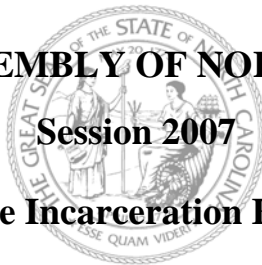


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1562 (First Edition)

SHORT TITLE: Unattended Children in Vehicles.

SPONSOR(S): Representative Underhill

FISCAL IMPACT					
	Yes (xxxx)	No ()	No Estimate Available ()		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
GENERAL FUND	There is no significant impact. The impact will be on local jails, but should not be significant.				
Correction					
Recurring					
Nonrecurring					
Judicial	There is no significant impact upon the Judicial branch.				
Recurring					
Nonrecurring					
TOTAL EXPENDITURES:					
ADDITIONAL PRISON BEDS:					
(cumulative)*					
POSITIONS:					
(cumulative)					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction; Judicial Branch.				
EFFECTIVE DATE:	Effective December 1, 2007				
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY:

House Bill 1562 enacts new GS 20-175.7 making it a Class 2 misdemeanor for a person responsible for a child 8 years old or younger to leave the child in a motor vehicle without being supervised by a person who is at least 14 years old if: (1) the conditions within or in the immediate vicinity of the motor vehicle present a risk to the child's health or safety, or (2) the engine of the motor vehicle is running or the keys to the motor vehicle are in the passenger compartment of the vehicle. The bill provides that a second or subsequent offense is a Class 1 misdemeanor. Permits a court in lieu of any other penalty to require a person convicted of a violation to complete a community education program that includes instruction on the dangers of leaving young children unattended in motor vehicles. In addition, it requires the Administrative Office of the Courts by December 1, 2007, to compile a list of community education programs.

Source: Bill Digest H.B. 1562 (04/17/0200)

ASSUMPTIONS AND METHODOLOGY:

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.

House Bill 1562 creates a new offense for any parent, legal guardian, or other person responsible for a child eight years old or less to be left in a motor vehicle without supervision in the vehicle by someone at least 14 years of age, if: the conditions within or in the immediate area of the vehicle present a risk to the child's health or safety or the vehicle's engine is running or the keys are in the passenger compartment.

This bill makes the *first violation a Class 2 misdemeanor and the second violation and all subsequent violations a Class 1 misdemeanor*. There is a provision to allow the court to use its discretion, in lieu of other penalties, to order a community education program that includes information on the dangers of leaving young children unattended in motor vehicles.

This bill creates a new offense and, therefore, the Sentencing Commission has no historical data to estimate the impact of this proposal on the prison population. Also, the Sentencing Commission has no estimate for how many offenders would be required to attend any community education programs.

The Administrative Office of the Court notes that if the conduct described in the proposed bill creates a substantial risk of injury, then a person could be charged with misdemeanor child abuse under G.S. 14-318.2 (a Class 1 misdemeanor), and they could also be charged with the new offense in House Bill 1562.

Department of Correction – Division of Prisons

In 2005-06, 17% of Class 2 misdemeanors received active sentences. The average estimated sentence was 13 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, House Bill 1562 would have no significant impact on the prison population. The impact on local jails is unknown.

In 2005-06, 20% of Class 1 misdemeanors received active sentences. The average estimated sentence was 31 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, House Bill 1562 would have no significant impact on the prison population. The impact on local jails is unknown.

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.*

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

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.

AOC's data shows that in 2006 1,646 defendants were charged with misdemeanor child abuse under G.S. 14-318.2. It cannot be determined how many of these charged involved leaving a child under eight unattended in a motor vehicle. In addition, AOC cannot estimate the number of new misdemeanor charges that would result.

Presently, the AOC estimates a trial cost of \$2,770 and a plea cost of \$226 for a Class 2 misdemeanor, and a trial cost of \$3,702 and a plea cost of \$243 for a Class 1 misdemeanor. AOC cost estimates account for indigent defense. AOC did not include a cost estimate for compiling a list of community education programs, which would be required under this legislation.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Office of State Construction.

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

TECHNICAL CONSIDERATIONS: None

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DATE: May 16, 2007



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