

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 492 (Fifth Edition)

SHORT TITLE: Increase Penalties for Certain Assaults.

SPONSOR(S): Representatives Clampitt, Saine, and Dollar

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

BILL SUMMARY:

Section 1 of the bill amends existing G.S. 14-16.6, Assault on executive, legislative or court officer, to increase the charge classification for three felony offenses one class higher than the current charges.

Section 2 amends existing G.S. 14-16.7, Threats against executive, legislative, or court officers, to increase the charge classification for two felony offenses one class higher than the current charge. It also adds “electronic communication” that contains a threat to the description of subsection (b) and provides a definition for the term.

Section 3 amends existing G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees..., to add firefighters to the list of protected victims.

Section 4 amends existing G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician..., to increase the charge classification for three felony offense one class higher than the current charge.

Section 5 creates new G.S. 14-34.11, Simple assault on a law enforcement officer, a firefighter, an emergency medical technician, or medical responder, in Article 8 of Chapter 14. Violations of this section are Class I felony offenses.

Section 6 amends existing G.S. 14-288.9, Assault on emergency personnel; punishments, to replace “firemen, ambulance attendants” with “firefighters, emergency medical responders.” It also increases the charge classification for two felony offenses one class higher than the current charge.

FISCAL IMPACT SUMMARY:

This bill will have a fiscal impact. The following chart summarizes the impact by section.

Fiscal Impact Summary by Section and Agency/Division					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
Section 1					
AOC	\$711	\$1,256	\$1,293	\$1,328	\$1,353
IDS	\$273	\$481	\$496	\$509	\$518
Prisons	No est. available; range of \$5,027 to \$12,339 per active felony conviction				
CCS	No est. available; range of minimum of \$1,332 to \$1,776 per active felony conviction				
Section 2					
AOC	\$1,388	\$2,449	\$2,522	\$2,589	\$2,638
IDS	\$573	\$1,010	\$1,040	\$1,068	\$1,088
Prisons	No est. available; minimum of \$5,027 per active felony conviction				
CCS	No est. available; minimum of \$1,332 per active felony conviction				
Section 3					
AOC	No est. available; minimum of \$1,137 per charge				
IDS	No est. available; minimum \$569 per indigent defendant				
Prisons	No est. available; minimum \$7,259 per active felony conviction				
CCS	No est. available; minimum of \$1,332 per active felony conviction				
Section 4					
AOC	\$11,013	\$19,425	\$20,004	\$20,535	\$20,923
IDS	\$4,903	\$8,647	\$8,904	\$9,140	\$9,313
Prisons	\$0	\$14,490	\$14,910	\$15,330	\$15,600
CCS	\$0	(\$2,808)	(\$1,449)	\$1,980	\$2,016
Section 5					
AOC	No est. available; minimum of \$455 per charge				
IDS	No est. available; minimum of \$333 per indigent defendant				
Prisons	No est. available; minimum \$3,199 per active felony conviction				
CCS	No est. available; minimum of \$1,332 per active felony conviction				
Section 6					
AOC	\$1,639	\$2,892	\$2,978	\$3,057	\$3,114
IDS	\$54	\$96	\$99	\$102	\$104
Prisons	No est. available; range of \$5,027 to \$12,339 per active felony conviction				
CCS	No est. available; range of minimum of \$1,332 to \$1,776 per active felony conviction				

For additional information, please see the Assumptions and Methodologies Section.

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.

SECTION 1

Section 1 of the bill amends existing G.S. 14-16.6, Assault on executive, legislative or court officer, to increase the charge classification for three felony offenses one class higher than the current charges.

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.

Section 1 of the bill increases the penalty for violation of G.S. 14-16.6(a) from a Class I felony to a Class H felony. If a deadly weapon is used (G.S. 14-16.6(b)), or serious bodily injury occurs (G.S. 14-16.6(c)), the offense goes from a Class F felony to a Class E felony. AOC provides estimates of the average cost to the court for a charge by offense class. The following chart shows the difference in cost and the number of defendants charged in FY 2015-16 for each of the affected offenses.

Comparison of AOC Cost by Charge Class for Increases to G.S. 14-16.6						
Statute	Current Offense Class	AOC Cost	New Offense Class	AOC Cost	Difference	Defendants FY 2015-16
G.S. 14-16.6(a)	Class I	\$455	Class H	\$625	\$170	2
G.S. 14-16.6(b)	Class F	\$1,137	Class E	\$2,017	\$880	0
G.S. 14-16.6(c)	Class F	\$1,137	Class E	\$2,017	\$880	1

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date.

