



NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

Legislative Incarceration Fiscal Note

Short Title: Property Rights and Protections.
Bill Number: House Bill 1070 (First Edition)
Sponsor(s): Rep. Bradford, Rep. K. Hall, Rep. Biggs, and Rep. Cunningham

FISCAL IMPACT SUMMARY

Criminal offenses are classified as misdemeanors (Class 3 as the lowest and Class A1 as the highest) and felonies (Class I to Class A). There are three types of legislative changes to offenses that may result in a fiscal impact to the State’s criminal justice system: creating a new offense, changing the class of an existing offense, or changing the scope of an existing offense.

This proposed legislation would increase the penalty for willful and wanton injury to real property from a **Class 1 misdemeanor to a Class I felony** if the damage is valued at \$500 or more. Using recent charge and conviction data, if all defendants were to meet this threshold, **Fiscal Research finds that this increase could have a fiscal impact of up to \$3,050,950 annually for the judicial system and up to \$1,398,974 annually for the correction system.** Additionally, the legislation would create **new Class H and I felonies** related to fraudulently advertising or renting residential property. Because these are new charges, there is no data to predict how many individuals may be charged or convicted. **Therefore, Fiscal Research is unable to project the fiscal impact** of these changes on the criminal justice system.

Each additional person charged under the proposed offenses will have a cost to the judicial system and each additional person convicted will have a cost to the correction system. The **cost of one charge and conviction** is listed in the table below, along with the percent of cases that incur those costs at that offense level.

Cost of One Charge and Conviction in H.B. 1070, v.1											
Offense Class	Prosecution and Defense			Active Sentence					Suspended Sentence		
	Admin. Office of the Courts	Indigent Defense Services		DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
		Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost
H	\$1,016	78%	\$510	33%	\$8,119	11	\$2,282	9	67%	\$5,933	25
I	\$740	68%	\$407	15%	\$4,428	6	\$2,282	9	85%	\$5,221	22
▲ 1 to I	405	6%	\$170	15%	\$4,428	6	\$2,282	9	21%	\$1,898	8

The triangle symbols (▲) represent the change in cost or time from the current to proposed changes in offense levels.

FISCAL IMPACT OF H.B.1070, V.1

	<u>FY 2024-25</u>	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				

NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section				
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TECHNICAL CONSIDERATIONS: See Technical Considerations Section

FISCAL ANALYSIS

Bill Summary:

Section (3) amends G.S. 14-127 (Willful and wanton injury to real property) by increasing the penalty from a **Class 1 misdemeanor** to a **Class I felony** if the damage that resulted from the injury is valued at \$500 or more.

- In CY 2023, there were 5,306 defendants charged with violating G.S. 14-127. Court data does not specify the dollar value of damage. However, **if all the defendants met the \$500 threshold, the annual additional cost to AOC would be \$2,148,930 and the annual additional costs to IDS would be \$902,020.**
- In FY 2021-22, there were 534 convictions for G.S. 14-127. Court data does not specify the dollar value of damage. However, **if all the FY 2021-22 defendants met the \$500 threshold, the annual additional cost to the correction system would be \$1,398,974.**

Section (4) amends Article 20 of Chapter 14 by adding a new section to G.S. 14-117.8 (Fraudulent renting, leasing, or advertising for sale of residential real property). Proposed G.S. 14-117.8(c)(1) creates a new **Class H felony** for unlawfully renting or leasing a residential real property to another knowing that the rentor or lessor has no lawful ownership or leasehold interest in the property. Proposed G.S. 14-117.8(c)(2) creates a **new Class I felony** for unlawfully listing or advertising a residential real property for sale knowing the purported seller has no legal title or authority to sell the property.

- Because these are new offenses, there is no historic data available for cost projections. Thus, **Fiscal Research is unable to provide any cost projections for this section of the bill.** Please refer to the Operating Expenses section below for the average costs of Class H and Class I felonies.

Capital Expenses

Capital costs emerge when prison bed demand exceeds capacity. Based on the most recent prison population and bed capacity projections from the Sentencing and Policy Advisory Commission (SPAC), the State will have sufficient prison beds available beyond the five-year fiscal note horizon. Therefore, Fiscal Research anticipates there will be **no additional prison capital requirements** as a result of this proposed legislation.

Operating Expenses

The following section explains the source of potential costs for State agencies because of this proposed legislation. The table in the Fiscal Impact Summary lists the costs specific to the charge or charges included in this proposal.

Charge: Prosecution and Defense

- Administrative Office of the Courts (AOC): Adding new offenses to the criminal code may increase charges, resulting in corresponding increases in court time and workload for judges, clerks, and prosecutors. AOC provides FRD with an average cost based on offense level. Any new charges brought because of this proposed legislation are assumed to carry the following additional average cost to the court system.
 - **Class H felonies** carry an average cost of \$1,016 per charge to the judicial system.
 - **Class I felonies** carry an average cost of \$740 per charge to the judicial system.
 - An increase from a **Class 1 misdemeanor** to a **Class I felony** carries an average increased cost of \$405 per charge to the judicial system.
- Indigent Defense Services (IDS): Persons who cannot afford to hire legal counsel will be provided a public defender (PD), if available, or a private assigned counsel (PAC) attorney paid by IDS. The cost provided is the actual average cost for a PAC attorney and serves as a proxy for the additional workload cost to PD offices.
 - **Class H charges** utilize IDS in 78% of cases at a cost of \$510 per charge.
 - **Class I charges** utilize IDS in 68% of cases at a cost of \$407 per charge.
 - An increase from a **Class 1 misdemeanor** to a **Class I felony** would utilize IDS 6% more often on average at an increase of \$170 more per charge.

