



NORTH CAROLINA GENERAL ASSEMBLY

2025 Session

Legislative Incarceration Fiscal Note

Short Title: Burglary & B&E/Sentence Enhancement.
Bill Number: House Bill 42 (First Edition)
Sponsor(s): Rep. Balkcom, Rep. Carson Smith, Rep. Miller, and Rep. Pyrtle

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 adds a one class sentencing enhancement for burglary and breaking and entering offenses when the defendant possesses a deadly weapon while committing the existing offense. Because these are effectively 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											
	Prosecution and Defense			Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts*	Indigent Defense Services*		DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
▲ D to C	\$1,571	-7%	\$573	0%	\$16,237	22	\$0	0	0%	\$0	0
▲ G to F	\$324	-4%	\$143	12%	\$2,214	3	\$0	0	-12%	\$949	4
▲ H to G	\$509	0%	\$196	6%	\$2,952	4	\$0	0	-6%	\$237	1
Misdemeanor	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
▲ 1 to A1	\$245	-10%	\$44	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS.		0%	\$475	2
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.											



**Because this bill proposes sentencing enhancements rather than charge classification changes, the primary fiscal impact will be on DAC rather than the Court System.*

FISCAL IMPACT OF H.B.42, V.1					
	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>	<u>FY 2029-30</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 1 of the bill reorganizes the common law definition of G.S. 14-51 – *first- and second-degree burglary* – into subsections. Subsection (a) defines first-degree burglary as breaking and entering an **occupied** dwelling with the intent to commit any felony or larceny, while subsection (b) defines second-degree burglary as breaking and entering an **unoccupied** dwelling with the same intent.

Section 2 moves the punishments for first- and second-degree burglary in G.S. 14-52 into a subsection (a) and creates a new subsection (b) establishing a sentencing enhancement. The sentencing enhancement in subsection (b) would punish the offender, in addition to any other sentence enhancement required by law, **one felony class level higher** than the principal felony charge **when the person possesses a firearm or other deadly weapon** during the commission of first-degree or second-degree burglary under G.S. 14-51.

The essential elements of the base offenses remain unchanged, as do the underlying felony punishments. Currently, burglary in the first degree in G.S. 14-51(a) is a Class D felony, while burglary in the second degree is a Class G felony. Under the proposed legislation, if the sentencing enhancement is applied, burglary in the first degree would be sentenced as a Class C felony, and burglary in the second degree sentenced as a Class F felony. **The impact of the proposed sentence enhancement cannot be determined because it is not known how many offenders would qualify for the enhancement.**

Section 3 of the bill creates subsection (b) under G.S. 14-53 to establish a sentencing enhancement for *breaking out of dwelling house burglary* offenses. The enhancement would punish the person, in addition to any other sentence enhancement required by law, **one felony class level higher** than the principal felony for which they were convicted **when the person possessed a firearm or other deadly weapon** during the commission of breaking out of dwelling house burglary. This proposed legislation makes no change to the existing punishment



class for the underlying offense of breaking out of dwelling house burglary, which is currently a class D felony. If the sentencing enhancement is applied, this offense becomes a Class C felony. **The impact of the proposed sentence enhancement cannot be determined because it is not known how many offenders would qualify for the enhancement.**

Section 4 creates subsection (b1) under G.S. 14-54 to establish a sentencing enhancement for *breaking or entering buildings generally* offenses. G.S. 14-54 contains three existing offenses:

- Subsection (a) – When a person breaks into or enters any building with intent to commit any felony or larceny, it is a Class H felony.
- Subsection (a1) – When a person breaks into or enters any building with the intent to terrorize or injure an occupant of the building, it is a Class H felony.
- Subsection (b) – When a person wrongfully breaks into or enters any building, it is a Class 1 misdemeanor.

In the new subsection (b1), if a person commits any of these existing offenses **while possessing a firearm or other deadly weapon**, the person shall be sentenced **one felony class level higher** than the principal felony for which they were convicted during the commission of breaking or entering buildings generally. This proposed legislation makes no change to the existing punishment class for the underlying offenses in subsections (a), (a1), or (b). If the sentencing enhancement is applied, the offenses in these subsections become a Class G felony, a Class G felony, and a Class A1 misdemeanor respectively. **The impact of the proposed sentence enhancement cannot be determined because it is not known how many offenders would qualify for the enhancement.**

Because these are effectively new offenses, there is no historic data available for cost projections, and as such **Fiscal Research is unable to provide any cost projections for this bill.** Please refer to the table in the Fiscal Impact Summary for the costs specific to the new charges included in this proposal or see Appendix A for the average cost of each existing felony and misdemeanor class.

Capital Expenses

Capital costs emerge when prison bed demand exceeds capacity. Based on the most recent prison population and bed capacity projections from the Sentencing and Policy Advisory Commission (SPAC), the State will have sufficient prison beds available beyond the five-year fiscal note horizon. Therefore, Fiscal Research anticipates there will be **no additional prison capital requirements** as a result of this proposed legislation.

Operating Expenses

The table in the Fiscal Impact Summary lists the costs specific to the new charges included in this proposal. Note, however, that because the proposed legislation elevates offense classifications during sentencing rather than during trial, **the enhanced charges are expected to have no added fiscal impact on the judicial system but will likely increase the cost to the correction system.**

In addition, because Class D felonies carry a minimum mandatory active sentence of more than five years, any fiscal impact of the Class C enhanced sentence would not occur until a time outside of the 5-year window covered by this analysis.



TECHNICAL CONSIDERATIONS

- Due to delays in updated data availability, FRD must utilize 2023 data for Incarceration Notes for the beginning of the 2025 long session. Any changes are not expected to be significant, but FRD does plan to revisit Incarceration Notes prepared prior to the availability of updated data when and where appropriate later in the session.
- 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 section 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											
	Prosecution and Defense			Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services		DAC - Confinement			DAC - Post- Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$55,469	95%	\$11,967	100%	NA	Life	N/A	N/A	0%	N/A	0
B1	\$23,852	78%	\$4,187	100%	\$178,610	242	\$2,994	12	0%	N/A	0
B2	\$17,704	85%	\$4,187	100%	\$115,137	156	\$2,994	12	0%	N/A	0
C	\$8,598	82%	\$2,317	100%	\$63,473	86	\$2,994	12	0%	N/A	0
D	\$7,027	89%	\$1,744	100%	\$47,236	64	\$2,994	12	0%	N/A	0
E	\$3,281	79%	\$909	57%	\$19,928	27	\$2,994	12	43%	\$7,356	31
F	\$1,849	74%	\$849	51%	\$13,285	18	\$2,282	9	49%	\$7,119	30
G	\$1,525	78%	\$706	39%	\$11,071	15	\$2,282	9	61%	\$6,170	26
H	\$1,016	78%	\$510	33%	\$8,119	11	\$2,282	9	67%	\$5,933	25
I	\$740	68%	\$407	15%	\$4,428	6	\$2,282	9	85%	\$5,221	22
Misdemeanor	Cost	Rate	Cost	Rate	Cost	Length (Days)			Rate	Cost	Length (Mo.)
A1	\$580	52%	\$281	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS		64%	\$3,797	16
1	\$335	62%	\$237						64%	\$3,322	14
2	\$178	30%	\$237						78%	\$3,085	13
3	\$63	14%	\$202						84%	\$3,085	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. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and for impaired driving.