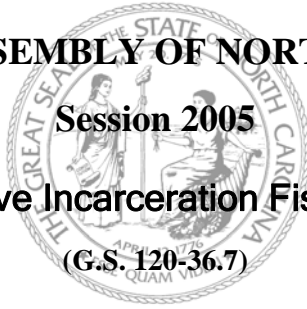


GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1087 (Fourth Edition)

SHORT TITLE: Limited Driving Privileges - DWLR.

SPONSOR(S): Senator Kerr

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
REVENUES:					
Highway Fund	\$875,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
Court Information Technology Fund	\$875,000	\$1,500,000	\$1,500,000	\$1,500,000	\$1,500,000
EXPENDITURES:					
DMV (Highway Fund)	\$150,752				
Information Technology					
Correction			Possible, small impact on local jails.		
Judicial			Amount cannot be determined. See Assumptions and Methodology, p. 2		
ADDITIONAL PRISON BEDS*			None anticipated.		
POSITIONS: (cumulative)			None anticipated.		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (Highway Fund); Department of Correction; Judicial Branch; Local Governments.					
EFFECTIVE DATE: December 1, 2006.					
<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 third edition deletes the substance of the bill and substitutes the following provisions. Enacts new G.S. 20-20.1, permitting a court for good cause to grant limited driving privileges to eligible persons whose drivers licenses have been revoked. Eligible persons are those who: (1) have no other current drivers license revocation; (2) have complied with the one-year revocation for at least 90 days; (3) have no other unresolved or outstanding motor vehicle offenses or unpaid motor

vehicle fines in NC or other states; and, (4) have not held a limited driving privilege under G.S. 20-20.1 within the previous three years. Designates the following persons as ineligible for limited driving privileges under G.S. 20-20.1: (1) a person eligible for limited driving privileges under another law; (2) a person whose license is revoked for impaired driving at the time charged for driving while license revoked; (3) a person whose license is revoked due to mental incompetence, alcoholism, or drug addiction; (4) a person whose license is revoked in another state; (5) a person to whom DMV has refused to issue a license based upon disability, disease, or inability to understand warnings or direction signs; and (6) a person whose license has been revoked for a two-year or permanent basis for driving while their license has been revoked. Restricts limited privileges to driving necessary for employment, household maintenance, and emergency medical care, and specifies conditions and hours for each circumstance. Requires proof of financial responsibility from applicants for limited privilege, except for those who do not own registered vehicles or operate a non-fleet private passenger motor vehicle that is own owned by others that are not insured under commercial insurance policies. Permits limited privilege for term of revocation under G.S. 20-28(a) or G.S. 20-28.1. Application for a license under a limited driving privilege may be made 90 days after the limited privilege is issued. Enacts G.S. 7A-305(a3) to assess an additional court cost for limited driving privilege action of \$100, to be assessed against the applicant. Requires the clerk to remit costs to State Treasurer, who must credit \$50 to the Highway Fund and \$50 to the Court Information Technology Fund. Effective December 1, 2005.

The fourth edition makes the following changes. Modifies proposed G.S. 20-20.1 to limit the eligibility for issuance of a limited driving privilege to a person whose drivers license has been permanently revoked (was, revoked for one year). Changes one of the conditions of eligibility to complying with the permanent revocation for at least two years preceding the motion for a limited driving privilege. Deletes the provision making a person whose drivers license was revoked for two years or permanently ineligible. Adds the requirement that when traveling to and from the person's employment, the person must be in the course of employment. Modifies the term of a limited driving privilege to one year, and specifies that upon the expiration of the term or after three years from the date of the permanent revocation, the person may apply for a license. Makes a technical correction in subsection (o). Makes conforming changes by deleting proposed new G.S. 20-28(c1) and 20-28.1(c1). Modifies the effective date to December 1, 2006, and specifies that the act applies to permanent revocations that occurred before, on, or after that date.

Source: Bill Digest S.B. 1087 (03/24/0200).

ASSUMPTIONS AND METHODOLOGY:

Division of Motor Vehicles

An estimate made in conjunction with DMV indicates that approximately 30,000 persons might be able to use the opportunities created by this bill each year (approximately 57,500 permanent revocations in CY 2005). However, it is not known exactly how many would apply, or at what times they would be eligible, given a two year compliance window. Thus, the actual number of applicants could vary from this estimate each year. Assuming 30,000 applicants annually and a fee of \$100, half of which would go to the Court Information Technology Fund and half to the Highway Fund, revenues could total \$3,000,000 in each full year (\$1,750,000 in the first year). In

addition, DMV considers the technical effort required to implement the requirements on its computer systems to be moderate to high, and estimates a one-time IT cost of \$150,752 in the first year.

Department of Correction

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available over the immediate five-year horizon, or beyond.*

Violation of the conditions set forth under the limited driving privilege constitutes the offense of driving while license revoked a Class 1 misdemeanor under G.S. 20-28 (a). In FY 2004-05, 19% of Class 1 misdemeanor convictions resulted in active sentences, with an average term served of 30.7 days; 79% of convictions resulted in community sentences and 2% resulted in intermediate sentences. *Because offenders serving active sentences of 90 days or less are housed in local jails, additional convictions resulting from this bill would not have an impact on the State's prison population. However, the impact on local jail populations is not known.*

To the extent that additional convictions and intermediate or community sentences result, additional costs for probation supervision could also be incurred, though presumed minimal. In FY 2004-05, most community sentences resulted in unsupervised and general supervised probation, for terms of approximately 16 months. General supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs: intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender, per day (includes daily probation cost) and is for an average of six months; electronic house arrest costs \$6.71 (plus daily probation cost). Such costs are projected to begin in FY 2007-08, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee. Those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court's records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of a specific bill. For such bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

To the extent that additional hearings for the issuance of limited driving privilege, or additional charges for violation of that privilege arise, increased workload could generate additional costs to the courts. However, it is not known exactly how many might apply for limited driving privilege, or how many might violate its conditions. Presently, court-time costs are an estimated \$3,153 per Class 1 misdemeanor trial, and \$224 per plea. Though the incidence of future violation is unknown, if one percent (300 persons) of all applicants were charged with violations per year, and all cases were disposed via plea, the additional court-time required could generate \$67,200 in additional costs per year. Also assuming 30,000 applicants each year beginning Dec. 1, 2008, the court system (Court Information Technology Fund) could receive approximately \$875,000 in the first fiscal year and \$1,500,000 in the second.

SOURCES OF DATA: Division of Motor Vehicles; Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

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