AOC Cost for Increased Penalties in G.S. 14-16.6						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-16.6(a)	2	\$198	\$350	\$360	\$370	\$377
G.S. 14-16.6(b)	0	\$0	\$0	\$0	\$0	\$0
G.S. 14-16.6(c)	1	\$513	\$906	\$933	\$958	\$976
Total AOC Cost		\$711	\$1,256	\$1,293	\$1,328	\$1,353
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (March 2016)</i>						

The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. Fiscal Research used this data to calculate a weighted average of IDS costs.

Comparison of IDS Cost by Charge Class for Increases to G.S. 14-16.6							
Statute	Offense Class	IDS Usage Rate	IDS Cost	Offense Class	IDS Usage Rate	IDS Cost	Defendants FY 2015-16
G.S. 14-16.6(a)	Class I	68%	\$333	Class H	78%	\$392	2
G.S. 14-16.6(b)	Class F	74%	\$569	Class E	79%	\$586	0
G.S. 14-16.6(c)	Class F	74%	\$569	Class E	79%	\$586	1

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

IDS Cost for Increased Penalties in G.S. 14-16.6						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-16.6(a)	2	\$263	\$464	\$478	\$491	\$500
G.S. 14-16.6(b)	0	\$0	\$0	\$0	\$0	\$0
G.S. 14-16.6(c)	1	\$10	\$17	\$18	\$18	\$18
Total IDS Cost		\$273	\$481	\$496	\$509	\$518
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (Jan. 2017)</i>						

Department of Public Safety – Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2016.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required

¹ **Expanded Operating Capacity (EOC)** is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of Standard Operating Capacity) and 50 (SOC) square feet per inmate.

unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three).

Population Projections and Bed Capacity Five Year Impact					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	June 30 2022
1. Inmates ²	36,906	37,116	36,814	36,821	37,010
2. Prison Beds (Expanded Capacity)	37,617	37,617	37,617	37,617	37,617
3. Beds Over/(Under) Inmate Population	711	501	803	796	607
4. Additional Inmates Due to this Bill³					
5. Additional Beds Required					

There were no convictions under G.S. 14-16.6(a) in FY 2015-16. Since there were no prior convictions for this offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that result in the need for one prison bed in the first year.

Impact on the prison population will occur if Class I convictions become Class H convictions under the proposed bill because of the higher rate of active sentences (15% for Class I compared to 35% for Class H) and longer average estimated time served (7 months for Class I compared to 11 months for Class H). The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class I to Class H. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class I felony to Class H Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
9 (Threshold)	2	3	3	3	3
20	7	10	10	10	10

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 35% of Class H felony offenders received active sentences averaging 11 months. For every one Class H felony offender

² The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in February 2017.

³ Criminal penalty bills effective December 1, 2017 should not affect prison population and bed needs until FY 2018-19 due to the lag time between offense charge and sentencing - six months on average. No delayed effect is presumed for the Court System.

receiving an active sentence, the cost to the prison section will be \$5,027 (\$457 monthly cost times 11 months).

There were no convictions under G.S. 14-16.6(b) or (c) in FY 2015-16. Impact on the prison population will occur if Class F convictions become Class E convictions under the proposed bill because of the higher rate of active sentences (50% for Class F compared to 63% for Class E) and longer average estimated time served (17 months for Class F compared to 27 months for Class E). The following table shows the estimated annual impact if, for example, there were 2 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class F to Class E. In addition, there will be some impact on post-release supervision caseloads since Class E requires an additional three months of supervision.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class F Felony to Class E Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
2 (Threshold)	0	1	1	1	1
20	13	28	34	34	35

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 63% of Class E felony offenders received active sentences averaging 79 months. For every one Class E felony offender receiving an active sentence, the cost to the prison section will be \$12,339 (\$457 monthly cost times 27 months).

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.

In FY 2015-16, 35% of Class H felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 27 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$3,996 (\$148 per month times 27 months).

In FY 2015-16, 63% of Class E felony offenders received active sentences. All active sentences for Class E felonies result in 12 months of post-release supervision (PRS). The average length of probation imposed for this offense class was 33 months. Therefore, at a minimum, one conviction resulting from this bill will require at least 12 months of supervision. The cost of 12 months of supervision is \$1,776 per offender (\$148 per month times 12 months).⁴ For every offender sentenced to probation, the average cost would be \$4,884 (\$148 per month times 33 months).

