



NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Legislative Incarceration Fiscal Note

Short Title: Modify Crim Penalties/NAIC Fraud Act- AB.
Bill Number: House Bill 222 (Second Edition)
Sponsor(s): Representatives Setzer, Bumgardner, and Corbin

SUMMARY TABLE

FISCAL IMPACT OF H.B. 222, V.2

	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
State Impact					
General Fund Revenue	-	-	-	-	-
<u>Less Expenditures</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				

NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section
-------------------------	---

FISCAL IMPACT SUMMARY

This bill would make various changes to the criminal penalties for making false statements relating to insurance policies, rate evasion fraud, and certificate of insurance violations.

Section 2. (a) of the bill would modify a Class H felony to a tiered punishment scheme for a violation of the statute. Violations based on monetary amounts of less than \$1,000 would be reduced from Class H felonies to Class 1 misdemeanors. Violations based on monetary amounts between \$1,000 and \$50,000 would remain Class H felonies. Violations based on monetary amounts between \$50,000 and \$100,000 would increase from Class H felonies to Class E felonies. Violations based on monetary amounts of \$100,000 and above would increase from Class H felonies to Class C felonies. In calendar year 2018, there were 356 defendants charged with a violation under this statute and 35 convictions, but the monetary amount of each of the violations is unknown.

The proposed bill may have a fiscal impact because of the application of a more stringent penalty for each offense. However, since the historical data on this offense cannot be used to predict the total number of 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 each of the modified penalties for this crime:

Penalty Change	Administrative Office of the Courts (AOC)	Office of Indigent Defense Services (IDS)	Department of Public Safety (DPS) - Prisons	DPS - Community Corrections

Class H to Class 1	Decrease of \$476 per disposition	Decrease of \$190 per disposition	No cost: Decrease of \$5,918 per active sentence	Increase of \$960 per supervised probation sentence/ Decrease of \$1,440 for active sentence
Class H (no change)	No change: \$709 per disposition	No change: \$392 per disposition	No change: \$5,918 per active sentence	No change: \$1,440 minimum for post-release supervision
Class H to Class E	Increase of \$1,581 per disposition	Increase of \$194 per disposition	Increase of \$9,146 per active sentence	Increase of \$480 minimum for post-release supervision
Class H to Class C	Increase of \$5,292 per disposition	Increase of \$566 per disposition	Increase of \$37,660 per active sentence	Increase of \$480 minimum for post-release supervision

Section 2. (b) would amend G.S. 58-2-164 by 1) increasing the offense class for deceiving an insurer from the current Class 3 misdemeanor to a Class 1 misdemeanor, 2) removing the variations for conspiracy to commit, and solicitation of, the principal offense, and 3) creating a new Class H felony when the violation is for auto insurance for more than one passenger vehicle. The proposed bill may have a fiscal impact because of the application of a more stringent penalty for each offense. However, since the historical data on this offense cannot be used to predict the total number of 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/or convicted of each of the modified penalties for this crime:

Penalty Change/New Penalty	Administrative Office of the Courts (AOC)	Office of Indigent Defense Services (IDS)	Department of Public Safety (DPS) - Prisons	DPS - Community Corrections
Class 3 to Class 1	Increase of \$189 per disposition	Increase of \$2 per disposition	No change: No cost	Increase of \$320 per supervised probation sentence
New Class H	\$709 per disposition	\$392 per disposition	\$5,918 per active sentence	\$1,440 minimum for post-release supervision

Section 2. (c) would amend G.S. 58-3-150 by creating a new Class 1 misdemeanor for any fraudulent activity involving a certificate of insurance with a value of less than \$5,000 and a new Class I felony if the value of the certificate of insurance is more than \$5,000. The proposed bill may have a fiscal impact because of the application of a more stringent penalty for each offense. However, since the

historical data on this offense cannot be used to predict the total number of 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/or convicted of each of the modified penalties for this crime:

