

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 113 (First Edition)

SHORT TITLE: Motorcycle Safety Act.

SPONSOR(S): Representative Killian

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
GENERAL FUND					
Correction					
Probation					
Judicial					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch.					
EFFECTIVE DATE: This act becomes effective December 1, 2011, and applies to offenses committed on or after that date.					
<i>*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.</i>					

BILL SUMMARY:

The proposed legislation amends G.S. 20-154 to make it a Class 2 misdemeanor, requiring a fine of at least \$200, for a violation of subsection (a) of the statute (requiring a driver to make sure that a movement can be made safely before starting, stopping, or turning from a direct line and requiring a signal visible to the driver of the other vehicle alerting them to the intention of the movement whenever the operation of any other vehicle may be affected by such movement) when the violation causes a motorcycle operator to change lanes or leave a portion of any street or highway designated as travel lanes. The act provides that if the violation results in a crash that causes property damage or personal injury to a motorcycle operator or passenger, the violation is a Class 1 misdemeanor requiring payment of at least \$500. The proposed legislation is effective December 1, 2011, and applies to offenses committed on or after that date. Source: Bill Digest H.B. 113 (02/16/2011).

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.

Department of Correction – Division of Prisons

The proposed bill creates two new offenses. A new Class 2 misdemeanor and a new Class 1 misdemeanor are created by adding subsection (a1) to existing G.S. 20-154, Signals on starting, stopping or turning.

Since the proposed subsection (a1) creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this subsection on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed subsection. In FY 2009-10, 25% of Class 2 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 2 convictions was 10 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Further, subsection (a1) provides that a violation of existing subsection (a) shall be a Class 1 misdemeanor should such violation result in a crash causing property damage or personal injury to a motorcycle operator or passenger.

Since the proposed subsection creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this subsection on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed subsection. In FY 2009-10, 24% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 27 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

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.

AOC data reveal that in 2010, 5,332 defendants were charged with the infraction of improper turning, standing, stopping, or signal under G.S. 20-154. In that same year, 26,882 defendants were found responsible for the infraction under G.S. 20-154. Convictions/findings of responsibility are not a subset of charges, as they may reflect prior year charges and/or pleas to a lesser offense. However, the substantially greater number of findings of responsibility is an indication that defendants charged with another infraction or a traffic misdemeanor are pleading to a charge of improper turning, standing, stopping, or signal. Drivers charged with an improper turning, standing, stopping, or signal offense that caused a motorcycle operator to change or leave a lane would under this bill be charged with a Class 2 misdemeanor rather than an infraction. If their action resulted in a crash causing property damage or personal injury to a motorcycle operator or passenger, the driver could be charged with a Class 1 misdemeanor rather than an infraction.

The proposed bill has the potential to increase a subset of current infraction charges and current infraction findings of responsibility to misdemeanor charges and convictions. AOC anticipates that increasing this offense from an infraction to a misdemeanor, which can result in a criminal conviction, and therefore probation or incarceration, would lead to a more vigorous defense and increase the time required to dispose of each case. Increases in time to process these cases would impact district court judges, assistant district attorneys, and deputy clerks. In addition, the State could incur new costs for defense of indigent defendants. Indigent defendants charged with criminal offenses are eligible for appointed counsel; defendants charged only with infractions are not.

It appears from the available data that some offenders charged with other infractions or with traffic misdemeanors currently plead to the infraction of improper turning, standing, stopping, or signal under G.S. 20-154. Therefore, it is unclear how charge and plea behavior would change under the proposed legislation. However, 2010 data indicate that 5,332 defendants were charged with an infraction under G.S. 20-154. AOC cannot determine which defendants would instead be charged with a misdemeanor under this bill.

Offenders convicted of misdemeanors may be placed on probation or incarcerated. If an offender is placed on probation and violates the conditions of probation, the offender may be returned to court for a violation hearing, increasing court time and workload. Because the chief district court judges may not allow the new misdemeanor offenses to be waivable, there is also a potential for a reduction in offenses disposed by waiver, which is a less resource-intensive method of disposition.

The proposed bill could impact revenue generated by the fines imposed and the court costs associated with disposition of the charges. For example, local school revenues may increase from payment of the new minimum fine of \$200 or \$500 (currently, only \$25 paid by waiver, or as imposed by the judge). Alternatively, State General Fund revenues could decline if some offenders who would have paid court costs on an infraction are instead sentenced to a jail or prison term, in which case costs are generally not collected. (This would also impact local government and other revenue.) There could also be an increase in funds paid for the SBI DNA database. This \$2 fee is assessed only on criminal convictions, not on infractions.

In 2010, 26,882 defendants were found responsible for the infraction under G.S. 20-154. AOC cannot determine the subset who could have been convicted of the proposed misdemeanor offenses instead, or how plea behavior would change and impact the number of convictions for the offense.

In FY 2009-10, a typical felony case took approximately 216 days to dispose in Superior Court. A typical misdemeanor case took approximately 91 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: North Carolina Sentencing and Policy Advisory Commission; Judicial Branch

TECHNICAL CONSIDERATIONS: None

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