



NORTH CAROLINA GENERAL ASSEMBLY

2025 Session

Legislative Incarceration Fiscal Note

Short Title: 2025 Public Safety Act.
Bill Number: Senate Bill 429 (Second Edition)
Sponsor(s):

SUMMARY TABLE

FISCAL IMPACT OF S.B. 429, V.2* (\$ in millions)					
	<u>FY 2025-26</u>	<u>FY 2026-27</u>	<u>FY 2027-28</u>	<u>FY 2028-29</u>	<u>FY 2029-30</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	\$ 3.4	\$ 3.4	\$ 3.4	\$ 3.4
General Fund Impact	Partial Estimate Available - Refer to Fiscal Analysis section				
NET STATE IMPACT					
Partial Estimate Available - Refer to Fiscal Analysis section					
TECHNICAL CONSIDERATIONS: See Technical Considerations Section					

**Estimate reflects costs of each cohort of charges and convictions in a given year; actual costs to DAC will be spread over the full length of an offender's sentence but are listed here in the year in which the sentence begins.*

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.

This proposed legislation makes all three of the above types of changes to criminal statutes. Because many of the changes include new charges, data is not available to provide complete cost projections, and as such, **Fiscal Research is only able to provide partial cost projections for this bill. Changes for which data is available are estimated to cost the State at least an additional \$3.4 million per annual cohort of charged and convicted individuals.**

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 percentage of cases that incur those costs at that offense level.



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	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
B1	\$30,500	\$3,668	100%	\$622,245	231	\$3,370	12	0%	\$0	0
C	\$10,994	\$2,250	100%	\$223,577	83	\$3,370	12	0%	\$0	0
D	\$8,984	\$1,503	100%	\$161,622	60	\$3,370	12	0%	\$0	0
E	\$4,197	\$890	57%	\$70,036	26	\$3,370	12	43%	\$8,986	32
F	\$2,364	\$765	54%	\$48,487	18	\$2,527	9	46%	\$8,424	30
G	\$1,951	\$660	41%	\$40,406	15	\$2,527	9	59%	\$7,301	26
Felony	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
H	\$1,300	\$517	36%	\$26,937	10	\$2,527	9	64%	\$6,739	24
I	\$946	\$430	16%	\$16,162	6	\$2,527	9	84%	\$5,897	21
▲ H to G	\$651	\$142	5%	\$13,469	5	\$0	0	-5%	\$562	2
▲ G to D	\$7,033	\$843	59%	\$121,217	45	\$842	3	-59%	(\$7,301)	-26
▲ H to F	\$1,064	\$247	18%	\$21,550	8	\$0	0	-18%	\$1,685	6
▲ G to F	\$413	\$105	13%	\$8,081	3	\$0	0	-13%	\$1,123	4
▲ I to H	\$354	\$87	20%	\$10,775	4	\$0	0	-20%	\$842	3
▲ F to E	\$1,833	\$125	3%	\$21,550	8	\$842	3	-3%	\$562	2
▲ E to D	\$4,787	\$614	43%	\$91,586	34	\$0	0	-43%	(\$8,986)	-32
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
1	\$346	\$254	Active sentences for misdemeanor convictions			Misdemeanants do not receive		61%	\$3,931	14
2	\$183	\$254	are served in County jail.			PRS.		75%	\$3,650	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 impaired driving. 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 ANALYSIS

Section 1 of the bill creates **five new felony offenses** under G.S. 14-318.7 – *exposing a child to a controlled substance*. Because these are new offenses, **there is no data available to support cost estimates for this section of the bill**. The new offenses include:

- A **Class H felony** for knowingly, recklessly, or intentionally causing or permitting a child to be exposed to a controlled substance;



- A **Class E felony** for knowingly, recklessly, or intentionally causing or permitting a child to be exposed to a controlled substance and as a result, the child ingests the substance;
- A **Class D felony** for knowingly, recklessly, or intentionally causing or permitting a child to be exposed to a controlled substance and as a result, the child ingests the substance and suffers serious *physical* injury as defined in G.S. 14-318.4;
- A **Class C felony** for knowingly, recklessly, or intentionally causing or permitting a child to be exposed to a controlled substance and as a result, the child ingests the substance and suffers serious *bodily* injury as defined in G.S. 14-318.4;
- A **Class B1 felony** for knowingly, recklessly, or intentionally causing or permitting a child to be exposed to a controlled substance and as a result, the child ingests the substance and the ingestion is the proximate cause of death.

