



# NORTH CAROLINA GENERAL ASSEMBLY

2023 Session

## Legislative Incarceration Fiscal Note

---

**Short Title:** Modify Laws Relating to Human Trafficking.  
**Bill Number:** Senate Bill 626 (Second Edition)  
**Sponsor(s):**

### 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 **expand the scope of a Class A1 misdemeanor** under G.S. 50D-10 for knowingly violating orders pursuant to G.S. 50D. The Administrative Office of the Courts (AOC) does not have a code for this offense and as a result there is no charge and conviction data. The proposed legislation would also amend G.S. 14-43.11 and G.S. 14-43.1, the definitions for human trafficking and sexual servitude, which would **expand the scope of class B2, C, and D felonies**. There is also no data to predict how many individuals may be charged or convicted under the proposed expansion of the felony charges. **As a result, Fiscal Research is unable to project the fiscal impact** of the proposed legislation on the criminal justice system.

Each additional person charged under the proposed offense 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 S.B. 626, v.2 |                             |                           |         |                                                                         |           |               |                                      |              |                    |         |              |
|----------------------------------------------------|-----------------------------|---------------------------|---------|-------------------------------------------------------------------------|-----------|---------------|--------------------------------------|--------------|--------------------|---------|--------------|
|                                                    | 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.) |
| Expanded B2                                        | \$17,704                    | 85%                       | \$4,187 | 100%                                                                    | \$115,137 | 156           | \$2,994                              | 12           | 0%                 | N/A     | 0            |
| Expanded C                                         | \$8,598                     | 82%                       | \$2,317 | 100%                                                                    | \$63,473  | 86            | \$2,994                              | 12           | 0%                 | N/A     | 0            |
| Expanded D                                         | \$7,027                     | 89%                       | \$1,744 | 100%                                                                    | \$47,236  | 64            | \$2,994                              | 12           | 0%                 | N/A     | 0            |
| Misdemeanor                                        | Cost                        | Rate                      | Cost    | Rate                                                                    | Cost      | Length (Days) |                                      |              | Rate               | Cost    | Length (Mo.) |
| Expanded A1                                        | \$580                       | 52%                       | \$281   | Active sentences for misdemeanor convictions are served in County jail. |           |               | Misdemeanants do not receive PRS.    |              | 64%                | \$3,797 | 16           |

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 impaired driving.

### FISCAL IMPACT OF S.B.626, V.2

|                            | <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>   | =                                                               | =                 | =                 | =                 | =                 |
| <b>General Fund Impact</b> | <b>No Estimate Available - Refer to Fiscal Analysis section</b> |                   |                   |                   |                   |

### FISCAL ANALYSIS

#### Bill Summary:

**Section 1** of the proposed legislation **would amend Chapter 50D** of the General Statutes, Permanent Civil No-Contact Order Against Sex Offender on Behalf of Crime Victim, by adding victims of a human trafficking offense to the people covered by this Chapter and **by adding a permanent domestic violence protective order to the types of orders available**. Under G.S. 50D-10, **persons who knowingly violates an order entered pursuant to Chapter 50D are guilty of a Class A1 misdemeanor.**

Currently, AOC does not have a specific offense code for violations of G.S. 50D-10. The lack of an offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. As a result, **there is no data** to predict how many additional convictions may result from the proposed broadening of the current statute.

**Section 3** of the proposed legislation would amend G.S. 14-43.11 and G.S. 14-43.13 by expanding the definitions for the offenses of human trafficking and sexual servitude to include persons who patronize or solicit another person with the intent that the other person be held in involuntary servitude or sexual servitude. Violation of G.S. 14-43.11 is a **Class C felony** if the victim of the offense is an adult **and a Class B2 felony** if the victim of the offense is a minor. Violation of G.S. 14-43.13 is a **Class D felony** if the victim of the offense is an adult **and a Class C felony** if the victim of the offense is a minor. The table below shows the number of charges and convictions under each of the statutes in calendar year 2022 and fiscal year 2021-22

| General Statutes  | Victim | CY 2022 Charges | FY 2021-22 Convictions |
|-------------------|--------|-----------------|------------------------|
| Human Trafficking | Minor  | 19              | 1                      |
| 14-43.11          | Adult  | 13              | 3                      |
| Sexual Servitude  | Minor  | 10              | 0                      |
| 14-43.13          | Adult  | 9               | 0                      |

*Source: Charge and conviction data provided by the AOC and SPAC*

Although there were several charges and a few convictions under the statutes—the proposed legislation would modify—existing charge and conviction data does not discern if the individuals patronized or solicited the prohibited conduct under each of the statutes. As a result, there is no data to determine the additional number of individuals who could be charged under the expanded definitions proposed in Section 3.

Due to a lack of data, **Fiscal Research is unable to project the fiscal impact of the statutory changes, in Section 1 and 3 of the proposed legislation, on the criminal justice system.**

**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):** Expanding the scope of existing offenses in the 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.
  - **Class B2 felonies** carry an average cost of \$17,704 per charge to the judicial system.
  - **Class C felonies** carry an average cost of \$8,598 per charge to the judicial system.
  - **Class D felonies** carry an average cost of \$7,027 per charge to the judicial system.
  - **Class A1 misdemeanors** carry an average cost of \$580 per charge to the judicial system.
  
- **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.

- **Class B2 charges** utilize IDS in 85% of cases at a cost of \$4,187 per charge.
- **Class C charges** utilize IDS in 82% of cases at a cost of \$2,317 per charge.
- **Class D charges** utilize IDS in 89% of cases at a cost of \$1,744 per charge.
- **Class A1 charges** utilize IDS in 52% of cases at a cost of \$281 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.
  - **100% of Class B2 felonies** serve an average active sentence of 156 months at a cost of \$115,137 per conviction.
  - **100% of Class C felonies** serve an average active sentence of 86 months at a cost of \$63,473 per conviction.
  - **100% of Class D felonies** serve an average active sentence of 64 months at a cost of \$47,236 per conviction.
  - **Active sentences for misdemeanor convictions** are served in local jails and only incur costs to the Statewide Misdemeanant Confinement Program (SMCP) when the sentence exceeds 90 days, or the conviction is for impaired driving. Because the **expanded class A1 misdemeanor charge** in the proposed legislation doesn't meet either criterion, Fiscal Research anticipates convictions of the new charge resulting in active sentences would have no fiscal impact to the State.
- 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. Supervision by a probation officer costs \$237.30 per offender per month.
  - **Class B2, C, and D felony convictions** with active sentences serve 12 months of PRS at a cost of \$2,994.
  - **Misdemeanants** do not receive PRS.

### **Conviction: Suspended Sentence**

- Department of Adult Correction – Community Corrections: 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.
  - **Class B2, C, and D felony convictions** cannot receive a suspended sentence.
  - **64% of Class A1 convictions** resulted in a suspended sentence with an average length of 16 months at a cost of \$3,797.

## **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.

## **ESTIMATE PREPARED BY**

---

Sean Hamel

## **ESTIMATE APPROVED BY**

---

Brian Matteson, Director of Fiscal Research  
Fiscal Research Division  
April 24, 2023



**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    |                   |           |               |                                      |              | 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.*