SECTION 2

Section 2 of the bill amends existing G.S. 14-16.7, Threats against executive, legislative or court officers, to increase the charge classification for two felony offenses one class higher than the current charge.

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.

Section 2 of the bill increases the penalty for violation of G.S. 14-16.7(a) from a Class I felony to a Class H felony. If the threat is mailed or sent via electronic communication (G.S. 14-16.6(b)) the offense also goes from a Class I felony to a Class H felony. AOC provides estimates of the average cost to the court for a charge by offense class. The following chart shows the difference in cost and the number of defendants charged in FY 2015-16 for each of the affected offenses.

Comparison of AOC Cost by Charge Class for Increases to G.S. 14-16.6						
Statute	Current Offense Class	AOC Cost	New Offense Class	AOC Cost	Difference	Defendants FY 2015-16
G.S. 14-16.7(a)	Class I	\$455	Class H	\$625	\$170	14
G.S. 14-16.7(b)	Class I	\$455	Class H	\$625	\$170	0

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date.

⁴ Due to the effective date of December 1, 2017 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2017-18. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2018-19.

AOC Cost for Increased Penalties in G.S. 14-16.7						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-16.7(a)	14	\$1,388	\$2,449	\$2,522	\$2,589	\$2,638
G.S. 14-16.6(b)	0	\$0	\$0	\$0	\$0	\$0
Total AOC Cost		\$1,388	\$2,449	\$2,522	\$2,589	\$2,638
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (March 2016)</i>						

The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. Fiscal Research used this data to calculate a weighted average of IDS costs.

Comparison of IDS Cost by Charge Class for Increases to G.S. 14-16.7							
Statute	Offense Class	IDS Usage Rate	IDS Cost	Offense Class	IDS Usage Rate	IDS Cost	Defendants FY 2015-16
G.S. 14-16.7(a)	Class I	68%	\$333	Class H	78%	\$392	14
G.S. 14-16.7(b)	Class I	68%	\$333	Class H	78%	\$392	0

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

IDS Cost for Increased Penalties in G.S. 14-16.7						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-16.7(a)	14	\$573	\$1,010	\$1,040	\$1,068	\$1,088
G.S. 14-16.7(b)	0	\$0	\$0	\$0	\$0	\$0
Total IDS Cost		\$573	\$1,010	\$1,040	\$1,068	\$1,088
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (Jan. 2017)</i>						

Department of Public Safety – Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2016.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three).

Population Projections and Bed Capacity Five Year Impact					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	June 30 2022
1. Inmates ²	36,906	37,116	36,814	36,821	37,010
2. Prison Beds (Expanded Capacity)	37,617	37,617	37,617	37,617	37,617
3. Beds Over/(Under) Inmate Population	711	501	803	796	607
4. Additional Inmates Due to this Bill³					
5. Additional Beds Required					

Since there were no prior convictions for this offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that result in the need for one prison bed in the first year.

Impact on the prison population will occur if Class I convictions become Class H convictions under the proposed bill because of the higher rate of active sentences (15% for Class I compared to 35% for Class H) and longer average estimated time served (7 months for Class I compared to 11 months for Class H). The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class I to Class H. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class I felony to Class H Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
9 (Threshold)	2	3	3	3	3
20	7	10	10	10	10

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 35% of Class H felony offenders received active sentences averaging 11 months. For every one Class H felony offender receiving an active sentence, the cost to the prison section will be \$5,027 (\$457 monthly cost times 11 months).

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.

In FY 2015-16, 35% of Class H felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 27 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$3,996 (\$148 per month times 27 months).

SECTION 3

Section 3 amends existing G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees..., to add firefighters to the list of protected victims. This expands the scope of an existing Class F felony.

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.

Section 3 of the bill expands the scope of an existing Class F felony offense. AOC does not have historical data upon which to estimate the number of charges that might occur. AOC provides estimates of the average cost to the court for a charge by offense class. For every additional person charged with a Class F felony, the average cost to the court would be \$1,137.

The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. Fiscal Research used this data to calculate a weighted average of IDS costs. In FY 2011-12, the most recent year data is available, 74% of Class F felony cases were handled through IDS. The weighted average cost of a new Class F felony is \$569 per case for a private appointed counsel (PAC) attorney. This estimate assumes the appointment of

a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, this cost may not be incurred.