New Penalty	Administrative Office of the Courts (AOC)	Office of Indigent Defense Services (IDS)	Department of Public Safety (DPS) - Prisons	DPS - Community Corrections
New Class 1	\$233 per disposition	\$202 per disposition	No cost	\$2,400 per supervised probation sentence
New Class I	\$516 per disposition	\$333 per disposition	\$3,766 per active sentence	\$1,440 minimum for post-release supervision

FISCAL ANALYSIS

Section 1.(b) of this bill would amend G.S. 58-2-50 to expand the authority of the Commissioner of Insurance to act as both a law enforcement official and potentially as a prosecutor. It is unclear whether these expanded law enforcement powers would result in more court proceedings for insurance fraud or other violations of Chapter 58, or if they would reallocate the current prosecution workload from other law enforcement agencies and district attorneys to the Department of Insurance. Fiscal Research cannot estimate the impact of this section.

Section 2.(a) would amends G.S. 58-2-161 by providing graduated offense classes based on the dollar value at stake in the fraudulent act and would remove the variations for conspiracy to commit, and solicitation of, the principal offense. It is currently a Class H felony to violate this statute. This section of the bill would create a tiered punishment scheme for a violation of the statute that is based on the amount of insurance benefit sought. In calendar year 2018, there were 356 defendants charged with a violation under this statute and 35 convictions, but the monetary amount of each of the violations is unknown. Therefore, Fiscal Research cannot estimate a specific fiscal impact to these changes.

Value of the claim for payment or other benefit sought	Current Violation	New Violation
Less than \$1,000	Class H felony	Class 1 misdemeanor
\$1,000 to \$50,000	Class H felony	Class H felony
\$50,000 to \$100,000	Class H felony	Class E felony
\$100,000 or more	Class H felony	Class C felony

By removing the conspiracy to commit and solicitation offenses from the language of G.S. 58-2-161, these acts would no longer be charged at the current Class H felony level. Instead they would be charged according to the normal reduction in offense class under structured sentencing, pursuant to G.S. 14-2.4, which reduces charges by one class for conspiracy, and G.S. 14-2.6, which reduces charges by two classes for solicitation. The table below shows the offense classes that would apply to those acts under the proposed legislation.

Offense Value	Principal Violation	Conspiracy Class	Solicitation Class
Less than \$1,000	Class 1 misdemeanor	Class 2 misdemeanor	Class 3 misdemeanor
\$1,000 to \$50,000	Class H felony	Class I felony	Class 1 misdemeanor
\$50,000 to \$100,000	Class E felony	Class F felony	Class G felony
\$100,000 or more	Class C felony	Class D felony	Class E felony

In calendar year 2018, there were 356 defendants charged with a violation under this statute and 35 convictions, but whether any of these violations involved conspiracy or solicitation is unknown. Therefore, Fiscal Research cannot estimate whether the charge class would have been reduced under these changes.

Section 2.(b) would amend G.S. 58-2-164 by 1) increasing the offense class for deceiving an insurer from the current Class 3 misdemeanor to a Class 1 misdemeanor, 2) removing the variations for conspiracy to commit, and solicitation of, the principal offense, and 3) creating a new Class H felony when the violation is for auto insurance for more than one passenger vehicle.

Section 2.(c) would amend G.S. 58-3-150 by creating a new Class 1 misdemeanor for any fraudulent activity involving a certificate of insurance with a value of less than \$5,000 and a new Class I felony if the value of the certificate of insurance is more than \$5,000.

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, 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.

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.

The sections of this bill create new offenses and increase or decrease certain violations, which could then be further modified if charged as conspiracy or solicitation. Although 356 defendants were charged in CY2018 under the offense being modified in Section 2.(b), it is unknown how many defendants would be charged under the changes in this section. AOC provides estimates of the average cost to the court for a charge by offense class. The following table shows the average cost to the court per new charge or modified charge.

