



NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

Legislative Incarceration Fiscal Note

Short Title: Assaults on First Responders & Social Workers.
Bill Number: House Bill 707 (First Edition)
Sponsor(s): Rep. Pyrtle, Rep. Miller, Rep. Carson Smith, and Rep. Greene

SUMMARY TABLE

FISCAL IMPACT OF H.B.707, 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>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	1,445,677	1,479,112	1,509,621	1,538,921	1,569,387
General Fund Impact	(1,445,677)	(1,479,112)	(1,509,621)	(1,538,921)	(1,569,387)

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 changes to offenses: creating a new offense, changing an existing offense class, or changing the scope of an existing offense.

This proposed legislation makes multiple offense changes, as described under the Fiscal Analysis section. However, only one of the proposed changes has historic charge and conviction data to indicate a potential impact to the State. This proposed legislation increases from a Class D felony to a Class B1 felony the offense of assault with a firearm upon a law enforcement officer, probation officer, or parole officer while the officer is in the performance of his or her duties. Using charge data from CY 2022, **Fiscal Research estimates the fiscal impact of the proposed legislation would be \$1.4 million in FY 2023-24** due to the increased costs to the Judicial Branch. Please note subsequent years are adjusted to account for inflation. **There are also increased confinement costs due to the lengthier sentence associated with a Class B1 felony, relative to a Class D felony. However, those costs are incurred beyond the 5-year projection period for fiscal estimates.**

This proposed legislation increases the offense class of three existing felony offenses (2 Class D felonies and 1 Class E felony) into a single Class B1 felony offense. This legislation also removes three groups of people from the pool of potential victims under another existing Class E felony and adds them to the Class B1 felony offense. This proposal increases the offense class of an existing Class F felony to a Class E felony. Lastly, it broadens the definition of a victim, thereby expanding the scope of Class E, F, and I felonies. Please see the Bill Summary for further details.

Each additional person charged with these crimes will generate a cost to the judicial system and each additional person convicted will generate 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. For offense class changes, the cost and rates listed represent the difference between the old and new offense classes.

Cost of One Charge and Conviction in H.707, v.1											
Offense Class	Prosecution and Defense			Active Sentence					Suspended Sentence		
	Admin. Office of the Courts	Indigent Defense Services	Cost	DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
				Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
▲ D to B1	+\$16,825	-11%	+\$2,443	100%	+\$131,374	+178	no ▲	no ▲	0%	N/A	0
▲ E to B1	+\$20,571	-1%	+\$3,277	+43%	+\$158,682	+215	no ▲	no ▲	-43%	-\$7,356	-31
▲ F to E	+\$1,432	+5%	+\$60	+6%	+\$6,643	+9	+\$712	+3	-6%	+\$237	+1
Expanded E	\$3,281	79%	\$909	57%	\$19,928	27	\$2,994	12	43%	\$7,356	31
Expanded F	\$1,849	74%	\$849	51%	\$13,285	18	\$2,282	9	49%	\$7,119	30
Expanded I	\$740	68%	\$407	15%	\$4,428	6	\$2,282	9	85%	\$5,221	22

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. The triangle symbols (▲) represent change, plus and minus (+/-) symbols reflect the increase or decrease in cost or time from the current to proposed changes in charge levels.

FISCAL ANALYSIS

Bill Summary

Section 1 amends G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility, by combining the three separate offenses (based on the victim) into one Class B1 felony offense. The three separate offenses are as follows:

Subsection (a), Assault with a firearm upon a law enforcement officer, probation officer, or parole officer while the officer is in the performance of his or her duties, **increases from a Class D felony to a B1 felony.**

- In CY 2022, 78 defendants were charged with violating G.S. 14-34.5(a)
- In FY 2021-22, 11 individuals convicted with violating G.S. 14-34.5(a)
- Fiscal Research estimates that this section will have a **total impact to the State of \$1.4 million in FY 2023-24** due to increased costs to the Administration Office of the Courts (AOC) of approximately \$1.3 million and increased costs to Indigent Defense Services (IDS) of approximately \$133,000.
- A B1 felony conviction also carries a lengthier confinement period (net increase of 178 months), relative to a D felony, at an increased cost of \$131,364 per conviction. However, since the average sentence for a Class D conviction is 64 months, the additional costs associated with a longer sentence are incurred beyond the 5-year projection period for fiscal estimates.

Subsection (a1), Assault with a firearm upon a member of the North Carolina National Guard while the member is in the performance of his or her duties, **increases from a Class E to a Class B1 felony**.