Department of Public Safety – Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2015.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three).

Population Projections and Bed Capacity					
Five Year Impact					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	June 30 2022
1. Inmates ²	37,304	37,601	37,367	37,385	37,642
2. Prison Beds (Expanded Capacity)	38,373	38,373	38,373	38,373	38,373
3. Beds Over/(Under) Inmate Population	1,069	772	1,006	988	731
4. Additional Inmates Due to this Bill³	No estimate available				
5. Additional Beds Required					

Since this section is expanding the scope of an existing offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that result in the need for one prison bed in the first year.

In FY 2015-16, 50% of Class F felony convictions resulted in active sentences, with an average estimated time served of 17 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if there were two convictions (the threshold) or 20 convictions for this proposed offense per year. The five year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as growth rates adopted by the Sentencing Commission’s Forecasting Technical Advisory Group.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions					
Class F Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
2 (Threshold)	1	2	2	2	2
20	10	18	19	19	19

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 50% of Class F

felony offenders received active sentences averaging 17 months. For every one Class F felony offender receiving an active sentence, the cost to the prison section will be \$7,259 (\$457 monthly cost times 17 months).

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 F 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.

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 Section (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.

In FY 2015-16, 50% of Class F felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 32 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$4,736 (\$148 per month times 32 months).

SECTION 4

Section 4 amends existing G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician..., to increase the charge classification for three felony offenses one class higher than the current charges.

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.

Section 4 of the bill increases the penalty for violation of G.S. 14-34.6(a) from a Class I felony to a Class H felony. If a deadly weapon other than a firearm is used or serious bodily injury is inflicted (G.S. 14-34.6(b)), the offense goes from a Class H felony to a Class F felony. If a firearm is used (G.S. 14-34.6(c)), the offense goes from a Class F felony to a Class E felony. AOC provides estimates of the average cost to

the court for a charge by offense class. The following chart shows the difference in cost and the number of defendants charged in FY 2015-16 for each of the affected offenses.

Comparison of AOC Cost by Charge Class for Increases to G.S. 14-34.6						
Statute	Current Offense Class	AOC Cost	New Offense Class	AOC Cost	Difference	Defendants FY 2015-16
G.S. 14-34.6(a)	Class I	\$455	Class H	\$625	\$170	99
G.S. 14-34.6(b)	Class H	\$625	Class F	\$1,137	\$512	4
G.S. 14-34.6(c)	Class F	\$1,137	Class E	\$2,017	\$880	0

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date.

AOC Cost for Increased Penalties in G.S. 14-34.6						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-34.6(a)	99	\$9,818	\$17,318	\$17,834	\$18,307	\$18,653
G.S. 14-34.6(b)	4	\$1,195	\$2,107	\$2,170	\$2,228	\$2,270
G.S. 14-34.6(c)	0	\$0	\$0	\$0	\$0	\$0
Total AOC Cost		\$11,013	\$19,425	\$20,004	\$20,535	\$20,923
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (Jan. 2017)</i>						

The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. Fiscal Research used this data to calculate a weighted average of IDS costs.

Comparison of IDS Cost by Charge Class for Increases to G.S. 14-34.6							
Statute	Offense Class	IDS Usage Rate	IDS Cost	Offense Class	IDS Usage Rate	IDS Cost	Defendants FY 2015-16
G.S. 14-34.6(a)	Class I	68%	\$333	Class H	78%	\$392	99
G.S. 14-34.6(b)	Class H	78%	\$392	Class F	74%	\$569	4
G.S. 14-34.6(c)	Class F	74%	\$569	Class E	79%	\$586	0

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

IDS Cost for Increased Penalties in G.S. 14-34.6						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-34.6(a)	99	\$4,593	\$8,101	\$8,342	\$8,563	\$8,725
G.S. 14-34.6(b)	4	\$310	\$546	\$562	\$577	\$588
G.S. 14-34.6(c)	0	\$0	\$0	\$0	\$0	\$0
Total IDS Cost		\$4,903	\$8,647	\$8,904	\$9,140	\$9,313
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (Jan. 2017)</i>						

Department of Public Safety – Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2016.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three).

