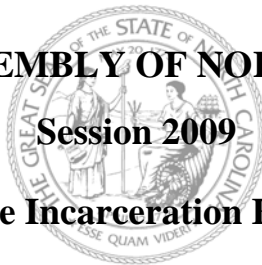


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 440 (Second Edition)
SHORT TITLE: The Nicolas Adkins School Bus Safety Act.
SPONSOR(S): Representatives Cole, Folwell, Love, and Mills

FISCAL IMPACT					
	Yes ()	No ()	No Estimate Available (X)		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES					
GENERAL FUND					
Correction		Indeterminate fiscal impact			
Probation		Indeterminate fiscal impact			
Judicial		Indeterminate fiscal impact			
ADDITIONAL PRISON BEDS:					
(cumulative)*		Indeterminate prison bed impact			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: December 1, 2009					
*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.					

BILL SUMMARY:

This bill amends G.S. 20-217, Motor vehicles to stop for properly marked and designated school buses in certain instances; evidence of identity of driver, to add to new subsection. Subsection (h) would authorize the use of automated cameras and video recording systems to detect and prosecute violations of this statute. The photographs and video recordings may result in additional convictions for the following offenses:

1. Failure to stop for stopped school bus. (G.S. 20-217(a))
2. Pass stopped school bus strike person. (G.S. 20-217(g))

ASSUMPTIONS AND METHODOLOGY:

General

The North Carolina 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.

Department of Correction – Division of Prisons

During FY 2007-08, there were three Class 1 misdemeanor convictions under G.S. 20-217(a) for failure to stop for stopped school bus. *It is not known how many additional convictions may result from the proposed subsection.* In FY 2007-08, 21% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 30 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, Class 1 misdemeanor convictions for this proposed offense *would not be expected to have a significant impact on the prison population.* The Department of Correction (DOC) reimburses county jails for misdemeanants, starting on the 31st day at a rate of \$18 per day. Because the average active sentences for Class 1 misdemeanors are less than 31 days, the State would incur no costs for convictions under the proposed bill. The impact on local jail populations is not known.

In FY 2007-08, there were no Class I felony convictions under G.S. 20-217(g) for Pass stopped school bus/Strike person. *It is not known how many additional convictions may result from the proposed subsection.* In FY 2007-08, 16% of Class I felony convictions resulted in active sentences, with an average estimated time served of seven months. If, for example, there were twelve additional Class I felony convictions per year as a result of the proposed subsection, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and four additional prison beds the second year.

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined.*

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.

In 2008, there were 1,114 defendants charged with the Class 1 misdemeanor offense of failure to stop for a stopped school bus, and three defendants charged with the Class I felony offense of passing a stopped school bus and striking a person. The photograph and video recordings permitted by this bill may result in an increase in charges for both offenses.

The number of new charges that may result from the passage of this bill cannot be projected. If, for example, there was a 5% increase in the number of defendants charged with passing a stopped school bus (56 new charges), the annual cost increase would be approximately \$6,200 for court and indigent defense resources. The number of new Class I felony charges would be fewer but would have significantly higher costs per case. In FY 2007-08, a typical felony case took approximately 220 days to dispose in Superior Court. A typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

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