

JA GENERAL ASSEMBLY

25 Session

Fiscal Analysis Memorandum

CONFIDENTIAL



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RE: H959-ABEfa-24(v.3)

A

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 **expands the scope of some existing offenses and creates new offenses related to various child safety laws**. These changes are such that there is no data to predict how many individuals may be charged or convicted under the new or expanded offenses. **Therefore, 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 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 the relevant 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.)
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
Misdemeanor	Cost	Cost	Rate	Cost	Length (Mo.)	Cost	Length (Mo.)	Rate	Cost	Length (Mo.)
1	\$346	\$254	Active sentences for misdemeanor convictions are served in County jail.			Misdemeanants do not receive PRS.		61%	\$3,931	14
2	\$183	\$254						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.										



PROPOSED AMENDMENT TO H.B.959, V.3 A

	<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	-	-	-	-	-
General Fund Impact	No Estimate Available - Refer to Fiscal Analysis section				
NET STATE IMPACT	No Estimate Available - Refer to Fiscal Analysis section				
TECHNICAL CONSIDERATIONS: See Technical Considerations Section					

FISCAL ANALYSIS

Section 3.3(a) of the bill amends G.S. 20-137.1(a1) – *restraint system required for child less than eight years old* – by modifying the minimum requirements for when a vehicle passenger needs to be secured in a height-and-weight-appropriate child restraint system to “less than eight years of age and less than 57 inches in height.” Current statute only requires such a system when a child is less than eight years of age and less than 80 pounds in weight. **Violation of this section remains an infraction under the current statute and therefore this change is not expected to generate added fiscal impact to the judicial or correctional systems.**

Section 3.4(a) of the bill amends G.S. 14-315.1 – *storage of firearms to protect minors* – by repealing the element requiring firearms to have been left “in a condition that the firearm can be discharged.” This change effectively expands the scope of the existing offense to cover any instance of a firearm being left in a manner that may allow an unsupervised minor to gain access to the firearm. This therefore expands the pool of potential offenders under this section. **Violation of this section is a Class 1 misdemeanor;** however, because the expanded scope effectively creates new eligible offenses, there is not sufficient data to determine how many more individuals may be charged or convicted as a result of this change. **As such, Fiscal Research is unable to provide any cost projections for judicial system impacts resulting from this bill. Further, these changes will have no impact on the State’s correctional system,** as active sentences for misdemeanor convictions are served in county jails.

Section 3.5.(a) amends G.S. 14-313 – *youth access to tobacco products* – by raising the age for access to tobacco products from 18 to 21. Under this section, it is a **Class 2 misdemeanor** to commit any of the following violations:

- Distributing or aiding someone in distributing tobacco products to a person under 21
- Purchasing tobacco products on behalf of a person under 21
- Failing to demand proof of age when selling tobacco products to a person who is in fact under 21
- Distributing tobacco products through uncontrolled vending machines
- Purchasing or attempting to purchase tobacco products as a person under 21



use or attempt to purchase tobacco products. **A**

The increased age threshold for legal tobacco product purchase effectively expands the scope of existing offenses and expands the pool of potential offenders under this section. However, there is no data available for how many additional individuals may be charged or convicted under this section as a result, and **therefore, Fiscal Research is unable to provide any corresponding cost estimates for the judicial system impact. These changes will have no impact on the State's correctional system**, as active sentences for misdemeanor convictions are served in county jails.

Section 3.7(a) adds G.S. 14-313.5 – *youth access to cannabis products* – to Article 39 of Chapter 14 of the General Statutes. This section closely aligns with the provisions governing youth access to tobacco products, and as such, creates **new Class 2 misdemeanor offenses** for the following:

- Distributing or aiding someone in distributing cannabis products to a person under 21
- Purchasing cannabis products on behalf of a person under 21
- Failing to demand proof of age when selling cannabis products to a person who is in fact under 21
- Distributing cannabis products through uncontrolled vending machines
- Purchasing or attempting to purchase cannabis products as a person under 21
- Sending a person under 21 to purchase or attempt to purchase cannabis products

Since these are new offenses, **there is no data available for Fiscal Research to make cost projections based on the number of individuals that may be charged or convicted under this section, though there will likely be no resulting impact on the State's correctional system**, as active sentences for misdemeanor convictions are served in county jails.

Section 3.10.(a) amends Chapter 66 of the General Statutes by adding new Article 51A, “Child Safety Online.” Within this Article is proposed G.S. 66-505 – *online child safety protections* – and G.S. 66-507 – *protection from AI and deep fakes* – which create new prohibitions on operators of social media platforms from taking certain actions as they apply to users under 18.

Violation of G.S. 66-505 is a new **Class 1 misdemeanor**. Violation of G.S. 66-507 is a new **Class H felony** if it involves the creation or distribution of sexually explicit deep fake content depicting a minor, and a new **Class I felony** if the violation involves possession of such content with intent to distribute. Because these are new offenses, **there is no data available for Fiscal Research to make cost projections based on the number of individuals that may be charged or convicted under this section.**

Section 4.1.(a) creates G.S. 130A-128.11(d) – *fetal and infant mortality review team confidentiality of records* – to establish a **new Class 3 misdemeanor** for the disclosure of confidential information by members of the Statewide Fetal and Infant Mortality Review Team and others in attendance at its meetings. As a new offense, **there is no data available for Fiscal Research to make cost projections based on the number of individuals that may be charged or convicted under this offense, though there will likely be no resulting impact on the State's correctional system**, as active sentences for misdemeanor convictions are served in county jails.



nd exceeds capacity. Based on the most recent 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.
- 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.

FISCAL ANALYSIS MEMORANDUM – PURPOSE AND LIMITATIONS

This document is a fiscal analysis of a bill, draft bill, amendment, committee substitute, or conference committee report that is confidential under Chapter 120 of the General Statutes. 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. This document is not an official fiscal note. If a formal fiscal note is requested, please email your request to the Fiscal Research Division at FiscalNoteRequests@ncleg.net or call (919) 733-4910.

