



NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

Legislative Incarceration Fiscal Note

Short Title: Protect Those Who Serve and Protect Act.
Bill Number: House Bill 34 (First Edition)
Sponsor(s): Rep. Hastings, Rep. Saine, Rep. Carson Smith, and Rep. Pyrtle

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 creates a **new Class H felony**, modifies an existing criminal offense: by **increasing a charge from an infraction to a Class I felony** and expanding **the eligible pool of victims covered under the offense**, and **creating a new Class A1 misdemeanor**. Because infractions are not treated as criminal offenses, the **modification increasing an infraction to a Class I felony is treated like a new offense**. 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 average percentage of cases that incur those costs at that offense level.

None of the changes proposed by this legislation have historic charge or conviction data. As a result, Fiscal Research is **unable to project the fiscal impact of the proposed legislation** on the criminal justice system

Cost of One Charge and Conviction											
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		
		Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost
Felony											
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											
A1	\$580	52%	\$281	No Cost			NA		64%	\$3,797	16

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. Cost to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and impaired driving.

FISCAL IMPACT OF H.B.34, V.1

	<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>
General Fund Revenue	-	-	-	-	-
<u>Less Expenditures</u>	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				

FISCAL ANALYSIS

Bill Summary:[A1][A2]

Section 2 of H. B. 34 would enact a **new** G.S. 14-34.1A, making it a **Class H felony** for any person to discharge or attempt to discharge any firearm or barreled weapon into any unoccupied emergency vehicle. Because the proposed section would create a new offense there is no historic charge or conviction data that allows Fiscal Research to make projections about this new charge.

Section 3 would amend G.S. 14-34.1A, Criminal use of a laser device, in three ways. The proposed changes would introduce a new subdivision **reclassifying** intentionally pointing a laser device at law enforcement officers or other emergency and frontline personnel, while the person is in the performance of his or her duties, from **an infraction to Class I felony**. The proposed amendment also **expands the pool of potential victims covered by the elevated charge to other law enforcement and frontline workers**. Because infractions are not treated as criminal offenses, the proposed **change from an infraction to a Class I felony is treated like a new offense**. Section 3 also establishes a **new Class A1 misdemeanor** for intentionally pointing a laser device at a law enforcement or rescue animal while performing its duties. The new charges in this proposed section do not have historic charge or conviction data. As a result, Fiscal Research is unable to project how new charges and expanding scope of potential victims proposed in Section 3 impacts the criminal justice system.

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, FRD 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 expenses 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 H charges** carry an average cost of \$1,016 per charge
 - **Class I charges** carry an average cost of \$740 per charge.
 - **Class A1 charges** carry an average cost of \$580 per charge.
- 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 H defendants** utilize IDS in 78% of cases at a cost of \$510 per charge.
 - **Class I defendants** utilize IDS in 68% of cases at a cost of \$407 per charge.
 - **Class A1 defendants** utilize IDS in 52% of cases at a cost of \$281 per charge.

Conviction: Active Sentence

- Department of Adult Correction – Confinement: Felony convictions that result in an active sentence are served in a State prison. The cost to add one offender to the prison system is \$24.26 per day or \$727.80 per month.
 - **33% of Class H felony convictions** result in an average active sentence of 11 months with a total cost of \$8,119.
 - **15% of Class I felony convictions** result in an average active sentence of 6 months with a total cost of \$4,428.
 - **Active sentences for misdemeanors** are served in local jails and therefore do not impact State expenses.
- 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. Supervision by a probation officer costs \$249.50 per offender per month.
 - **All felony charges proposed in this bill** would receive **9 months of PRS at a cost of \$2,282.**

Conviction: Suspended Sentence

- Department of Adult Correction – Community Corrections: Felony 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 \$249.50 per offender per month.
 - **67% of Class H felony convictions** receive a suspended sentence with an average length of 25 months at a cost of \$5,933.
 - **85% of Class I felony convictions** receive a suspended sentence with an average length of 22 months at a cost of \$5,221.
 - **64% of Class A1 misdemeanor convictions** receive a suspended sentence with an average length of 16 months at a cost of \$3,797.

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.

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

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February 14, 2023



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