

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Incarceration Fiscal Note

BILL NUMBER: Senate Bill 446 (Second Edition)

SHORT TITLE: Dealer Loaners/Unmanned Aircraft/Brunswick Co.

SPONSOR(S):

FISCAL IMPACT					
	<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
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	Likely budget cost. See Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
The Administrative Office of the Courts, Office of Indigent Defense, Department of Public Safety					
EFFECTIVE DATE: Section 3-July 1, 2016; The remainder of this act is effective when it becomes law					
TECHNICAL CONSIDERATIONS:					
None					

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address a new chargeable offense being enforced, adjudicated, and having penalties applied to those convicted of the new offense. However, given that there is no historical data on this new 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: \$188 per misdemeanor disposition
- Department of Public Safety (DPS) - Prison Section: No cost
- DPS-Community Corrections: Minimum of \$1,958 per misdemeanor conviction

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

Sections 1 through 4 of the bill create uniform procedures for license plates to be used on loaner vehicles given to customers by franchised motor vehicle dealers. Section 3 creates new G.S. 20-79.02, which creates an infraction and a penalty of \$100 for an individual operating one of these vehicles and displaying a loaner

dealer license plate in violation of the restrictions on the license plate. The franchised dealer would also receive an infraction and a \$250 penalty. Section 3 is effective July 1, 2016.

Sections 5 through 9 amend existing statutes related to unmanned aircraft systems. Section 8 amends existing G.S. 63-96 by replacing the word “license” with “permit” and reducing the minimum age required to obtain a permit from 18 years of age to 17 years of age. Section 8 is effective when it becomes law. Section 10 permits the Board of Commissioners of Brunswick County to adopt and enforce ordinances for the navigable waters within the county’s jurisdiction.

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. 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.

Judicial Branch

The Administrative Office of the Courts (AOC) 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.

Section 3 of the bill creates a new infraction offense. 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 an infraction, the average cost to the court would be \$31.

Section 8 of the bill changes the minimum age for permitting from 18 to 17, which may reduce the number of Class 1 Misdemeanor charges filed for cases in which the operator of an unmanned aircraft system for commercial purposes was 17 years old: a 17 year old in violation of current G.S. 63-96 would be allowed to receive a permit with the proposed bill. The Class 1 Misdemeanor in G.S. 63-96 took effect December 1, 2014, which makes it a relatively new offense and as such there is not sufficient historical data upon which to estimate the number of charges that will not occur because of the change in age.

Department of Public Safety –Prison Section

This bill creates a new infraction and restricts a current Class 1 Misdemeanor. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because all infractions are not subject to active sentences and 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

Infraction offenders are not involved with Community Corrections. All misdemeanor 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.

JRA essentially eliminated the distinction between “community” and “intermediate” supervision. Under structured sentencing, the two types of supervision were each defined by a set of specific sanctions. Under JRA, both community and intermediate probation may now include electronic monitoring, short-term periods of confinement, substance abuse assessment, monitoring, and treatment, participation in educational programs or vocational skills development. Whether a probationer is subject to more stringent conditions is determined by the results of a risk-needs assessment administered by the Department of Public Safety.

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 \$130.50 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 probation.

In FY 2013-14, 30% of Class 1 misdemeanor offenders received active sentences with an average sentence of 37 days; 70% received probation. Active misdemeanor sentences of less than 180 days are served in local jails and do not require any post-release supervision. The average length of probation imposed for this offense class was 15 months. Therefore, at a minimum, one conviction resulting from this bill will require at least 15 months of supervision. The cost of 15 months of supervision is \$1,958 per offender (\$130.50 per month times 15 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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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.

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DATE: August 10, 2015



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