- In CY 2022, 0 defendants were charged with violating G.S. 14-34.5(a1)
- In FY 2021-22, 0 individuals were convicted with violating G.S. 14-34.5(a1)
- FRD believes this section will have **minimal impact, if any**, based on recent charge and conviction data.

Subsection (b), Assault with a firearm upon a person who is employed at a detention facility operated under the jurisdiction of the State or local government while the employee is in the performance of his or her duties, **increases from a Class D felony to a Class B1 felony**.

- In CY 2022, 0 defendants were charged with violating G.S. 14-34.5(b)
- In FY 2021-22, 0 individuals were convicted with violating G.S. 14-34.5(b)
- FRD believes this section will have **minimal impact, if any**, based on recent charge and conviction data.

Section 2 amends G.S. 14-34.6(c), Assault or affray on a firefighter, an emergency medical technician, medical responder, and hospital personnel, (a Class E felony) by excluding the people covered by the proposed Class B1 felony in amended G.S. 14-34.5.

- In CY 2022, 5 defendants were charged with violating G.S. 14-34.6(c). However, it is unknown which type of official these defendants were charged with assaulting so it cannot be determined how many, if any, of these defendants could be charged under the proposed amended G.S. 14-34.5
- FY 2021-22, 0 individuals were convicted with violating G.S. 14-34.6(c)
- FRD believes this section will have **minimal impact, if any**, based on recent charge and conviction data.

Section 3 amends G.S. 14-16.6(c) to increase the offense of inflicting serious bodily injury to a legislative officer, executive officer, or court officer from a **Class F to a Class E felony**.

- In CY 2022, 0 defendants were charged with violating G.S. 14-16.6(c)
- In FY 2021-22, 0 individuals were convicted with G.S. 14-16.6(c)
- FRD believes this section will have **minimal impact, if any**, based on recent charge and conviction data.

Section 4 amends G.S. 14-16.10(1) to expand the definition of “court officer” to include an attorney or person employed by, or acting on behalf of a county DSS, in any capacity, not just juvenile abuse/neglect/dependency proceedings. This **expands the scope of three felonies (Class E, F, and I)** for violating G.S. 14-16.6.

- In CY 2022, 4 defendants were charged with violating G.S. 14-16.6(a)

- In CY 2022, 0 defendants were charged with violating G.S. 14-16.6(b)
- In CY 2022, 0 defendants were charged with violating G.S. 14-16.6(c)
- No data available to estimate the impact of the expansion of the definition of “court officer.”
- **FRD is unable to estimate the fiscal impact of this section.**

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 bill are assumed to carry this average cost.
 - **Class B1 felonies** carry an average cost of \$23,852 per charge to the judicial system.
 - **Class E felonies** carry an average cost of \$3,281 per charge to the judicial system.
 - **Class F felonies** carry an average cost of \$1,849 per charge to the judicial system.
 - **Class I felonies** carry an average cost of \$740 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 B1 charges** utilize IDS in 78% of cases at a cost of \$4,187 per charge.
 - **Class E charges** utilize IDS in 79% of cases at a cost of \$909 per charge.
 - **Class F charges** utilize IDS in 74% of cases at a cost of \$849 per charge.
 - **Class I charges** utilize IDS in 68% of cases at a cost of \$407 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.
 - **100% of Class B1 felonies** serve an average active sentence of 242 months at a cost of \$178,610 per conviction.
 - **57% of Class E felonies** serve an average active sentence of 27 months at a cost of \$19,928 per conviction.

- **51% of Class F felonies** serve an average active sentence of 18 months at a cost of \$13,285 per conviction.
- **15% of Class I felonies** serve an average active sentence of 6 months at a cost of \$4,428 per conviction.
- Department of Adult Correction – Community Corrections: All active sentences from Class B1- I felony convictions result in a period of post-release supervision (PRS) of between 9 and 12 months, depending on the severity of the charge. Supervision by a probation officer costs \$249.50 per offender per month.
 - **Class B1 and E felons** with active sentences serve 12 months of PRS at a cost of \$2,994.
 - **Class F and I felons** with active sentences serve 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 \$237.30 per offender per month.
 - **Class B1 convictions** cannot receive a suspended sentence.
 - **43% of Class E convictions** resulted in a suspended sentence with an average length of 31 months at a cost of \$7,356.
 - **49% of Class F convictions** resulted in a suspended sentence with an average length of 25 months at a cost of \$7,119.
 - **85% of Class I convictions** resulted in a suspended sentence with an average length of 25 months at a cost of \$5,221.

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.

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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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.