

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 345 (First Edition)

SHORT TITLE: Increase Penalties for Misuse of 911 System.

SPONSOR(S): Representatives Faircloth and McNeill

FISCAL IMPACT

(\$ in millions)

Yes **No** **No Estimate Available**

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special 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, 2013, and applies to offenses committed on or after that date

TECHNICAL CONSIDERATIONS:

None

FISCAL IMPACT SUMMARY:

The proposed bill may have a fiscal impact to address a new chargeable offense being enforced, adjudicated and having penalties applied to those convicted of the new offense. However, given there is no historical data on this new offense, or similar offenses to use as a proxy for predicting the total number of new offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of this crime:

- Administrative Office of the Courts: \$134
- Indigent Defense Services: No estimated cost
- Prison Section: No cost
- Community Corrections: Minimum of \$328-\$1,960

Please see the Assumptions and Methodology section for additional information

BILL SUMMARY:

Currently it is a Class 3 misdemeanor for any person not seeking public safety assistance, not providing 911 services, or not responding to a 911 call to knowingly access or attempt to access the 911 system for a purpose other than an emergency communication. Further, it is a Class 1 misdemeanor for a person to knowingly access or attempt to access the 911 system for the purpose of avoiding a charge for voice communications service, as defined in G.S. 62A-40, and the value of the charge exceeds \$100.00. The proposed legislation makes any misuse of the 911 system a Class 1 misdemeanor by reclassifying the existing Class 3 misdemeanor as a Class 1 misdemeanor.

The proposed legislation is effective December 1, 2013 and applies to offenses committed on or after that date.

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 (PRS). The Act also created a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. All F-I felons are now subject to nine months of PRS, and PRS for all B1-E felonies has been increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that may be needed as a result of revocations.

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.

AOC has an offense code for violation of G.S. 14-111.4, Misuse of 911 system, for offenses that occurred after January 1, 2008; however, index-level data does not distinguish between the Class 3 and Class 1 misdemeanors currently attached to this statute. In FY 2011-12, 666 defendants were charged with violations of one or both of these offenses (accessing or attempting to access the 911 system for a purpose other than an emergency communication and accessing or attempting to access the 911 system for the purpose of avoiding a charge for voice communication service.) Of these, 229 were convicted for the Class 3 misdemeanor, while two were convicted of the Class 1 misdemeanor.

AOC is unable to estimate the number of charges that would be elevated under this bill. For every additional person charged with a Class 1 misdemeanor offense, AOC estimates the average increased cost to the court would be \$134 (Class 1 misdemeanor cost of \$165 minus the Class 3 misdemeanor cost of \$31).

The Office of Indigent Defense Services (IDS) provides Fiscal Research with a fiscal impact analysis for criminal penalty bills that will result in greater expenditures for indigent defense. IDS is currently unable to estimate the cost associated with this legislation. IDS has Private Appointed Counsel (PAC) data on the average cost per case for misdemeanor non-traffic cases, but that data is not broken down by the class of the misdemeanor.

Department of Public Safety –Prison Section

This bill reclassifies misuse of the 911 system from a Class 3 misdemeanor to a Class 1 misdemeanor. The North Carolina Sentencing and Policy Advisory Commission expect no impact on the prison population because offenders who receive active sentences will serve them in the local jail. The Department of Public Safety (DPS) therefore does not anticipate an impact on prison custody projections.

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 2012.

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 2013	June 30 2014	June 30 2015	June 30 2016	June 30 2017
1. Inmates ²	36,838	36,967	37,107	36,861	36,748
2. Prison Beds (Expanded Capacity)	40,718	40,970	40,970	40,970	40,970
3. Beds Over/(Under) Inmate Population	(3,880)	(4,003)	(3,863)	(4,109)	(4,222)
4. Additional Inmates Due to this Bill³			No Estimated Impact		
5. Additional Beds Required					

Department of Public Safety – Community Correction Section

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. 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

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.

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 2013.

³ Criminal penalty bills effective December 1, 2013 should not affect prison population and bed needs until FY 2014-15 due to the lag time between offense charge and sentencing - six months on average. No delayed effect is presumed for the Court System.

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.

Offenders given intermediate or community sanctions requiring supervision are supervised by the Community Corrections Section (CCS); CCS also oversees community service.⁴ General supervision of intermediate and community offenders by a probation officer costs \$3.63 per offender, per day; 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 intermediate sanctions and supervised probations.

In FY 2011-12, 26% of offenders convicted of a Class 1 misdemeanor were sentenced to active sentences for an average length of 39 days; 2% received intermediate sentences; and 72% received community punishments. No offenders convicted of a Class 3 misdemeanor received intermediate sentences; 70% received community sentences. Only felony offenses result in Post Release Supervision (PRS), therefore there is no additional cost for a misdemeanant sentenced to an active sentence. The average lengths of intermediate and community punishment imposed for this Class 1 misdemeanor offense class were 18 and 15 months, respectively. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives an intermediate sentence is \$1,960 (540 days times \$3.63 per day). Of those convicted to a community sentence, around 40% received supervised sentences. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives community supervision is \$328(\$1,634 for a Class 1 misdemeanor minus \$1,306 for a Class 3 misdemeanor).

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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Principal Clerk's Offices

⁴ CCS incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.