Population Projections and Bed Capacity Five Year Impact					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	June 30 2022
1. Inmates ²	36,906	37,116	36,814	36,821	37,010
2. Prison Beds (Expanded Capacity)	37,617	37,617	37,617	37,617	37,617
3. Beds Over/(Under) Inmate Population	711	501	803	796	607
4. Additional Inmates Due to this Bill³					
5. Additional Beds Required					

There were 11 convictions under G.S. 14-34.6(a) in FY 2015-16. According to the Sentencing Commission, due to the small number of convictions, a more detailed impact projection using the prison projection model would not be reliable. Impact on the prison population will occur if Class I convictions become Class H convictions under the proposed bill because of the higher rate of active sentences (15% for Class I compared to 35% for Class H) and longer average estimated time served (7 months for Class I compared to 11 months for Class H). The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold), 20 convictions (example), or 11 convictions per year that would be reclassified from Class I to Class H. These five-year estimates take into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

Estimated Prison Bed Impact Reclassification of Class I felony to Class H Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
9 (Threshold)	2	3	3	3	3
20	7	10	10	10	10
11	2	3	3	3	3

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 35% of Class H felony offenders received active sentences averaging 11 months. For every one Class H felony offender receiving an active sentence, the cost to the prison section will be \$5,027 (\$457 monthly cost times 11 months). The table below shows the cost, adjusted for inflation, to Prisons if 11 convictions were increased from a Class H felony to a Class I felony. The first year has been adjusted to reflect the December 1, 2017 effective date.

Cost to Prisons of Increasing Penalty from Class H to Class I Felony					
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate		2.90%	2.98%	2.65%	1.89%
Cost of Current Offense	\$0	\$6,762	\$6,958	\$7,154	\$7,280
Cost of Proposed Offense	\$0	\$21,252	\$21,868	\$22,484	\$22,880
Cost Differential	\$0	\$14,490	\$14,910	\$15,330	\$15,600
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (January 2017)</i>					

There were no convictions under G.S. 14-34.6(b) in FY 2015-16. Impact on the prison population will occur if Class H convictions become Class F convictions under the proposed bill because of the higher rate of active sentences (35% for Class H compared to 50% for Class F) and longer average estimated time served (11 months for Class H compared to 17 months for Class F). The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class H to Class F.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class H Felony to Class F Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
4 (Threshold)	1	2	2	2	2
20	3	8	9	9	9

In FY 2015-16, 50% of Class F felony offenders received active sentences averaging 17 months. For every one Class F felony offender receiving an active sentence, the cost to the prison section will be \$7,259 (\$457 monthly cost times 17 months).

There were no convictions under G.S. 14-34.6(c) in FY 2015-16. Impact on the prison population will occur if Class F convictions become Class E convictions under the proposed bill because of the higher rate of active sentences (50% for Class F compared to 63% for Class E) and longer average estimated time served (17 months for Class F compared to 27 months for Class E). The following table shows the estimated annual impact if, for example, there were 2 convictions (threshold) or 20 convictions (example) per year

that would be reclassified from Class F to Class E. In addition, there will be some impact on post-release supervision caseloads since Class E requires an additional three months of supervision.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class F Felony to Class E Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
2 (Threshold)	0	1	1	1	1
20	3	10	15	15	16

In FY 2015-16, 63% of Class E felony offenders received active sentences averaging 79 months. For every one Class E felony offender receiving an active sentence, the cost to the prison section will be \$12,339 (\$457 monthly cost times 27 months).

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.

In FY 2015-16, 35% of Class H felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 27 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$3,996 (\$148 per month times 27 months). The table below shows the cost, adjusted for inflation, to CCS if 11 convictions were increased from a Class H felony to a Class I felony. The first year has been adjusted to reflect the December 1, 2017 effective date.

Cost to CCS of Increasing Penalty from Class H to Class I Felony					
	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate		2.90%	2.98%	2.65%	1.89%
Cost of Current Offense	\$0	\$17,784	\$35,581	\$36,465	\$37,128
Cost of Proposed Offense	\$0	\$14,976	\$34,132	\$38,445	\$39,144
Cost Differential	\$0	(\$2,808)	(\$1,449)	\$1,980	\$2,016
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (January 2017)</i>					

In FY 2015-16, 50% of Class F felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 32 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$4,736 (\$148 per month times 32 months).

In FY 2015-16, 63% of Class E felony offenders received active sentences. All active sentences for Class E felonies result in 12 months of post-release supervision (PRS). The average length of probation imposed for this offense class was 33 months. Therefore, at a minimum, one conviction resulting from this bill will require at least 12 months of supervision. The cost of 12 months of supervision is \$1,776 per offender (\$148 per month times 12 months).⁴ For every offender sentenced to probation, the average cost would be \$4,884 (\$148 per month times 33 months).