Section	Penalty Change/New Penalty	Average Cost to AOC	Notes
2.(a) - \$1,000 or less	Class H to Class 1	Decrease of \$476 per disposition	\$233 for Class 1 minus \$709 for Class H = (-\$476)
	Conspiracy: Class H to Class 2	Decrease of \$585 per disposition	\$124 for Class 2 minus \$709 for Class H = (-\$585)
	Solicitation: Class H to Class 3	Decrease of \$665 per disposition	\$44 for Class 3 minus \$709 for Class H = (-\$665)
2.(a) - \$1,000 to \$50,000	Class H (no change)	No change: \$709 per disposition	
	Conspiracy: Class H to Class I	Decrease of \$193 per disposition	\$516 for Class I minus \$709 for Class H = (-\$193)
	Solicitation: Class H to Class 1 misdemeanor	Decrease of \$476 per disposition	\$233 for Class 1 minus \$709 for Class H = (-\$476)
2.(a) - \$50,000 to \$100,000	Class H to Class E	Increase of \$1,581 per disposition	\$2,290 for Class E minus \$709 for Class H = \$1,581
	Conspiracy: Class H to Class F	Increase of \$582 per disposition	\$1,291 for Class F minus \$709 for Class H = \$582
	Solicitation: Class H to Class G	Increase of \$356 per disposition	\$1,065 for Class G minus \$709 for Class H = \$356
2.(a) - \$100,000 or more	Class H to Class C	Increase of \$5,292 per disposition	\$6,001 for Class C minus \$709 for Class H = \$1,581
	Conspiracy: Class H to Class D	Increase of \$4,196 per disposition	\$4,905 for Class D minus \$709 for Class H = \$4,196
	Solicitation: Class H to Class E	Increase of \$1,581 per disposition	\$2,290 for Class E minus \$709 for Class H = \$1,581
2.(b)	Class 3 to Class 1	Increase of \$189 per disposition	\$233 for Class 1 minus \$44 for Class 3 = \$189
	New Class H	\$709 per disposition	

2.(c)	New Class 1	\$233 per disposition	
	New Class I	\$516 per disposition	

The Office of Indigent Defense Services (IDS) provides 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. The following chart shows the percentage of cases handled through IDS for FY 2017-18, the most recent year data is available, along with the weighted average cost for a private appointed counsel (PAC) attorney including expert costs of a new offense or the difference for those offenses that are changing class. 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, this cost may not be incurred.

Section	Penalty Change/ New Penalty	% Handled by IDS, FY 2017-18	Average Cost to IDS	Notes
2.(a) - \$1,000 or less	Class H to Class 1	39% of Class 1 vs. 78% of Class H	Decrease of \$190 per disposition	\$202 for Class 1 minus \$392 for Class H = (-\$190)
	Conspiracy: Class H to Class 2	30% of Class 2 vs. 78% of Class H	Decrease of \$191 per disposition	\$201 for Class 2 minus \$392 for Class H = (-\$190)
	Solicitation: Class H to Class 3	14% of Class 3 vs. 78% of Class H	Decrease of \$192 per disposition	\$200 for Class 3 minus \$392 for Class H = (-\$192)
2.(a) - \$1,000 to \$50,000	Class H (no change)	78% of Class H	No change: \$392 per disposition	
	Conspiracy: Class H to Class I	68% of Class I vs. 78% of Class H	Decrease of \$59 per disposition	\$333 for Class I minus \$392 for Class H = (-\$59)
	Solicitation: Class H to Class 1 misdemeanor	39% of Class 1 vs. 78% of Class H	Decrease of \$190 per disposition	\$202 for Class 1 minus \$392 for Class H = (-\$190)
2.(a) - \$50,000 to \$100,000	Class H to Class E	79% of Class E vs. 78% of Class H	Increase of \$194 per disposition	\$586 for Class E minus \$392 for Class H = \$194
	Conspiracy: Class H to Class F	74% of Class F vs. 78% of Class H	Increase of \$177 per disposition	\$569 for Class F minus \$392 for Class H = \$177
	Solicitation: Class H to Class G	78% of Class G vs. 78% of Class H	Increase of \$106 per disposition	\$498 for Class G minus \$392 for Class H = \$106

