

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 838 (First Edition)

SHORT TITLE: Increase Dropout Age to 18.

SPONSOR(S): Representatives C. Graham, Lambeth, and G. Graham

FISCAL IMPACT					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
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, 2015					
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 that 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: \$165 per disposition
- Indigent Defense Services: \$188 per disposition
- Department of Public Safety (DPS) - Prison Section: no cost
- DPS - Community Corrections: Minimum of \$1,958 per person placed under supervision
- DPS –Division of Adult Correction and Juvenile Justice: \$443,595 - \$3,326,961

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

This bill amends the age requirements of the public school attendance law (G.S. 115C-378(a)), regional school attendance law (G.S. 115C-238.66(3)), the compulsory attendance provision for the N.C. School of Science and Mathematics (NCSSM) (G.S. 116-235(b)(2)), and the definition of an “undisciplined juvenile” (G.S. 7B-1501(27) and 143B-805(20)). In two phases, the bill raises the age of compulsory attendance to eighteen years of age. These amendments expand the potential class of offenders who fail to ensure a child’s attendance at school, and the class of juveniles who can be adjudicated undisciplined for missing school.

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 F-I felons are now subject to nine months of post-release supervision (PRS). B1-E felony PRS 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.

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

Judicial Branch

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

This bill phases in raising the age of compulsory school attendance to 18. Sections 1.(a), 1.(b), and 1.(d) raise the age from sixteen to seventeen. The statute (G.S. 115C-378(a), Children required to attend) requires every parent, guardian or custodian having control of a child to make the child attend school for the whole of the school session. Failure to do so is a Class 1 misdemeanor. AOC’s data shows that there were 1,586 defendants charged with a Class 1 misdemeanor offense under the existing statute. However, this data does not contain information about the age of the child in question, nor can AOC tell how many potential charges there may be when older juveniles are included. AOC provides estimates of the average cost to the court for a charge by offense class. For every additional person charged with a Class 1 misdemeanor, the average cost to the court would be \$165.

The second phase in this bill, in Sections 2.(a), 2.(b) and 2.(c), raise the age of compulsory attendance to eighteen. The penalty for a parent, guardian or custodian who fails to compel a child to attend school remains a Class 1 misdemeanor, and average cost to the court system for each additional person charged with a Class 1 misdemeanor are \$165.

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, 39% of Class 1 misdemeanor cases were handled through the Office of Indigent Defense Services (IDS). The weighted average cost of a Class 1 misdemeanor is \$188 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 –Prison Section

This bill creates a new Class (Offense Class) misdemeanor offense. The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because all misdemeanor offenders who receive active sentences will serve them in the local jail. Therefore, the Department of Public Safety does not anticipate an impact on prison custody projections.

Department of Public Safety – Community Correction Section

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, including intermediate or community sanctions, are supervised by the Community Corrections Section (CCS); CCS also oversees community service. General post-release supervision and supervision of intermediate and community offenders by a probation officer costs \$130.50 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, intermediate sanctions and supervised probation.

There were 362 convictions under G.S. 115C-378(a) for violations of compulsory school attendance, during FY 2013-14. It is not known how many additional convictions would result from the proposed broadening of the statute. In FY 2013-14, 30% of Class 1 misdemeanor offenders received active sentences; 70% received probation. Active misdemeanor sentences of less than 180 days are served in local jails and do not require any post-release supervision. The average length of probation imposed for this offense class was 15 months. Therefore, at a minimum, one conviction resulting from the sections of this bill addressing compulsory attendance of this bill will require at least 15 months of supervision. The cost of 15 months of supervision is \$1,958 per offender (\$130.50 per month times 15 months).¹

Department of Public Safety - Adult Correction and Juvenile Justice Section

Currently, under G.S.7B-1501(27)(a) and G.S.143B-805(20)(a), a juvenile may be considered undisciplined who is between six and sixteen years of age and who is: regularly disobedient to and beyond the disciplinary control of the juvenile's parents, guardian, or custodian; is found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours. Sections 1.(e) and 1.(f) raise the age of a juvenile who may be considered "undisciplined" to eighteen.

This change may have a fiscal impact for Juvenile Justice, as raising the age limit will increase the number of truancy complaints, creating a higher volume of intake evaluations, community-based program referrals, and juveniles who require supervision in the community. The juvenile system does not have historical information on the truancy rates of the 16- and 17-year-old population. Impacts to the system were estimated using the number of anticipated high school dropouts, reporting of truancy behavior, level of involvement in the juvenile justice system, and associated costs.