SECTION 5

Section 5 creates new G.S. 14-34.11, Simple assault on a law enforcement officer, a firefighter, an emergency medical technician, or medical responder, in Article 8 of Chapter 14. Violations of this section are Class I felony offenses.

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.

Section 5 of the bill creates a new Class I felony offense. Because this is a new offense, AOC does not have historical data upon which to estimate the number of charges that might occur. AOC provides estimates of the average cost to the court for a charge by offense class. For every additional person charged with a Class I felony, the average cost to the court would be \$455.

The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. Fiscal Research used this data to calculate a weighted average of IDS costs. In FY 2011-12, the most recent year data is available, 68% of Class I felony cases were handled through IDS. The weighted average cost of a new Class I felony is \$333 per case for a private appointed counsel (PAC) attorney. This estimate assumes the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, this cost may not be incurred.

Department of Public Safety – Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2016.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three).

Population Projections and Bed Capacity Five Year Impact					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	June 30 2022
1. Inmates ²	37,304	37,601	37,367	37,385	37,642
2. Prison Beds (Expanded Capacity)	38,373	38,373	38,373	38,373	38,373
3. Beds Over/(Under) Inmate Population	1,069	772	1,006	988	731
4. Additional Inmates Due to this Bill³	No estimate available				
5. Additional Beds Required					

Since Section 5 of the bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that result in the need for one prison bed in the first year.

In FY 2015-16, 15% of Class I felony convictions resulted in active sentences, with an average estimated time served of seven months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual bed impact if there were nine convictions (the threshold) or 20 convictions for this proposed offense per year. The five year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as growth rates adopted by the Sentencing Commission’s Forecasting Technical Advisory Group.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Class I Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
9 (Threshold)	1	2	2	2	2
20	2	4	4	4	4

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 15% of Class I felony offenders received active sentences averaging seven months. For every one Class I felony offender receiving an active sentence, the cost to the prison section will be \$3,199 (\$457 monthly cost times seven months).

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 F 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.

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 Section (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.

In FY 2015-16, 15% of Class I felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 23 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$3,404 (\$148 per month times 23 months).

SECTION 6

Section 6 amends existing G.S. 14-288.9, Assault on emergency personnel; punishments, to replace “firemen, ambulance attendants” with “firefighters, emergency medical responders.” It also increases the charge classification for two felony offenses one class higher than the current charge.

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.

Section 6 of the bill increases the penalty for violation of G.S. 14-288.9(c) from a Class I felony to a Class H felony. If a dangerous weapon or substance is used, the penalty increases from a Class F felony to a Class E felony. AOC provides estimates of the average cost to the court for a charge by offense class. The following chart shows the difference in cost and the number of defendants charged in FY 2015-16 for each of the affected offenses.

Comparison of AOC Cost by Charge Class for Increases to G.S. 14-288.9(c)						
Statute	Current Offense Class	AOC Cost	New Offense Class	AOC Cost	Difference	Defendants FY 2015-16
G.S. 14-288.9(c)	Class I	\$455	Class H	\$625	\$170	1
G.S. 14-288.9(c) DW	Class F	\$1,137	Class E	\$2,017	\$880	3

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date.

AOC Cost for Increased Penalties in G.S. 14-288.9(c)						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-288.9(c)	1	\$99	\$175	\$180	\$185	\$188
G.S. 14-288.9(c) DW	3	\$1,540	\$2,717	\$2,798	\$2,872	\$2,926
Total AOC Cost		\$1,639	\$2,892	\$2,978	\$3,057	\$3,114
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (Jan. 2017)</i>						

The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. Fiscal Research used this data to calculate a weighted average of IDS costs.

Comparison of IDS Cost by Charge Class for Increases to G.S. 14-288.9(c)							
Statute	Offense Class	IDS Usage Rate	IDS Cost	Offense Class	IDS Usage Rate	IDS Cost	Defendants FY 2015-16
G.S. 14-288.9(c)	Class I	68%	\$333	Class H	78%	\$392	1
G.S. 14-288.9(c) DW	Class F	74%	\$569	Class E	79%	\$586	3

The following table shows the difference adjusted for inflation for each year of the five-year fiscal note period. The first year has been adjusted to reflect the December 1, 2017 effective date. These estimates assume the appointment of a PAC attorney. In districts that have Public Defender offices, cases may be handled by those offices. In those instances, these costs may not be incurred.

