



NORTH CAROLINA GENERAL ASSEMBLY

2025 Session

Legislative Incarceration Fiscal Note

Short Title: DWI Modernization Act of 2026.
Bill Number: House Bill 1091 (First Edition)
Sponsor(s): Rep. Ager, Rep. Ferguson, Rep. Echevarria, and Rep. Pike

FISCAL IMPACT SUMMARY

Criminal offenses are classified as misdemeanors (Class 3 as the lowest and Class A1 as the highest) and felonies (Class I to Class A). There are three types of legislative changes to offenses that may result in a fiscal impact to the State’s criminal justice system: creating a new offense, changing the class of an existing offense, or changing the scope of an existing offense.

This proposed legislation would create a new **Class 3 misdemeanor** for driving a transportation network company service vehicle after consuming alcohol. It also creates a **Class F felony** for aiding and abetting if an underage person consumes alcohol and serious bodily injury results. Because these are new charges, there is no data to predict how many individuals may be charged or convicted. **Therefore, Fiscal Research is unable to project the fiscal impact** of the proposed legislation on the criminal justice system.

Each additional person charged under the proposed offenses will have a cost to the judicial system and each additional person convicted will have a cost to the correction system. The **cost of one charge and conviction** is listed in the table below, along with the percent of cases that incur those costs at that offense level.

Cost of One Charge and Conviction										
Offense Class	Prosecution and Defense		Active Sentence					Suspended Sentence		
	Admin. Office of the Courts	Indigent Defense Services	DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
▲ 1 to F	\$2,018	\$511	54%	\$48,487	18	\$2,527	9	-15%	\$4,493	16
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
3	\$63	\$210	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS.		82%	\$3,650	13

<p>Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and impaired driving. The triangle symbols (▲) represent change, plus and minus (+/-) symbols reflect the increase or decrease in cost or time from the current to proposed changes in charge levels.</p>					

FISCAL IMPACT OF H.B.1091, V.1					
	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>	<u>FY 2029-30</u>	<u>FY 2030-31</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				
NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section				

FISCAL ANALYSIS

Section 5 of the proposed legislation modifies the offense in G.S. 20-138.2B (Operating a school bus, school activity bus, childcare vehicle, ambulance, other EMS vehicle, firefighting vehicle, or law enforcement vehicle after consuming alcohol) by adding drivers of “TNC (Transportation Network Company) service vehicle” to the list of drivers prohibited from operating a listed vehicle while consuming alcohol or while alcohol remains in the body. The offense is a **Class 3 misdemeanor**. In 2025, there were 2 defendants charged with the Class 3 misdemeanor. In FY 2023-24, there were no convictions for this offense. There is no data available to predict how many TNC drivers may be charged with this offense. Therefore, Fiscal Research is unable to predict the fiscal impact of this change on the criminal justice system.

Section 8 of the proposed legislation amends G.S. 18B-302(c) (Sale to or purchase by underage persons) to create a **Class F felony**. Currently, it is a Class 1 misdemeanor for someone over the age of 21 to aid or abet a person under the age of 21 to violate subsection (a), (a1), or (b) regarding the sale, gifting, purchase, possession, or consumption of alcoholic beverages. This proposed legislation would increase the offense to a Class F felony if the person under the age of 21 consumes the alcoholic beverage and serious bodily injury results to the underage person or another and the injury was proximately caused by the consumption of the beverage.

In CY 2025, there were 109 defendants charged with the Class 1 misdemeanor. In FY 2023-24, there were 4 convictions for the Class 1 misdemeanor.

It is not known how many of the individuals previously charged or convicted of the Class 1 misdemeanor may be eligible for the Class F felony under the proposed legislation. The difference in costs between a Class 1 misdemeanor and a Class F felony are shown in the Fiscal Impact Summary table.

TECHNICAL CONSIDERATIONS

- Offense changes are typically effective on December 1. FRD assumes that costs incurred in the first year to the judicial and correction systems would be less than annualized costs due to lag time in charges and convictions.
- This estimate assumes that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime rates. Likewise, FRD assumes no deterrent effects for any modifications to criminal penalties. The estimates in this Incarceration Note make no assumptions about the larger impact on crime rates or costs to society or the State.
- This estimate makes no prediction regarding the likelihood that a prosecutor will charge an offense based on any proposed increases or decreases to the offense class level. This estimate also does not attempt to predict the impact of offense class changes on plea negotiations. FRD assumes the proposed offense class is charged and convicted at the same rate as the prior level.
- For reference, Appendix A to this document shows the costs per charge/conviction for each class of offense in North Carolina.

DATA SOURCES

Department of Adult Correction; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis and Technical Consideration sections of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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Signed copy located in the NCGA Principal Clerk's Offices

APPENDIX A: COSTS PER CHARGE/CONVICTION BY OFFENSE CLASS

Cost of One Charge and Conviction										
Offense Class	Prosecution and Defense		Active Sentence					Suspended Sentence		
	Admin. Office of the Courts	Indigent Defense Services	DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$70,930	\$9,190	100%	NA	Life	N/A	N/A	0%	\$0	0
B1	\$30,500	\$3,668	100%	\$622,245	231	\$3,370	12	0%	\$0	0
B2	\$22,638	\$3,668	100%	\$371,731	138	\$3,370	12	0%	\$0	0
C	\$10,994	\$2,250	100%	\$223,577	83	\$3,370	12	0%	\$0	0
D	\$8,984	\$1,503	100%	\$161,622	60	\$3,370	12	0%	\$0	0
E	\$4,197	\$890	57%	\$70,036	26	\$3,370	12	43%	\$8,986	32
F	\$2,364	\$765	54%	\$48,487	18	\$2,527	9	46%	\$8,424	30
G	\$1,951	\$660	41%	\$40,406	15	\$2,527	9	59%	\$7,301	26
H	\$1,300	\$517	36%	\$26,937	10	\$2,527	9	64%	\$6,739	24
I	\$946	\$430	16%	\$16,162	6	\$2,527	9	84%	\$5,897	21
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A1	\$599	\$284	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS		61%	\$4,493	16
1	\$346	\$254						61%	\$3,931	14
2	\$183	\$254						75%	\$3,650	13
3	\$63	\$210						82%	\$3,650	13

Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Active sentence cost represents the average monthly cost per offender, not the cost of adding one new offender to the prisoner population. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and for impaired driving.