of failing to comply with a license restriction in violation of G.S. 20-7(e). In calendar year 2014, there were 4,418 defendants charged with this offense. AOC's database does not track how many of the individuals charged with DWLR or failure to comply with a license restriction were due to a violation of the alcohol concentration condition of a license restoration. Therefore, AOC is unable to estimate how many additional violations may occur due to the tightened restrictions specified in this bill. For every person charged with a Class 1 misdemeanor, the costs to the court are estimated at \$165; for every person charged with a Class 3 misdemeanor, the costs to the court are estimated at \$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 defending each additional traffic-related offense will be \$173.80 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost would be \$305.40 if the case does not go to trial and \$799 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 tightens an existing restriction on restored driver's licenses, potentially increasing the number of people who may be charged with a Class 1 or Class 3 misdemeanor offense. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because all misdemeanor 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.

Department of Public Safety – Community Correction Section

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 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 2013-14, 30 percent of Class 1 misdemeanor offenders received active sentences; two percent received intermediate sentences; and 68 percent received community punishments. Active misdemeanor sentences 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 18 and 15 months,

respectively. Therefore, one conviction resulting in a non-active sentence under Section 1 of this bill will require an average of 15 months of supervision. The cost of 15 months of supervision is \$1,853 per offender (\$123.50 per month times 15 months).¹

In FY 2013-14, 31 percent of Class 3 misdemeanor offenders received an active sentence, while 69% received community punishments. The average length of community punishment imposed for this offense class is 12 months. Therefore, one conviction resulting in a non-active sentence under Section 2 of this bill may be expected to cost \$1,482 per offender (\$123.50 per month times 12 months).

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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¹ Due to the effective date of December 1, 2015 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2015-16. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2016-17.