



NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

Legislative Incarceration Fiscal Note

Short Title: Protecting School Employees.
Bill Number: House Bill 534 (First Edition)
Sponsor(s): Rep. N. Jackson, Rep. Carson Smith, Rep. Stevens, and Rep. Biggs

FISCAL IMPACT SUMMARY

Criminal offenses are classified as misdemeanors (Class 3 as the lowest and Class A1 as the highest) and felonies (Class I to Class A). There are three types of legislative changes to offenses that may result in a fiscal impact to the State’s criminal justice system: creating a new offense, changing the class of an existing offense, or changing the scope of an existing offense.

The proposed legislation would amend G.S. 14-33, **increasing the class** for second or subsequent offenses for assaults, batteries, and affrays, on school employees or school volunteers, while in the line of duty, **from a Class A1 misdemeanor to a Class G felony**. Due to the few numbers of convictions under G.S. 14-33(c)(6) in FY2022 Fiscal Research estimates any fiscal impact to the criminal justice system would be de minimis.

Each additional person charged under the proposed offenses will have a cost to the judicial system and each additional person convicted will have a cost to the correction system. The **cost of one charge and conviction is listed in the table below**, along with the percent of cases that incur those costs at that offense level.

Cost of One Charge and Conviction in H.B. 534, v1											
Offense Class	Prosecution and Defense			Active Sentence				Suspended Sentence			
	Admin. Office of the Courts	Indigent Defense Services	DAC - Confinement	DAC - Post-Release Supervision (PRS)		DAC - Probation					
				Cost	Length (Mo.)	Rate	Cost	Length (Mo.)			
Misdemeanor to Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
▲ A1 to G	+\$945	+26%	+\$425	+39%	+\$11,071	+15	+\$2,282	+9	-3%	+\$2,373	+10

Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. The triangle symbols (▲) represent change, plus and minus (+/-) symbols reflect the increase or decrease in cost or time from the current to proposed changes in charge levels.

FISCAL IMPACT OF H.B.534, V.1

	<u>FY 2023-24</u>	<u>FY 2024-25</u>	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>
General Fund Revenue	-	-	-	-	-
<u>Less Expenditures</u>	-	-	-	-	-
General Fund Impact	Likely Insignificant Budget Cost - Refer to Fiscal Analysis section				

FISCAL ANALYSIS

Bill Summary:

The proposed legislation **would amend G.S. 14-33, the simple and aggravated punishments for misdemeanor assaults, batteries, and affrays** by adding subsection (e). **Currently, G.S. 14-33(c)(6) is a Class A1 misdemeanor** for any person who assaults a school employee or school volunteer while discharging their duties as an employee or volunteer. The proposed legislation would add subsection (e) stating that, unless the conduct is covered under some other provision of law providing greater punishment, **a person who commits a second or subsequent violation of G.S. 14-33(c)(6) is guilty of a Class G felony.**

In CY 2022 there were 25 defendants charged under G.S. 14-33(c)(6) and in FY 2021-22 two offenders convicted. This represents the pool of individuals who could be charged with a Class G felony if they committed the offense again. Please note the Administrative Office of the Courts (AOC) database indicates both individuals convicted in FY 2021-22 had a prior conviction, but it is not known whether the prior conviction was for G.S. 14-33(c)(6) or another offense. Regardless, **due to the overall low number of charges and convictions for G.S. 14-33(c)(6), any fiscal impact from this proposed legislation to the criminal justice system would be de minimis.**

Capital Expenses

Capital costs emerge when prison bed demand exceeds capacity. Based on the most recent prison population and bed capacity projections from the Sentencing and Policy Advisory Commission (SPAC), the State will have sufficient prison beds available beyond the five-year fiscal note horizon. Therefore, Fiscal Research anticipates there will be **no additional prison capital requirements** as a result of this proposed legislation.

Operating Expenses

The following section explains the source of potential costs for State agencies because of this proposed legislation. The table in the Fiscal Impact Summary lists the costs specific to the charge or charges included in this proposal.

Charge: Prosecution and Defense

- Administrative Office of the Courts (AOC): Making changes to the existing criminal code may increase charges, resulting in corresponding **increases in court time and workload** for judges, clerks, and prosecutors. AOC provides FRD with an average cost based on offense level. Any new charges brought because of this proposed legislation are assumed to carry the following additional average cost to the court system.

- **Increasing a charge from a Class A1 misdemeanor to a Class G felony** carries an average increased cost of \$945 per charge.
- Indigent Defense Services (IDS): Persons who cannot afford to hire legal counsel will be provided a public defender (PD), if available, or a private assigned counsel (PAC) attorney paid by IDS. The cost provided is the actual average cost for a PAC attorney and serves as a proxy for the additional workload cost to PD offices.
 - **Increasing a charge from a Class A1 misdemeanor to a Class G felony** increases IDS utilization by 26% and cost by \$425 per charge.