Section 2 of this bill creates three new criminal offenses under G.S. 14-415.1 – *possession of firearms, etc., by felon prohibited*. While it is already a crime for convicted felons to possess firearms or weapons of mass death and destruction, subsection (a1) also makes it a **Class F felony** to illegally possess such a weapon while committing or attempting to commit a separate felony. In addition. Subsection (a2) makes it a **Class D felony** if the person brandishes such a weapon during the commission or attempted commission of a separate felony, and subsection (a3) makes it a **Class C felony** if the person discharges the weapon during the commission or attempted commission of the separate felony. Because these are new offenses, there is no precise historic data available for cost projections, and as such **Fiscal Research is unable to provide cost projections for this section of the bill.**

Section 3 of the bill adds a **new Class 1 misdemeanor** offense for any person who willfully and knowingly discloses materials in violation of G.S. 130A-385(d1),(d3) – *duties of medical examiner upon receipt of notice, reports, copies* – or willfully and knowingly possesses or disseminates materials that were disclosed in violation of those same subsections. **Fiscal Research is unable to provide cost projections related to this new offense.**

Section 4 of the bill amends G.S. 14-202.3 – *Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act* – by reclassifying two existing offenses and establishing one new punishment for second and subsequent offenses.

First, subsection (c)(1) increases the **existing Class H felony to a Class G felony** for a first violation of the section. It also makes it a **Class E felony for a second or subsequent violation** of the section, or a first violation when the defendant had a prior conviction in any federal or state court in the United States that is substantially similar to the offense in this section.

In 2024, there were 89 charges and 20 convictions under the existing Class H felony. If the same number of charges and convictions were to occur under the proposed enhanced Class G offense, the costs to the criminal justice system would be an estimated \$208,000 per annual cohort of charges/convictions. Those costs include the following:

- \$57,939 to Administrative Office of the Courts (AOC)
- \$12,638 to Indigent Defense Services (IDS)

- \$137,378 to Department of Adult Correction (DAC) for active sentence costs

There is no data available to determine how many of those charges were for second violations and would therefore be Class E felonies under the Section. As such, Fiscal Research cannot provide an estimate for new felony offense created in this section.

Second, the existing Class G felony under G.S. 14-202.3(c)(2) is **increased to a Class D felony**. This offense applies if either the defendant, or any other person for whom the defendant was arranging a meeting in violation of G.S. 14-202.3, actually appears at the meeting location.

In 2024, there were 88 charges and 18 convictions under the existing Class G felony. If the same number of charges and convictions were to occur under the enhanced Class D felony, the costs to the criminal justice system would be **an estimated \$3.2 million per annual cohort** of charges/convictions. Those costs include the following:

- \$618,904 to AOC
- \$74,184 to IDS
- \$2,611,003 to DAC for active sentence costs
- \$77,535 in savings to DAC for suspended sentence costs (100% of Class D felons receive active sentences).

Section 9 of the bill broadens the scope of G.S. 14-202 – *secretly peeping into room occupied by another person* – to include persons peeping with the intent to create a photographic image of a private area of an individual without the individual's consent, and who knowingly do so under circumstances in which the individual has a reasonable expectation of privacy. **Violation is a Class I felony.** In 2024, there were 10 Class I felony convictions under the existing G.S. 14-202, but it is not known how many additional convictions may result from the expanded offense scope outlined in this section. **Therefore, fiscal research is unable to provide any cost estimates for this section of the bill.**

Section 10 of the bill expands G.S. 14-27.31 – *sexual activity by a substitute parent or custodian* – by adding a religious organization or institution to the list of entities who may have custody of a victim. It is currently a Class E felony for any of the persons or entities listed in G.S. 14-27.31 to engage in a sexual act with a victim under their custody. It is not known how many additional charges or convictions may result from this section of the bill and as such, **no associated cost estimate is available for this proposed change.**

Section 11(a) of the bill creates new offenses under G.S. 14-72.12 – *larceny of gift cards* – for a person who does any of the following:

1. Acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder or card issuer.
2. Obtains a gift card or gift card redemption information from a cardholder or card issuer by means of false or fraudulent pretenses, representations, or promises.
3. Alters or tampers with a gift card or its packaging with intent to defraud another.



