

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2013**

**Legislative Incarceration Fiscal Note**

(G.S. 120-36.7)

**BILL NUMBER:** House Bill 811 (Second Edition)

**SHORT TITLE:** Amend Practice of Funeral Service Laws.

**SPONSOR(S):** Representative Boles

<b>FISCAL IMPACT</b>					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
<b>State Impact</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
<b>NET STATE IMPACT</b>	<b>Likely budget cost. See Assumptions &amp; Methodology section for additional details.</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
Administrative Office of the Courts, Indigent Defense Services, Department of Public Safety					
<b>EFFECTIVE DATE:</b> December 1, 2013					
<b>TECHNICAL CONSIDERATIONS:</b>					
None					

**FISCAL IMPACT SUMMARY:**

This bill will have minimal fiscal impact.

The proposed bill may have a fiscal impact to address new chargeable offenses being enforced, adjudicated and having penalties applied to those convicted of the new offenses. However, given there is no historical data on these new offenses, or similar offenses to use as a proxy for predicting the total number of new offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. The following costs may be incurred for every one person charged and convicted of these crimes:

- Administrative Office of the Courts: \$88-\$165 per disposition
- Indigent Defense Services: \$166 in district court  
\$321 in superior court without a trial  
\$847 in superior court with a trial
- Prison Section: (\$11.23 per inmate per day)
- Community Corrections: Minimum of \$1,416-\$1,960

Please see the Assumptions and Methodology section for additional information.

## **BILL SUMMARY:**

Section 3 of the proposed legislation amends G.S. 90-201.25, Licensing, by adding subdivision (f)(2). This subdivision makes it a Class 2 misdemeanor for any person to knowingly or willfully abuse, mutilate, or fail to treat with reasonable care a dead human body in a person's custody. Section 17 enacts G.S. 90-210.108, Burial associations regulated as insurance companies. This section makes it a Class 1 misdemeanor for any person or corporation to own or operate a burial association unless the burial association complies with all requirements imposed on an insurance company or insurer. Section 24 of the proposed legislation enacts G.S. 90-210.134, Hydrolysis of human remains. Pursuant to G.S. 90-210.134, it is a Class 2 misdemeanor to violate any of the provisions of this statute.

## **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.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina's court system, corrections system (both to prisons and probation), and to post-release supervision. The Act also created a statewide confinement program for housing misdemeanants with sentences of less than 180 days in county jails. Previously, county jails were only required to house misdemeanants with sentences of 90 days or less. In addition, all F-I felons are now subject to nine months of post-release supervision (PRS). B1-E felony PRS has been increased from nine months to twelve months. Due to the lack of historical data about JRA implementation, it is not possible to estimate the number of prison beds that may be needed as a result of revocations.

### **Judicial Branch**

The Administrative Office of the Courts 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.

Sections 3, 17, and 24 together create two new Class 2 misdemeanor offenses and one new Class 1 misdemeanor offense. Because these are new offenses, AOC does not have historical data upon which to estimate the number of charges that might occur. For every additional person charged with a Class 1 misdemeanor, AOC estimates the average cost to the court would also be \$165. For every additional person charged with a Class 2 misdemeanor, AOC estimates the average cost to the court would also be \$88.

The Office of Indigent Defense Services (IDS) provides Fiscal Research with a fiscal impact analysis for criminal penalty bills that will result in greater expenditures for indigent defense. IDS estimates that the cost of a new Class 1 misdemeanor or Class 2 misdemeanor offense would cost \$166 per case for a private appointed counsel (PAC) attorney in district court. In superior court, IDS estimates that the cost of a PAC attorney per case for a new Class 1 misdemeanor or Class 2 misdemeanor offense would be \$321 if the case does not go to trial and \$847 if it does.

## **Department of Public Safety –Prison Section**

This bill creates new Class 1 misdemeanor and Class 2 misdemeanor offenses. The North Carolina Sentencing and Policy Advisory Commission expect no impact on the prison population because offenders who receive active sentences will serve them in the local jail. The Department of Public Safety therefore does not anticipate an impact on prison custody projections. In addition, this bill creates several new infractions. Infractions are punishable only by a fine, and, therefore do not have an impact on the prison or jail populations.

## **Department of Public Safety – Community Correction Section**

All active sentences for felony offenses now result in a minimum of twelve months of post-release supervision (PRS) for B1-E level offenses and a minimum of nine months of PRS for F-I level offenses. Additionally, 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). Sanctions include electronic house arrest, community service, substance abuse treatment, participation in educational or vocational skills development, payment of court costs, fines, and restitution, and short-term jail sentences not exceeding six days per month.

All types of post-release supervision, including intermediate or community sanctions, are supervised by the Community Corrections Section (CCS); CCS also oversees community service.<sup>1</sup> General post-release supervision and supervision of intermediate and community offenders by a probation officer costs \$3.63 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are only ordered to pay fines, fees, or restitution. Total costs are based on average supervision length and the percentage of offenders (per offense class) sentenced to active sentences requiring post-release supervision, intermediate sanctions and supervised probations.

Section 3 creates a new Class 1 misdemeanor. In FY 2011-12, 26% of offenders convicted of a Class 1 misdemeanor were sentenced to active sentences for an average length of 39 days; 2% received intermediate sentences; and 72% received community punishments. Only felony offenses result in Post Release Supervision (PRS), therefore there is no additional cost for a misdemeanant sentenced to an active sentence. The average length of intermediate and community punishment imposed for this offense class was 18 and 15 months, respectively. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives an intermediate sentence is \$1,960 (540 days times \$3.63 per day). Of those convicted to a community sentence, around 40% received supervised sentences. The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives community supervision is \$1,634 (450 days times \$3.63 per day). It is not known how many offenders might be convicted and sentenced under the proposed statute.

Sections 17 and 24 create new Class 2 misdemeanors. In FY 2011-12, 29% of offenders convicted of a Class 2 misdemeanor were sentenced to active sentences for an average length of 39 days; 1% received intermediate sentences; and 70% received community punishments. Only felony offenses result in Post Release Supervision (PRS), therefore there is no additional cost for a misdemeanant sentenced to an active sentence. The average length of intermediate and community punishment imposed for this offense class was 16 and 13 months, respectively. The average cost to community corrections for any individual convicted of a Class 2 misdemeanor who receives an intermediate sentence is \$1,742 (480 days times \$3.63 per day). The average cost to community corrections for any individual convicted of a Class 1 misdemeanor who receives community supervision is \$1,416 (390 days times \$3.63 per day). It is not known how many offenders might be convicted and sentenced under the proposed statute.

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<sup>1</sup> CCS incurs costs of \$1.29 per day for each offender sentenced to the Community Service Work Program.

**SOURCES OF DATA:** Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

**TECHNICAL CONSIDERATIONS:** None

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