Conviction: Active Sentence

- Department of Adult Correction – Confinement: Felony convictions that result in an active sentence are served in a State prison. The cost to add one offender to the prison system is \$24.26 per day or \$727.80 per month.
 - **Increasing a charge from a Class A1 misdemeanor to a Class G felony** increases the probability of receiving an active sentence by 39%, the average sentence length by 15 months, and the average active sentence cost by \$11,071 per conviction under the new offense classification.
- Department of Adult Correction – Community Corrections: All active sentences from Class B1- I felony convictions result in a period of post-release supervision (PRS) between 12 and 9 months, depending on the severity of the charge. There is a one-time cost of \$146 per PRS hearing and supervision by a probation officer which costs \$237.30 per offender per month.
 - **All Class I and G felons**, whether new convictions under the new offenses or as a result of the increased penalty for an existing offense, **receive 9 months of PRS at a cost of \$2,282.**

Conviction: Suspended Sentence

- Department of Adult Correction – Community Corrections: Felony convictions that receive a suspended sentence result in a period of supervised probation based on the severity of the charge and the offender’s prior record. Supervision by a probation officer costs \$237.30 per offender per month.
 - **Increasing a charge from a Class A1 misdemeanor to a Class G felony** decreases the probability of receiving an active sentence by 3%, but increases the average sentence length by 10 months, and the average active sentence cost by \$2,282 per conviction under the new offense classification.

TECHNICAL CONSIDERATIONS

- Offense changes are typically effective on December 1. FRD assumes that costs incurred in the first year to the judicial and correction systems would be less than annualized costs due to lag time in charges and convictions.
- This estimate assumes that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime rates. Likewise, FRD assumes no deterrent effects for any modifications to criminal penalties. The estimates in this Incarceration Note make no assumptions about the larger impact on crime rates or costs to society or the State.

- This estimate makes no prediction regarding the likelihood that a prosecutor will charge an offense based on any proposed increases or decreases to the offense class level. This estimate also does not attempt to predict the impact of offense class changes on plea negotiations. FRD assumes the proposed offense class is charged and convicted at the same rate as the prior level.
- For reference, Appendix A to this document shows the costs per charge/conviction for each class of offense in North Carolina.

DATA SOURCES

Department of Adult Correction; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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Signed copy located in the NCGA Principal Clerk's Offices

APPENDIX A: COSTS PER CHARGE/CONVICTION BY OFFENSE CLASS

Cost of One Charge and Conviction											
	Prosecution and Defense			Active Sentence					Suspended Sentence		
Offense Class	Admin. Office of the Courts	Indigent Defense Services		DAC - Confinement			DAC - Post-Release Supervision (PRS)		DAC - Probation		
Felony	Cost	Rate	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$55,469	95%	\$11,967	100%	NA	Life	N/A	N/A	0%	N/A	0
B1	\$23,852	78%	\$4,187	100%	\$178,610	242	\$2,994	12	0%	N/A	0
B2	\$17,704	85%	\$4,187	100%	\$115,137	156	\$2,994	12	0%	N/A	0
C	\$8,598	82%	\$2,317	100%	\$63,473	86	\$2,994	12	0%	N/A	0
D	\$7,027	89%	\$1,744	100%	\$47,236	64	\$2,994	12	0%	N/A	0
E	\$3,281	79%	\$909	57%	\$19,928	27	\$2,994	12	43%	\$7,356	31
F	\$1,849	74%	\$849	51%	\$13,285	18	\$2,282	9	49%	\$7,119	30
G	\$1,525	78%	\$706	39%	\$11,071	15	\$2,282	9	61%	\$6,170	26
H	\$1,016	78%	\$510	33%	\$8,119	11	\$2,282	9	67%	\$5,933	25
I	\$740	68%	\$407	15%	\$4,428	6	\$2,282	9	85%	\$5,221	22
Misdemeanor	Cost	Rate	Cost	Rate	Cost	Length (Days)			Rate	Cost	Length (Mo.)
A1	\$580	52%	\$281	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS		64%	\$3,797	16
1	\$335	62%	\$237						64%	\$3,322	14
2	\$178	30%	\$237						78%	\$3,085	13
3	\$63	14%	\$202						84%	\$3,085	13

Note: Court costs reflect the average cost per disposition. Costs for active sentences, probation, and post-release supervision reflect the total cost of the sentence or supervision period. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and for impaired driving.