

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 418 (First Edition)

SHORT TITLE: SOS/Save Our Street Signs.

SPONSOR(S): Representative Clampitt

FISCAL IMPACT

(\$ in millions)

Yes
 No
 No Estimate Available

	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
State Impact					
General Fund Revenues:					
General Fund Expenditures					
State Positions:					
NET STATE IMPACT	Likely budget cost. See Assumptions & Methodology section for additional details.				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

Administrative Office of the Courts; Indigent Defense Services; Department of Public Safety

EFFECTIVE DATE: December 1, 2017

TECHNICAL CONSIDERATIONS:

None

The proposed bill may have a fiscal impact because of the application of a more stringent penalty for each offense. However, since there is no historical data on this offense, or similar offenses to use as a proxy for predicting the total number of offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of this crime:

FISCAL IMPACT SUMMARY:

This bill will have a fiscal impact. The following costs are estimated:

- Administrative Office of the Courts: \$96 per charge
- Indigent Defense Services: No cost
- Department of Public Safety (DPS) - Prisons: No cost
- DPS - Community Corrections: \$148 per conviction resulting in probation

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

Subsection (b1) of G.S. 136-33, Damaging or removing signs; rewards, makes it a Class 2 misdemeanor for a person to willfully deface, damage, knock down or remove any sign posted as provided in the statute, or for a person to have in their possession any highway sign as provided in statute, without just cause or excuse. This bill increases the penalty from a Class 2 misdemeanor to a Class 1 misdemeanor.

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.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision. All active sentences for felony offenses now result in a minimum of twelve months of post-release supervision (PRS) for B1-E level offenses and a minimum of nine months of PRS for F-I level offenses.

JRA also created the Statewide Misdemeanant Confinement Program (SMCP) for housing misdemeanants with sentences between 90 and 180 days in county jails (misdemeanants with shorter sentences were already the responsibility of the counties). County participation in the program is voluntary. The SMCP pays participating counties for misdemeanants' housing, transportation, and medical costs. In 2014, the program was expanded to include all misdemeanants with sentences longer than 90 days. The Sentencing and Policy Advisory Commission does not track county jail capacity, so it is not possible to estimate the impact of new or increased misdemeanor penalties on county jails.

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.

The bill increases the penalty for violation of G.S. 136-33(b1) from a Class 2 misdemeanor to a Class 1 misdemeanor. AOC does not have an offense code for these violations. The lack of an offense code is typically an indication that the offense is infrequently charged. Because of the lack of charging data, AOC is unable to estimate how many charges will be increased from the current Class 2 misdemeanor to a Class 1 misdemeanor offense under this bill. AOC provides estimates of the average cost to the court for a charge by offense class. For every person who would have been charged with a Class 1 misdemeanor who is instead charged with a Class 2 misdemeanor, the average cost to the court will be \$96 (\$206 for a Class 1 misdemeanor minus \$110 for a Class 2 misdemeanor).

The difference in cost to Indigent Defense Services (IDS) between Class 1 and Class 2 misdemeanors is only \$1. Therefore the increased penalty included in this bill will not have an impact on IDS.

Department of Public Safety – Prisons

This bill increases the penalty for violation of G.S. 136-33(b1) from a Class 2 misdemeanor to a Class 1 misdemeanor. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the

prison population because all misdemeanor offenders who receive active sentences will serve them in the local jail.

Department of Public Safety – Community Corrections

All active sentences for felony offenses now result in a minimum of twelve months of post-release supervision (PRS) for B1-E level offenses and a minimum of nine months of PRS for F-I level offenses. Additionally, for felony offense classes E through I offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

All misdemeanor offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

JRA essentially eliminated the distinction between “community” and “intermediate” supervision. Under structured sentencing, the two types of supervision were each defined by a set of specific sanctions. Under JRA, both community and intermediate probation may now include electronic monitoring, short-term periods of confinement, substance abuse assessment, monitoring, and treatment, participation in educational programs or vocational skills development. Whether a probationer is subject to more stringent conditions is determined by the results of a risk-needs assessment administered by the Department of Public Safety.

All types of post-release supervision are supervised by the Community Corrections (CCS); CCS also oversees community service. Supervision by a probation officer costs \$148 per offender, per month; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to active sentences requiring post-release supervision and supervised probations. The table below shows the monthly cost for each year of the five year projection, adjusted for inflation.

Monthly Supervision Cost Adjusted for Inflation Five Year Projection						
	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Inflation Rate		2.76%	2.90%	2.98%	2.65%	1.89%
Monthly Cost	\$148	\$152	\$157	\$161	\$165	\$169
<i>Inflation Rates based on consumer price index projections provided by Moody's economy.com (January 2017)</i>						

In FY 2015-16, 31% of Class 1 misdemeanor offenders received active sentences; 69% received probation. The average length of probation imposed for this offense class was 15 months. For the same time period, 34% of Class 2 offenders received active sentences; 66% received probation. The average length of probation imposed for this offense class was 14 months. Therefore, at a minimum, one conviction sentenced to probation under this bill will require at least one additional month of probation. The cost of one additional month of probation is \$148 per offender.¹

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

TECHNICAL CONSIDERATIONS: None

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¹ Due to the effective date of December 1, 2016 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2016-17. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2017-18.