The Department of Instruction (DPI) has stopped reporting dropouts by age. Using the number from the most recent year reported, FY 2011-12, and noting that the number of high school dropouts has declined by 23% since that time, FRD estimates that there would be approximately 5,884 16-and 17-year old dropouts. Because the bill allows for students to withdraw from school and provides for other circumstances under which a juvenile could not attend school without being considered truant, different estimates are provided depending on the total proportion of students who might be eligible for a truancy complaint. Juvenile Justice then assumes that half of those who are eligible for a truancy complaint will, in fact, have a complaint made against them.

All juveniles who have a complaint made against them will have to go through an intake process. The average cost for intake is \$175. The table below shows potential intake costs.

Table 1: Intake Costs

Scenario: Percent Eligible for a Truancy Complaint	Complaints (50% of those Eligible)	Intakes (100%)
10% (588)	294	\$51,485
25% (1,471)	736	\$128,712
50% (2,942)	1,471	\$257,425
75% (4,413)	2,207	\$386,137

Once a juvenile has been through intake, the court counselors evaluate the claim made against the juvenile and decide between three options: to dismiss the complaint, if it is unfounded; to divert the juvenile into supervision and programming; or to send the juvenile to a formal adjudication procedure before a judge. On average, 30% of juveniles who have a complaint filed against them will be diverted and supervised, 40% will be adjudicated and supervised, and 30% will have their cases closed or dismissed. Approximately 70% of all juveniles who go through intake will be placed in some kind of community program. is \$8.06 per day. The annual cost of community programs, per youth, is \$858, and most juveniles are served for an average of six months.

¹ Due to the effective date of December 1, 2015 and the typical lag time between charge and conviction (6 months), little impact is assumed for CCS in FY 2015-16. Though some offenders may come under CCS supervision during this time, this note assumes an even entry over the course of FY 2016-17.

Assuming that fifty percent of those who are eligible for a complaint receive a complaint, and that a further thirty percent will then be diverted and placed under a supervision plan, the following table shows the costs of diversion and supervision for each truancy complaint scenario.

Table 2: Costs of Supervising Diverted Juveniles

Scenario: Percent Eligible for a Truancy Complaint	Complaints (50% of those Eligible)	Juveniles Diverted and Placed Under Supervision (30%)	Cost of Supervision (Six Months)	Total
10% (588)	294	88	\$1,500	\$132,000
25% (1,471)	736	221	\$1,500	\$331,500
50% (2,942)	1,471	441	\$1,500	\$661,500
75% (4,413)	2,207	662	\$1,500	\$993,000

Assuming that fifty percent of those who are eligible for a complaint receive a complaint, and that a further forty percent will adjudicated and placed under a supervision plan, the following table shows the costs of supervision for each truancy complaint scenario.

Table 3: Costs of Supervising Adjudicated Juveniles

Scenario: Percent Eligible for a Truancy Complaint	Complaints (50% of those Eligible)	Juveniles Adjudicated and Placed Under Supervision (40%)	Cost of Supervision (Six Months)	Total
10% (588)	294	118	\$1,500	\$177,000
25% (1,471)	736	294	\$1,500	\$441,000
50% (2,942)	1,471	588	\$1,500	\$882,000
75% (4,413)	2,207	883	\$1,500	\$1,324,500

Assuming that fifty percent of those who are eligible for a complaint receive a complaint, and that a further seventy percent will then be placed into community programs, the following table shows the costs of community programs for each truancy complaint scenario.

Table 4: Community Program Costs

Scenario: Percent Eligible for a Truancy Complaint	Complaints (50% of those Eligible)	Juveniles Placed in Community Programs (70%)	Cost of Programs (Six Months)	Total
10% (588)	294	206	\$429	\$88,374
25% (1,471)	736	515	\$429	\$220,935
50% (2,942)	1,471	1,030	\$429	\$441,741
75% (4,413)	2,207	1,545	\$429	\$662,805

The table below sums the potential expenditures for Juvenile Justice under each of the four scenarios, providing a range of costs that may be incurred under the provisions of this bill.

Table 5: Totals

Scenario: Percent Eligible for a Truancy Complaint	Intake	Diverted Supervised Juveniles	and Adjudicated and Supervised Juveniles	Community Programs	Total
10% (588)	\$51,485	\$132,000	\$177,000	\$88,374	\$448,859
25% (1,471)	\$128,712	\$331,500	\$441,000	\$220,935	\$1,122,147
50% (2,942)	\$257,425	\$661,500	\$882,000	\$441,741	\$2,242,666
75% (4,413)	\$386,137	\$993,000	\$1,324,500	\$662,805	\$3,366,442

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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