2.(a) - \$100,000 or more	Class H to Class C	82% of Class C vs. 78% of Class H	Increase of \$566 per disposition	\$958 for Class C minus \$392 for Class H = \$566
	Conspiracy: Class H to Class D	89% of Class D vs. 78% of Class H	Increase of \$569 per disposition	\$961 for Class D minus \$392 for Class H = \$569
	Solicitation: Class H to Class E	79% of Class E vs. 78% of Class H	Increase of \$194 per disposition	\$586 for Class E minus \$392 for Class H = \$194
2.(b)	Class 3 to Class 1	39% of Class 1 vs. 14% of Class 3	Increase of \$158 per disposition	\$202 for Class 1 minus \$44 for Class 3 = \$158
	New Class H	78% of Class H	No change: \$392 per disposition	
2.(c)	New Class 1	39% of Class 1	\$202 per disposition	
	New Class I	68% of Class I	\$516 per disposition	

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 2018.

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). Rows four and five in the chart demonstrate the impact of the bill.

Population Projections and Bed Capacity Five Year Impact					
	June 30 2020	June 30 2021	June 30 2022	June 30 2023	June 30 2024
1. Inmates ²	36,452	36,867	37,231	37,433	37,702
2. Prison Beds (Expanded Capacity)	38,225	38,225	38,225	38,225	38,225

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 2019.

3. Beds Over/(Under) Inmate Population	1,773	1,358	994	792	523
4. Additional Inmates Due to this Bill³	No estimate available				
5. Additional Beds Required					

For the changes in Section 2.(a), although 35 defendants were convicted in CY2018 under the offense being modified in Section 2.(b), it is unknown how many defendants would be convicted and for which offense under the changes in this section. 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.

Misdemeanors (Sections 2.(a), 2.(b), and 2.(c))

This bill contains Class 1, Class 2, and Class 3 misdemeanor offenses. The North Carolina Sentencing and Policy Advisory Commission estimates potential prison population savings could occur if any Class H convictions become Class 1 misdemeanor convictions under the proposed bill, as most misdemeanor offenders who receive active sentences will serve them in the local jail. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known. The following analysis estimates potential prison population savings that could occur for any Class H convictions that would become Class 1 misdemeanor convictions under the proposed bill:

- Potential prison population savings will occur if Class H convictions become Class 1 misdemeanor convictions under the proposed statute since most misdemeanants serve their active sentences in county jails. The savings would depend on the number of convictions involved. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold), 20 convictions (example), or 35 convictions (see data above) per year that would be reclassified from Class H to Class 1. 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 Savings Using Threshold, 20 Convictions, and 2018 Actuals Class H to Class 1 Misdemeanor					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
4 (Threshold)	-1	-2	-2	-2	-2
20	-7	-11	-11	-11	-11
35	-11	-18	-18	-18	-18

³ Criminal penalty bills effective December 1, 2019 should not affect prison population and bed needs until FY 2020-21 due to the lag time between offense charge and sentencing - six months on average. No delayed effect is presumed for the Court System.

Various Felony Changes (Section 2.(a))

Impact on the prison population would occur if any Class H convictions become Class E or Class C convictions under the proposed bill because of the higher rate of active sentences and longer average estimated time served. There would be no impact on the prison population for any convictions that would remain Class H convictions under the proposed bill. The following analyses estimate the impact on the prison population for any Class H convictions that would become Class E or Class C convictions under the proposed bill:

