

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 904 < 1st Edition>
SHORT TITLE: Increase Misdemeanor Child Abuse Penalty
SPONSOR(S): Representatives Goodwin; and Barefoot

FISCAL IMPACT

	Yes (X) (indigent defense costs)	No ()	No Estimate Available (X) (county jails)		
	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>
REVENUES					
EXPENDITURES					
Judicial Branch					
Indigent Defense	\$1,413	\$18,645	\$20,510	\$22,560	\$24,816

County Jails (*if sentencing under this new law follows the pattern of sentencing for existing Class A1 Misdemeanors, it could result in up to 13,792 additional inmate days in county jails per year*)

POSITIONS: 0

*Indigent defense funds include an anticipated 10% increase annually

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:** Judicial Branch, Dept. of Correction, and County Jails

EFFECTIVE DATE: This act is effective on December 1, 2001, and applicable to offenses committed on or after that date.

BILL SUMMARY:

This bill would increase the penalty for misdemeanor child abuse, G.S. 14-318.2, from a Class 1 misdemeanor to a Class A1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction

Pursuant to G.S. 15A-1340.23, the Structured Sentencing statute, a defendant convicted of a Class 1 misdemeanor could receive an active sentence only if he or she has a prior conviction. A defendant convicted of a Class A1 misdemeanor, on the other hand, could receive an active sentence up to 60 days even if he or she has no prior convictions.

According to the Sentencing Commission, there were 264 convictions where this was the most serious offense during FY 1999/2000. Fourteen of these convictions resulted in sentences greater than 90 days (i.e. prison sentences). Notwithstanding, this reclassification is not expected to have a significant impact on the prison population. It is estimated to have an impact on local jail populations. While we cannot project the number of new jail inmates due to this bill, we do know that in FY 1999/2000, 19% of all Class A1 misdemeanor convictions resulted in active sentences. The average sentence length imposed was 69 days. Offenders serving active sentences of less than 90 days are housed in county jails.

The AOC database showed 1,052 defendants charged with misdemeanor child abuse under G.S. 14-318.2. *If we assume (1) that all were found guilty and (2) that 19% of offenders sentenced under this new law receive active sentences averaging 69 days, this would result in 13,792 (=19*1,052*69) additional jail days for the counties to absorb. This represents the upper limit on the possible number of jail days since it is not likely that all defendants will be found guilty. There is no recent data available on the average cost of a day in county jail because it varies so widely among the counties. In the past, Fiscal Research had used the figure of \$40/day, based on a 1996 survey. However, that data is too old to be used here.*

If judges sentence offenders of this crime differently than the average Class A1 misdemeanor (different % active sentences, different length sentences) or if some of the offenders face prison sentences for other offenses, the number of county jail inmate days will be affected.

Judicial Branch

As indicated previously, AOC offense code data for calendar year 2000 reveal that 1,052 defendants were charged with misdemeanor child abuse under G.S. 14-318.2. As a conservative estimate, AOC assumes that it would take an additional 15 minutes of court time to dispose of each of these 1,052 cases, there would be 263 additional hours of court time, or 44 additional days of court (assuming a six-hour court day). At a cost of \$1,022 per day in court for district court, the fiscal impact would be \$44,968 in additional court costs. However, Fiscal Research does not include these costs for personnel in its calculation if the workload increase is less than 3600 hours (3600 hours = 2 fulltime positions).

Assuming an indigency rate of 25.8% for these 1,052 cases, there would be 271 cases handled by private assigned counsel. The additional costs for private assigned counsel would total \$16,950 (based on compensation of \$50 per hour times 271 cases and an additional 339 hours, which includes 68 additional in-court hours based on the 15 minutes per case plus 1 additional hour of preparation time for each case). Total indigent costs would increase by 10% annually, for a total of \$18,645 in the 3rd year. First year costs assume the first cases would not be heard until the last month of 2001-2002.

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

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: 733-4910

PREPARED BY: Lisa Robinson and Elisa Wolper

APPROVED BY: James D. Johnson

DATE: April 16, 2001



Signed Copy Located in the NCGA Principal Clerk's Offices