Violation is a Class 1 misdemeanor if the value of the associated gift card is \$1,000 or less. Any other violation of the section is a **Class H felony**. Because these are new charges, **Fiscal Research does not have any data available to estimate costs for this portion of the bill.**

Section 11(c) amends G.S. 14-86.6 – *organized retail theft* – to add the offense of organized retail theft including conduct surrounding acquiring, retaining possession, obtaining, altering, or tampering with gift cards. These subdivisions would carry the following charges depending on the specifics of the case:

- An offense when the gift card value exceeds \$1,500 aggregated over a 90-day period is a **Class H felony**.
- An offense when the gift card value exceeds \$20,000 aggregated over a 90-day period is a **Class G felony**.
- An offense when the gift card value exceeds \$50,000 aggregated over a 90-day period is a **Class F felony**.
- An offense when the gift card value exceeds \$100,000 aggregated over a 90-day period is a **Class C felony**.

These proposed changes expand the pool of potential offenders that may be charged with the current felonies delineated in statute, but AOC does not have data available to project the number of violations that may occur as a result of this expansion. Therefore, **no cost estimates are available for this portion of the bill.**

Section 12 amends G.S. 14-54 – *breaking or entering buildings generally* – to prohibit knowingly and wrongfully entering any area of a building that is commonly reserved for personnel of a commercial business where money or other property is kept or clearly marked with a sign that indicates public entry is forbidden. This change **creates a new Class 1 misdemeanor for a first offense and a new Class I felony for subsequent offenses**, and because these are new offenses, **Fiscal Research is unable to provide any cost projections for this portion of the bill.**

Section 17 amends G.S. 20-160.1(a) to increase the offense classification for *failure to yield that results in serious bodily injury, but not death* from **an infraction to a Class 2 misdemeanor**. AOC and the Sentencing Policy Advisory Council (SPAC) do not track data on infractions, so there is no information available on how many charges or offenses may be eligible for the increased offense classification under this proposed change. As such, **Fiscal Research is unable to provide any cost projections for this portion of the bill.**

Section 18 amends G.S. 20-175.2 – *right-of-way at crossings, intersections and traffic-control signal points; white cane or guide dog to serve as signal for the blind* – to explicitly make it a **Class 2 misdemeanor** for a person who fails to yield the right-of-way to a blind or partially blind pedestrian. This conduct is already a Class 2 misdemeanor under existing statute, so **Fiscal Research anticipates no additional fiscal impact to the State resulting from this section of the bill.**

Section 19 of the bill amends G.S. 90-95 – *controlled substance violations* – to **increase the current Class H and G felonies to a Class F felony** for manufacturing, selling, delivering, or possessing with intent to do so, any fentanyl or carfentanil. The section also **increases the**



current Class I felony to a Class H felony for simple possession of any fentanyl or carfentanil. This section also increases some existing offense classifications for trafficking these substances as follows:

- Increases the current **Class F felony to a Class E felony** for trafficking 4-13 grams.
- Increases the current **Class E Felony to a Class D felony** for trafficking 14-27 grams.

These offense classification increases are likely to result in additional costs to the judicial and correctional systems; however, no data is currently available on existing charges or convictions under G.S. 90-95 specifically related to fentanyl or carfentanil substances. **Therefore, Fiscal Research is unable to provide any specific cost projections for these proposed changes.**

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 table in the Fiscal Impact Summary lists the costs specific to the charge or charges included in this proposal.

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.
- Charge data is provided by AOC for respective calendar years, while conviction data is provided by SPAC for fiscal years.
- 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 and Technical Consideration sections 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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April 29, 2025



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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	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A	\$70,930	\$9,190	100%	NA	Life	N/A	N/A	0%	\$0	0
B1	\$30,500	\$3,668	100%	\$622,245	231	\$3,370	12	0%	\$0	0
B2	\$22,638	\$3,668	100%	\$371,731	138	\$3,370	12	0%	\$0	0
C	\$10,994	\$2,250	100%	\$223,577	83	\$3,370	12	0%	\$0	0
D	\$8,984	\$1,503	100%	\$161,622	60	\$3,370	12	0%	\$0	0
E	\$4,197	\$890	57%	\$70,036	26	\$3,370	12	43%	\$8,986	32
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I	\$946	\$430	16%	\$16,162	6	\$2,527	9	84%	\$5,897	21
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
A1	\$599	\$284	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS		61%	\$4,493	16
1	\$346	\$254						61%	\$3,931	14
2	\$183	\$254						75%	\$3,650	13
3	\$63	\$210						82%	\$3,650	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. Active sentence cost represents the average monthly cost per offender, not the cost of adding one new offender to the prisoner population. Costs to the Statewide Misdemeanant Confinement Program (SMCP) only occur for active sentences > 90 days and for impaired driving.

