

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 16 (Third Edition)

SHORT TITLE: Obtain Blood Sample/Implied-Consent Laws.

SPONSOR(S): Senators East and D. Berger

	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>
EXPENDITURES:					
Correction			No significant fiscal impact anticipated		
Probation			*See Assumptions and Methodology*		
Judicial			*See Assumptions and Methodology*		
CCPS			No significant fiscal impact anticipated		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; and Department of Crime Control and Public Safety.					
EFFECTIVE DATE: The 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 requires a law enforcement official to request a blood sample when a driver is charged with a violation of specified statutes involving death or serious bodily injury, and to seek a warrant if the driver refuses to provide it. The act becomes effective December 1, 2011, and applies to offenses committed on or after that date.

Adopted from Committee Counsel's bill summary dated May 31, 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 legislation expands the scope of the definition of implied-consent offense found in G.S. 20-16.2, Implied consent to chemical analysis; mandatory revocation of license in event of refusal; right of driver to request analysis. Implied-consent offenses are those for which any person driving on a highway or public vehicular area of this State may be subject to a chemical analysis should a law enforcement officer have reasonable grounds to believe that the offender has committed such an offense.

Currently, G.S. 20-16.2(a1) provides that an implied-consent offense is an offense involving impaired driving or an alcohol-related offense made subject to the procedures of G.S. 20-16.2. The act expands the scope of subsection (a1) by adding that an implied-consent offense may also be one involving a violation of G.S. 20-141.4(a2), Misdemeanor death by vehicle, thereby potentially increasing the number of convictions for misdemeanor death by vehicle.

There were 73 convictions under G.S. 20-141.4(a2) for this offense during FY 2009-10. It is not known how many additional convictions may result from the proposed broadening of the definition of implied-consent offense. In FY 2009-10, 32 percent of Class A1 misdemeanor convictions resulted in active sentences. The average sentence imposed for Class A1 convictions was 69 days. Offenders who receive an active sentence 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.

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

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.

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.49 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 \$8.93 to \$14.96, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.96 for the initial six-month intensive duration, and \$2.49 for general supervision each day thereafter. Total costs to 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 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 calendar year 2010, there were 184 defendants charged with the Class A1 misdemeanor of Misdemeanor death by vehicle. AOC states there may be a marginal increase in Magistrate and Deputy Clerk workload to handle the change in filing, resulting from the proposed legislation. AOC is not able to estimate a monetary cost for this workload increase.

Overall, 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.

Department of Crime Control and Public Safety

The Department of Crime Control and Public Safety (CCPS) reported to the Fiscal Research Division that the proposed legislation would not have a significant fiscal impact on the Department.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Department of Crime Control and Public Safety.

TECHNICAL CONSIDERATIONS: None

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