



NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

Legislative Incarceration Fiscal Note

Short Title: Safe Surrender Infants.
Bill Number: House Bill 125 (Second Edition)
Sponsor(s):

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 modify the scope of those who can be charged with child abuse, a **Class A1 misdemeanor**, for failing to follow the procedures for safely surrendering an infant. **The existing charge and conviction data do not have a sufficient level of detail** allowing Fiscal Research to make projections about the fiscal impact of the proposed legislation on the criminal justice system. However, prosecution for violations to the safe surrender procedure is rare and thus any fiscal impact to the criminal justice system would be de minimis.

Each additional person charged under the proposed offense 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 that offense level.

Cost of One Charge and Conviction in H.B. 125, v.2											
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 (Days)	Cost	Length (Days)	Rate	Cost	Length (Mo.)
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. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and impaired driving.

FISCAL IMPACT OF H.B.125, V.2

	<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

H.B. 125 would revise and make conforming changes pertaining to the safe surrender of infants. Chief among the proposed changes and relevant to this incarceration note are found in Section 10.

Under current law, G.S. 14-322.3, a parent may surrender an infant and be immune from misdemeanor child abuse charges found under G.S. 14-318.2 if the infant is less than seven days in age and the infant is surrendered to either a:

1. Health care provider, as defined in G.S. 90-21.11, who is on duty at a hospital, local or district health department, or nonprofit community health center.
2. Law enforcement officer who is on duty or at a police station or sheriffs' office.
3. Social service worker on duty or at a local department of social services.
4. Certified emergency medical services worker, on duty or at a fire or emergency medical services station.
5. Any adult as specified in G.S. 7B-500.(d).

Section 10 of the proposed legislation **would modify the existing timeframe and procedure for a parent to safely surrender an infant, found in G.S. 14-322.3, granting the surrendering parent immunity from being charged with misdemeanor child abuse under G.S. 14-318.2.** The modification in the proposed legislation **extends the age** an infant can legally be surrendered **from less than six days old, to no more than seven days old.** This modification would narrow the pool of surrendering parents that could be charged under 14-318.2, by increasing the age that an infant could legally be surrendered. Narrowing the pool could result in an unspecified number of fewer charges. The changes proposed in Section 10 would also **modify the procedure** for legally surrendering an infant **by eliminating a parent's ability to surrender an infant to "any adult"** as specified in G.S. 7B-500.(d). By eliminating "any adult" as a group that can legally accept a surrendered infant, the pool of surrendering parents that could be subject to charges under 14-318.2 would be expanded.

- In **CY 2022 there were five defendants charged with violating G.S. 14-322.3.**
- In **FY2022 there were two convictions for charges under G.S. 14-322.3.**
- However, the level of detail in the **charge and conviction data is not sufficient to determine if the violations or convictions were due to conformance with the safe surrender procedure and as result,** Fiscal Research is unable to project the fiscal impact of the proposed legislation on the criminal justice system.
- The Administrative Office of the Courts notes that prosecution for **violations to the safe surrender procedure are rare and thus any fiscal impact to the criminal justice system would be de minimis.**

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 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 A1 misdemeanor 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 A1 misdemeanor defendants** utilize IDS in 52% of cases at a cost of \$281 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**. The average active sentence for Class A1 misdemeanor convictions is 69 days. Because the new charge in the proposed legislation doesn't meet either criterion, Fiscal Research anticipates convictions of the charges from the proposed change in scope that result in active sentences would have no fiscal impact to the State.

Conviction: Suspended Sentence

- **Department of Adult Correction – Community Corrections**: Misdemeanor 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.
 - **64% of Class 1A 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.
- 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 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.

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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.