

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

## Legislative Incarceration Fiscal Note

**BILL NUMBER:** House Bill 529 (Fourth Edition)  
**SHORT TITLE:** NC Drivers License Restoration Act.  
**SPONSOR(S):** Representatives Baskerville and Bryan

<b>FISCAL IMPACT</b>					
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> No Estimate Available		
State Impact	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
General Fund Revenues:					
General Fund Expenditures:					
Highway Fund Revenues:	Indeterminate. See Assumptions and Methodology.				
Highway Fund Expenditures:	\$59,380	\$4,550	\$4,550	\$4,550	\$4,550
State Positions:					
<b>NET STATE IMPACT</b>	<b>(\$59,380)</b>	<b>(\$4,550)</b>	<b>(\$4,550)</b>	<b>(\$4,550)</b>	<b>(\$4,550)</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
Department of Public Safety, Administrative Office of the Courts, Office of Indigent Defense Services, Department of Transportation - Information Technology Division, Highway Fund Availability					
<b>EFFECTIVE DATE:</b> December 1, 2015					
<b>TECHNICAL CONSIDERATIONS:</b>					
Yes - See Technical Considerations Section					

**FISCAL IMPACT SUMMARY:**

This bill is estimated to increase Department of Transportation expenditures for information technology system modifications by \$59,380 non-recurring in FY 2015-16 and \$4,550 recurring in subsequent years. Highway Fund revenue is also impacted; however, potential foregone revenue is indeterminate.

**BILL SUMMARY:**

This bill creates a new offense under subsection (a1), Aggravated Driving While License Revoked (DWLR) (the existing subsection (a1) is recodified as subsection (a2)). Under this offense, it is a Class 1 misdemeanor for a person whose drivers license has been revoked for an impaired driving license revocation, as defined in G.S. 20-28.2, except as provided in subsection (a2) of this section, to drive any motor vehicle upon the highways of the State while the license is revoked. Therefore, the additional period of revocation currently required by G.S. 20-28 for all DWLR offenses will apply only to convictions of DWLR when the license was revoked for impaired driving. The bill would exclude any DWLR conviction that was not a DWLR for impaired driving from being classified as a "motor vehicle moving offense" for purposes of applying for a new drivers license.

The bill is effective December 1, 2015, and applies to convictions on or after that date.

## **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 (FRD) does not assume deterrent effects for any criminal penalty bill.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA) created the Statewide Misdemeanant Confinement Program (SMCP) for housing misdemeanants with sentences between 90 and 180 days in county jails (misdemeanants with shorter sentences were already the responsibility of the counties). County participation in the program is voluntary. The SMCP pays participating counties for misdemeanants' housing, transportation, and medical costs. In 2014, the program was expanded to include all misdemeanants with sentences longer than 90 days. The Sentencing and Policy Advisory Commission does not track county jail capacity, so it is not possible to estimate the impact of new or increased misdemeanor penalties on county jails.

### **Judicial Branch**

The Administrative Office of the Courts (AOC) provides FRD 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. The Office of Indigent Defense Services (IDS) has provided Fiscal Research with the frequency and cost of indigent defense services for each level of crime, including the cost differentials for district and superior court with and without a trial and the percentage of cases handled in each category. FRD used this data to calculate a weighted average of IDS costs.

Section (a1) of the bill modifies an existing penalty for violation of G.S. 20-28.2, but it does not change the offense class. FRD does not anticipate any additional costs to AOC or IDS from this bill.

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

The North Carolina Sentencing and Policy Advisory Commission expects no impact on the prison population because all misdemeanor offenders who receive active sentences will serve them in the local jail. Therefore, the Department of Public Safety does not anticipate an impact on prison custody projections.

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

All misdemeanor 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.

JRA essentially eliminated the distinction between “community” and “intermediate” supervision. Under structured sentencing, the two types of supervision were each defined by a set of specific sanctions. Under JRA, both community and intermediate probation may now include electronic monitoring, short-term periods of confinement, substance abuse assessment, monitoring, and treatment, participation in educational programs or vocational skills development. Whether a probationer is subject to more stringent conditions is determined by the results of a risk-needs assessment administered by the Department of Public Safety.

All types of post-release supervision are supervised by the Community Corrections Section (CCS); CCS also oversees community service. Supervision by a probation officer costs \$130.50 per offender, per month; 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 and supervised probations. The table below shows the monthly cost for each year of the five year projection, adjusted for inflation.

<b>Monthly Supervision Cost Adjusted for Inflation Five Year Projection</b>						
	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
Inflation Rate		1.85%	2.72%	2.88%	2.76%	2.44%
Monthly Cost	\$130.50	\$132.90	\$136.52	\$140.45	\$144.32	\$147.85
<i>Inflation Rates based on consumer price index projections provided by Moody's economy.com (Jan. 2015)</i>						

Fiscal Research does not anticipate any costs to CCS from the proposed changes in the bill.

**Department of Transportation – Information Technology (DOT-IT)**

According to DOT-IT, the following changes to the State Automated Driver License System (SADLS) are required to automate the business processes which support the proposed changes:

- Develop and receive new charge codes in conjunction with the Administrative Office of the Courts, as required. Modify codes table to link the charge code to the new conviction code in SADLS.
- Create new conviction and suspension rules, and new action module.
- Remove convictions of DWLR under G.S. 20-7(a), 20-24.1, and G.S. 20-28(a) or (a2), as these can no longer be considered moving violations.
- Modify the limited privilege processes to include the DWLR conviction and suspension event identifiers, and to determine what was in effect at the time the DWLR offense occurred.
- Modify DWLR process for a commercial motor vehicle.
- Determine and assign a proper ACD (AAMVA Code Dictionary) Code to the new conviction rule for transmission out-of-state through the Commercial Driver License Interface System (CDLIS).

A total of 652 development labor hours at the standard rates of \$90-\$95/hr. is assumed for completion of these enumerated tasks. Recurring support costs are estimated at \$4,550/year (65 hrs. at \$70 labor rate).

**Highway Fund Availability**

Currently, a person’s driver license is revoked upon conviction of driving while license revoked or for a moving violation during an active revocation/suspension, thereby generating an additional revocation period. Accordingly, the proposed reclassification of certain DWLR violations under G.S. 20-7(a), 20-24.1, and G.S. 20-28(a) or (a2) as non-moving violations reduces the number of subsequent suspensions and, potentially, corresponding fees collected for license restoration (\$50.00).

According to DMV’s Processing Services (Hearings Unit), there were approximately 14,455 non-DWI DWLR convictions during 2014, with an associated \$722,750 in potential restoration fees. However, because the restoration fee is collected once following the revocation/suspension, the potential for foregone revenue is limited to instances in which 1) a person’s conviction date for DWLR falls outside of the base suspension period and 2) the person successfully applied for license restoration while the DWLR case is pending adjudication. The incidence of such cases is unknown, precluding estimation of the potential revenue loss.

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

**TECHNICAL CONSIDERATIONS:** Due to the sequencing of existing projects and deadlines, the Department of Transportation recommends an alternate effective date of July 1, 2016 to accommodate the required system modifications.

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**DATE:** July, 28, 2015



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