- Impact on the prison population will occur if Class H convictions become Class E convictions under the proposed statute because of the higher rate of active sentences (60% for Class E compared to 34% for Class H) and longer average estimated time served (28 months for Class E compared to 11 months for Class H). The impact would depend on the number of convictions involved. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold), 20 convictions (example), or 35 convictions (see data above) per year that would be reclassified from Class H to Class E. 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. 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, 20 Convictions, and 2018 Actuals Class H to Class E Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
4 (Threshold)	1	3	4	5	5
20	6	16	23	24	24
35	11	29	42	43	44

- Impact on the prison population will occur if Class H convictions become Class C convictions under the proposed statute because of the higher rate of active sentences (mandatory active for Class C compared to 34% for Class H) and longer average estimated time served (81 months for Class C compared to 11 months for Class H). The impact would depend on the number of convictions involved. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold), 20 convictions (example), or 35 convictions (see data above) per year that would be reclassified from Class H to Class C. 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. In addition, there will be some impact on post-release supervision caseloads since Class C requires an additional three months of supervision.

Estimated Prison Bed Impact Using Threshold, 20 Convictions, and 2018 Actuals Class H to Class C Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5

4 (Threshold)	3	6	10	14	19
20	13	30	50	71	91
35	24	53	89	125	161

New Class H Felony (Section 2.(b))

In FY 2017-18, 34% of Class H felony convictions resulted in active sentences, with an average estimated time served of 11 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 four 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 H Felony					
Convictions	Year 1	Year 2	Year 3	Year 4	Year 5
4 (Threshold)	1	2	2	2	2
20	7	11	11	11	11

New Class I Felony (Section 2.(c))

In FY 2017-18, 15% of Class I felony convictions resulted in active sentences, with an average estimated time served of 7 months. The following table shows the estimated annual impact if there were 10 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
10 (Threshold)	1	2	2	2	2
20	2	5	5	5	5

Per Diem Costs

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 \$17.69 per day, or \$538 per month, which includes the cost of food, clothing, and health care. The following chart shows the percentage of offenders by class or class change under the bill serving active sentences in the correction system, the average sentence length, and the total per diem costs to DPS.

Section	Penalty Change/ New Penalty	% Serving Active Sentences in Prison	Average Sentence Length	Total Per Diem (\$538 monthly cost times months)
2.(a) - \$1,000 or less	Class H to Class 1 misdemeanor (or Class 2 or Class 3)	No cost (will serve active sentence in local jail) (decrease of \$5,918 to DPS)		
2.(a) - \$1,000 to \$50,000	Class H (no change)	34%	11 months	\$5,918 (no change)
	Conspiracy: Class H to Class I	15%	7 months	\$3,766 (decrease of \$2,152)
	Solicitation: Class H to Class 1 misdemeanor	No cost (will serve active sentence in local jail) (decrease of \$5,918 to DPS)		
2.(a) - \$50,000 to \$100,000	Class H to Class E	60%	28 months	\$15,064 (increase of \$9,146)
	Conspiracy: Class H to Class F	51%	19 months	\$10,222 (increase of \$4,304)
	Solicitation: Class H to Class G	40%	15 months	\$8,070 (increase of \$2,152)
2.(a) - \$100,000 or more	Class H to Class C	100%	81 months	\$43,578 (increase of \$37,660)
	Conspiracy: Class H to Class D	99%	64 months	\$34,432 (increase of \$28,514)
	Solicitation: Class H to Class E	60%	28 months	\$15,064 (increase of \$9,146)
2.(b)	Class 3 to Class 1	No cost (will serve active sentence in local jail) (no change to DPS)		
	New Class H	34%	11 months	\$5,918
2.(c)	New Class 1	No cost (will serve active sentence in local jail)		
	New Class I	15%	7 months	\$3,766

Department of Public Safety – Community Corrections

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.

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 face the same non-active sentences as felons.