Conviction: Active Sentence

- Department of Adult Correction – Confinement: Felony convictions that result in an active sentence are served in a State prison. The cost to add one offender to the prison system is \$24.26 per day or \$727.80 per month.
 - **33% of Class H felonies** serve an average active sentence of 11 months at a cost of \$8,119 per conviction.
 - **15% of Class I felonies** serve an average active sentence of 6 months at a cost of \$4,428 per conviction.
 - **Active sentences for misdemeanor convictions** are served in local jails and only incur costs to the Statewide Misdemeanant Confinement Program (SMCP) when the sentence exceeds 90 days, or the conviction is for impaired driving. The increase from a Class 1 misdemeanor to a Class I felony will result in active sentences served in prison instead of jail at a fiscal impact to the State.
- Department of Adult Correction – Community Corrections: All active sentences from Class B1- I felony convictions result in a period of post-release supervision (PRS) between 12 and 9 months, depending on the severity of the charge. There is a one-time cost of \$146 per PRS hearing. Supervision by a probation officer costs \$237.30 per offender per month.
 - **Class H felons** with active sentences serve 9 months of PRS at a cost of \$2,282.
 - **Class I felons** with active sentences serve 9 months of PRS at a cost of \$2,282.
 - **Misdemeanants** do not receive PRS.

Conviction: Suspended Sentence

- Department of Adult Correction – Community Corrections: Convictions that receive a suspended sentence result in a period of supervised probation based on the severity of the charge and the offender’s prior record. Supervision by a probation officer costs \$237.30 per offender per month.
 - **67% of Class H convictions** resulted in a suspended sentence with an average length of 25 months at a cost of \$5,933.
 - **85% of Class I convictions** resulted in a suspended sentence with an average length of 25 months at a cost of \$5,221.
 - An increase from a **Class 1 misdemeanor** to a **Class I felony** would result in a 21% increase in the rate of suspended sentences with an average increased length of 8 additional months at an increased cost of \$1,898.

TECHNICAL CONSIDERATIONS

- AOC states that “rentor” is not a standard term and could lead to erroneous filings or interpretation of the law. AOC recommends replacing “rentor” with “landlord” or “grantor.”
- Offense changes are typically effective on December 1. FRD assumes that costs incurred in the first year to the judicial and correction systems would be less than annualized costs due to lag time in charges and convictions.
- This estimate assumes that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime rates. Likewise, FRD assumes no deterrent effects for any modifications to criminal penalties. The estimates in this Incarceration Note make no assumptions about the larger impact on crime rates or costs to society or the State.
- This estimate makes no prediction regarding the likelihood that a prosecutor will charge an offense based on any proposed increases or decreases to the offense class level. This estimate also does not attempt to predict the impact of offense class changes on plea negotiations. FRD assumes the proposed offense class is charged and convicted at the same rate as the prior level.
- For reference, Appendix A to this document shows the costs per charge/conviction for each class of offense in North Carolina.

DATA SOURCES

Department of Adult Correction; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal

impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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May 20, 2024



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APPENDIX A: COSTS PER CHARGE/CONVICTION BY OFFENSE CLASS

Cost of One Charge and Conviction											
	Prosecution and Defense			Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services		DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$55,469	95%	\$11,967	100%	NA	Life	N/A	N/A	0%	N/A	0
B1	\$23,852	78%	\$4,187	100%	\$178,610	242	\$2,994	12	0%	N/A	0
B2	\$17,704	85%	\$4,187	100%	\$115,137	156	\$2,994	12	0%	N/A	0
C	\$8,598	82%	\$2,317	100%	\$63,473	86	\$2,994	12	0%	N/A	0
D	\$7,027	89%	\$1,744	100%	\$47,236	64	\$2,994	12	0%	N/A	0
E	\$3,281	79%	\$909	57%	\$19,928	27	\$2,994	12	43%	\$7,356	31
F	\$1,849	74%	\$849	51%	\$13,285	18	\$2,282	9	49%	\$7,119	30
G	\$1,525	78%	\$706	39%	\$11,071	15	\$2,282	9	61%	\$6,170	26
H	\$1,016	78%	\$510	33%	\$8,119	11	\$2,282	9	67%	\$5,933	25
I	\$740	68%	\$407	15%	\$4,428	6	\$2,282	9	85%	\$5,221	22
Misdemeanor	Cost	Rate	Cost	Rate	Cost	Length (Days)			Rate	Cost	Length (Mo.)
A1	\$580	52%	\$281						64%	\$3,797	16
1	\$335	62%	\$237						64%	\$3,322	14
2	\$178	30%	\$237						78%	\$3,085	13
3	\$63	14%	\$202						84%	\$3,085	13

Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and for impaired driving.