IDS Cost for Increased Penalties in G.S. 14-288.9(c)						
	Defendants	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Inflation Rate			2.90%	2.98%	2.65%	1.89%
G.S. 14-288.9(c)	1	\$34	\$61	\$63	\$65	\$66
G.S. 14-288.9(c) DW	3	\$20	\$35	\$36	\$37	\$38
Total IDS Cost		\$54	\$96	\$99	\$102	\$104
<i>Inflation rates based on consumer price index projections provided by Moody's economy.com (Jan. 2017)</i>						

Department of Public Safety – Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 2016.

Based on the most recent population projections and estimated bed capacity, there are surplus prison beds available for the five-year fiscal note horizon and beyond. Therefore, no additional beds will be required unless the projected number of additional inmates resulting from a bill (row four) exceeds the projected number of beds under the inmate population (row three).

Population Projections and Bed Capacity Five Year Impact					
	June 30 2018	June 30 2019	June 30 2020	June 30 2021	June 30 2022
1. Inmates ²	36,906	37,116	36,814	36,821	37,010
2. Prison Beds (Expanded Capacity)	37,617	37,617	37,617	37,617	37,617
3. Beds Over/(Under) Inmate Population	711	501	803	796	607
4. Additional Inmates Due to this Bill³					
5. Additional Beds Required					

Since there were no prior convictions for this offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that result in the need for one prison bed in the first year.

There were no convictions for assaults causing physical injury upon emergency personnel under G.S. 14-288.9 in FY 2015-16. Impact on the prison population will occur if Class I convictions become Class H convictions under the proposed bill because of the higher rate of active sentences (15% for Class I compared to 35% for Class H) and longer average estimated time served (7 months for Class I compared 6 to 11 months for Class H). The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class I to Class H. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class I felony to Class H Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
9 (Threshold)	2	3	3	3	3
20	7	10	10	10	10

In addition to the capital costs that may be associated with additional bed needs, there are also per diem costs for housing inmates. The cost to add one additional inmate to the prison system is \$15.02 per day, or \$457 per month, which includes the cost of food, clothing, and health care. In FY 2015-16, 35% of Class H felony offenders received active sentences averaging 11 months. For every one Class H felony offender

receiving an active sentence, the cost to the prison section will be \$5,027 (\$457 monthly cost times 11 months).

There were no convictions for assaults upon emergency personnel with or through the use of any dangerous weapon or substance under G.S. 14-288.9 in FY 2015-16. Impact on the prison population will occur if Class F convictions become Class E convictions under the proposed bill because of the higher rate of active sentences (50% for Class F compared to 63% for Class E) and longer average estimated time served (17 months for Class F compared to 27 months for Class E). The following table shows the estimated annual impact if, for example, there were 2 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class F to Class E. In addition, there will be some impact on post-release supervision caseloads since Class E requires an additional three months of supervision.

Estimated Prison Bed Impact Using Threshold Convictions and 20 Convictions Reclassification of Class F Felony to Class E Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
2 (Threshold)	0	1	1	1	1
20	13	28	34	34	35

In FY 2015-16, 63% of Class E felony offenders received active sentences averaging 79 months. For every one Class E felony offender receiving an active sentence, the cost to the prison section will be \$12,339 (\$457 monthly cost times 27 months).

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.

In FY 2015-16, 35% of Class H felony offenders received active sentences. All active sentences for Class F through I felonies result in nine months of post-release supervision (PRS). The average length of probation imposed for this offense class was 27 months. Therefore, at a minimum, one conviction resulting from this bill will require at least nine months of supervision. The cost of nine months of supervision is \$1,332 per offender (\$148 per month times nine months).⁴ For every offender sentenced to probation, the average cost would be \$3,996 (\$148 per month times 27 months).

In FY 2015-16, 63% of Class E felony offenders received active sentences. All active sentences for Class E felonies result in 12 months of post-release supervision (PRS). The average length of probation imposed for this offense class was 33 months. Therefore, at a minimum, one conviction resulting from this bill will require at least 12 months of supervision. The cost of 12 months of supervision is \$1,776 per offender (\$148 per month times 12 months).⁴ For every offender sentenced to probation, the average cost would be \$4,884 (\$148 per month times 33 months).

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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