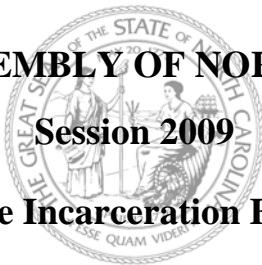


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2009**

**Legislative Incarceration Fiscal Note**

**(G.S. 120-36.7)**

**BILL NUMBER:** House Bill 1401 (First Edition)  
**SHORT TITLE:** Change Penalty for Misdemeanor Death by Vehicle.  
**SPONSOR(S):** Representatives Barnhart and Moore

|   | <b>FISCAL IMPACT</b>                       |   |                                  |                          |                          |
|---|--|---|----------------------------------|--------------------------|--------------------------|
|   | <b>Yes (X)</b>                             | <b>No ( )</b>                           | <b>No Estimate Available (X)</b> |                          |                          |
|   | <b><u>FY 2009-10</u></b>                   | <b><u>FY 2010-11</u></b>                | <b><u>FY 2011-12</u></b>         | <b><u>FY 2012-13</u></b> | <b><u>FY 2013-14</u></b> |
| <b>EXPENDITURES</b>   |  |   |                                  |                          |                          |
| <b>GENERAL FUND</b>   |  |   |                                  |                          |                          |
| <b>Correction</b>   |  |   |                                  |                          |                          |
| <b>Recurring</b>  | \$2,721                                    | \$5,443                                 | \$5,443                          | \$5,443                  | \$5,443                  |
| <b>Probation</b>  |  | <b>Indeterminate fiscal impact</b>      |                                  |                          |                          |
| <b>Judicial</b>   |  | <b>Indeterminate fiscal impact</b>      |                                  |                          |                          |
| <b>ADDITIONAL PRISON BEDS: (cumulative)*</b>  |  | <b>No prison bed impact anticipated</b> |                                  |                          |                          |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>   | Department of Correction; Judicial Branch. |   |                                  |                          |                          |
| <b>EFFECTIVE DATE:</b>  | December 1, 2009                           |   |                                  |                          |                          |
| <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:**

This bill reclassifies G.S. 20-141.4(a2), Misdemeanor death by vehicle, from a Class 1 misdemeanor to a Class A1 misdemeanor (pursuant to G.S. 20-141.4(b)(5)). Effective December 1, 2009.

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

The North Carolina 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.

### **Department of Correction – Division of Prisons**

In FY 2007-08, there were 60 Class 1 misdemeanor convictions for misdemeanor death by vehicle.

In FY 2007-08, 28% of Class A1 misdemeanor convictions resulted in active sentences, with an average estimated time served of 48 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, Class 1 misdemeanor convictions for this offense that would be reclassified to Class A1 misdemeanor convictions under this proposed bill *would not be expected to have a significant impact on the prison population*. The Department of Correction (DOC) reimburses county jails for misdemeanants, starting on the 31<sup>st</sup> day at a rate of \$18 per day. Because the average active sentence for a Class A1 misdemeanor is 48 days, the State would incur some minor costs. If all 60 of the Class 1 misdemeanor convictions become Class A1 misdemeanors under this bill and 28 percent receive an active sentence averaging 48 days, the expenses to the State will be about \$5,443 annually. It is possible that misdemeanants convicted of death by vehicle will be given active sentences with more frequency and with longer durations than is the average for that offense classification. If this is the case, the actual costs to the state can be expected to exceed the previously stated cost estimate. The impact on local jail populations is not known.

It is important to note that 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 and beyond*. Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

### **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.<sup>1</sup>

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 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 \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 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.

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<sup>1</sup> 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.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined.*

### **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.

In 2008, there were 200 defendants charged with misdemeanor death by vehicle. Assuming the same disposition of cases as in 2008, elevating this offense would result in a small but insignificant cost increase, as Class A1 misdemeanors require slightly more time to dispose than Class 1 misdemeanors. AOC provided an estimate of \$880 in additional expense for a full year of implementation. The Office of Indigent Defense Services reports an average of three hours per indigent defendant on misdemeanor cases. AOC estimates do not include an increase in time or resources for indigent defense.

In FY 2007-08, a typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Danielle Seale, Denise Thomas

**APPROVED BY:**

Marilyn Chism, Director  
Fiscal Research Division

**DATE:** April 28, 2009



**Signed Copy Located in the NCGA Principal Clerk's Offices**