



NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

Legislative Incarceration Fiscal Note

Short Title: 2023 Appropriations Act.
Bill Number: House Bill 259 (Sixth Edition)
Sponsor(s):

SUMMARY TABLE

FISCAL IMPACT OF H259, V.6 (\$ in)

| | <u>FY 2023-24</u> | <u>FY 2024-25</u> | <u>FY 2025-26</u> | <u>FY 2026-27</u> | <u>FY 2027-28</u> |
|----------------------------|---|-------------------|-------------------|-------------------|-------------------|
| State Impact | | | | | |
| General Fund Revenue | - | - | - | - | - |
| <u>Less Expenditures</u> | = | = | = | = | = |
| General Fund Impact | No Estimate Available - Refer to Fiscal Analysis section | | | | |

NET STATE IMPACT

No Fiscal Impact

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 establish a **new Class 2 misdemeanor** for any person found guilty of concealing, falsifying, or refusing to provide to the Joint Legislative Commission on Governmental Operations any document, information, or access to any building or facility with the intent to mislead, impede, or interfere with the Commission's duties. Because this is a new charge, 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 the proposed legislation 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 each offense level.

| Cost of One Charge and Conviction in H.B. 259 v.6 | | | | | | | | | | |
|---|-----------------------------|---------------------------|-------|---|------|--------------------------------------|-----------------------------------|--------------------|---------|--------------|
| 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 | | | |
| Misdemeanor | Cost | Rate | Cost | Rate | Cost | Length (Days) | | Rate | Cost | Length (Mo.) |
| 2 | \$178 | 30% | \$237 | Active sentences for misdemeanor convictions are served in County jail. | | | Misdemeanants do not receive PRS. | 78% | \$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 impaired driving.

FISCAL ANALYSIS

Bill Summary:

House Bill 259, the 2023 Appropriations Act, contains Section 27.10.(b) which would amend Article 13 of chapter 120 of the General Statutes by establishing a new **Class 2 misdemeanor** for any person found guilty of concealing, falsifying, or refusing to provide to the Joint Legislative Commission on Governmental Operations any document, information, or access to any building or facility with the intent to mislead, impede, or interfere with the Commission's discharge of its duties.

Because this is a new offense, there is no historic data available for cost projections, and as such **Fiscal Research is unable to provide any cost projections for this bill.** Please refer to the Operating Expenses section below for the average costs for a **new Class 2 misdemeanor**.

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 2 misdemeanors** carry an average cost of \$178 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 2 misdemeanor charges** utilize IDS in 30% of cases at a cost of \$237 per charge.

Conviction: Active Sentence

- Department of Adult Correction – Confinement:
 - **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. Because the **new Misdemeanor charge** in the proposed legislation doesn't meet either criterion, Fiscal Research anticipates that convictions under the new charge resulting in active sentences would have no 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. **Misdemeanants do not receive PRS** and as a result Fiscal Research anticipates no fiscal impact to the State.

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.
 - **78% of Class 2 convictions** resulted in a suspended sentence with an average length of 13 months at a cost of \$3,085.

TECHNICAL CONSIDERATIONS

- 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.

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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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October 3, 2023



Signed copy located in the NCGA Principal Clerk's Offices

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 | Active sentences for misdemeanor convictions are served in County jail. | | | Misdemeanants do not receive PRS | | 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.