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 \$160 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 probation. The following chart shows the percentage of offenders by class or class change under the bill serving active sentences or suspended sentences (meaning probation), the average length of probation or post-release supervision (PRS), and the total costs of this supervision to DPS. Active misdemeanor sentences are served in local jails and do not require any post-release supervision. All active sentences for Class F through I felonies result in nine months of PRS and, therefore, at a minimum, one conviction resulting from these charges in this bill will require at least nine months of supervision. All active sentences for Class B1 through E felonies result in 12 months of PRS and, therefore, one conviction resulting from these charges in this bill will require at least 12 months of supervision.

Section	Penalty Change/ New Penalty	% Active vs Suspended Sentence	Average Length of PRS/Prob.	Cost to DPS (\$160 per month times length)	Total Minimum Cost to DPS/ Total Change from Class H
2.(a) - \$1,000 or less	Class H to Class 1	34% active/ 66% susp.	0 PRS/ 15 months prob.	\$2,400 for probation/ increase of \$960 from Class H	\$0 for active sentence/ decrease of \$1,440
	Conspiracy: Class H to Class 2	39% active/ 61% susp.	0 PRS/ 14 months prob.	\$2,240 for probation/ increase of \$800 from Class H	
	Solicitation: Class H to Class 3	23% active/ 77% susp.	0 PRS/ 13 months prob.	\$2,080 for probation/ increase of \$640 from Class H	

2.(a) - \$1,000 to \$50,000	Class H (no change)	34% active/ 66% susp.	9 months PRS/ 26 months prob.	\$1,440 PRS/ \$4,160 probation	\$1,440/ no change
	Conspiracy: Class H to Class I	15% active/ 85% susp.	9 months PRS/ 23 months prob.	\$1,440 PRS/ \$3,680 probation	\$1,440/ no change
	Solicitation: Class H to Class 1 misd.	34% active/ 66% susp.	0 PRS/ 15 months prob.	\$2,400 for probation/ increase of \$960 from Class H	\$0 for active sentence/ decrease of \$1,440
2.(a) - \$50,000 to \$100,000	Class H to Class E	60% active/ 40% susp.	12 months PRS/ 33 months prob.	\$1,920 PRS/ \$5,280 probation	\$1,920/ increase of \$480
	Conspiracy: Class H to Class F	49% active/ 51% susp.	9 months PRS/ 31 months prob.	\$1,440 PRS/ \$4,960 probation	\$1,440/ no change
	Solicitation: Class H to Class G	40% active/ 60% susp.	9 months PRS/ 29 months prob.	\$1,440 PRS/ \$4,640 probation	\$1,440/ no change
2.(a) - \$100,000 or more	Class H to Class C	100% active	12 months PRS	\$1,920 PRS	\$1,920/ increase of \$480
	Conspiracy: Class H to Class D	99% active/ 1% susp.	12 months PRS/ 42 months prob.	\$1,920 PRS/ \$6,720 probation	\$1,920/ increase of \$480
	Solicitation: Class H to Class E	60% active/ 40% susp.	12 months PRS/ 33 months prob.	\$1,920 PRS/ \$5,280 probation	\$1,920/ increase of \$480
2.(b)	Class 3 to Class 1	34% active/ 66% susp.	0 PRS/ 15 months prob.	\$2,400 for probation/ increase of \$320 from Class 3	\$0 for active sentence
	New Class H	34% active/ 66% susp.	9 months PRS/ 26 months prob.	\$1,440 PRS/ \$4,160 probation	\$1,440
2.(c)	New Class 1	34% active/ 66% susp.	0 PRS/ 15 months prob.	\$2,400 for probation	\$0 for active sentence
	New Class I	15% active/ 85% susp.	9 months PRS/ 23 months prob.	\$1,440 PRS/ \$3,680 probation	\$1,440

TECHNICAL CONSIDERATIONS

N/A



DATA SOURCES

Department of Public Safety; 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.

ESTIMATE PREPARED BY

William Childs

ESTIMATE APPROVED BY

Mark Trogdon, Director of Fiscal Research
Fiscal Research Division
April 29, 2019



Signed copy located in the NCGA Principal Clerk's Offices