

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** SB 497 (Companion to HB 356)

**SHORT TITLE:** DWI Gross Aggravator - Child in Car

**SPONSOR(S):** Senator Cooper

**FISCAL IMPACT:**    **Expenditures:**    **Increase ( )**        **Decrease ( )**  
                         **Revenues:**            **Increase ( )**        **Decrease ( )**  
                         **No Impact (X)** Judicial Department  
                         **No Estimate Available (X)** Department of Correction

**FUND AFFECTED:**    **General Fund ( )**    **Highway Fund ( )**    **Local Fund ( )**  
                         **Other Fund ( )**

**BILL SUMMARY:** Amends G.S. 20-179(c) to make the presence of a child under the age of sixteen in a vehicle driven by a person convicted of driving while impaired a grossly aggravating factor in sentencing.

**EFFECTIVE DATE:** October 1, 1993

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Department, Department of Correction

**FISCAL IMPACT (Judicial Department)**

	<u>FY</u> 93-94	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98
<b>EXPENDITURES</b>	0	0	0	0	0
<b>RECURRING</b>					
<b>NON-RECURRING</b>					
<b>REVENUES/RECEIPTS</b>	0	0	0	0	0
<b>RECURRING</b>					
<b>NON-RECURRING</b>					

**POSITIONS:** No new positions.

**ASSUMPTIONS AND METHODOLOGY:** While this bill would be expected to have some fiscal impact on the court system, the Administrative Office of the Courts is unable to predict its extent due to a lack of pertinent data. However, it is assumed that the fiscal impact would not be substantial for the Judicial Department.

This bill adds a fourth grossly aggravating factor to be determined at the time of sentencing for defendants who have been convicted of impaired driving under G.S. 20-138.1. It, therefore, does not bring additional people into the system but could result in the imposition of Level One punishment (equivalent to a possible fine of up to \$2,000 and a mandatory sentence of not less than 14 days and not

more than 24 months) or Level Two punishment (equivalent to a possible fine of up to \$1,000 and a mandatory sentence of not less than 7 days and not more than 12 months) for some defendants who, under current law, would be at Level Two or lower, respectively. Due to the increased penalties under this bill, one effect may be that these defendants would be less willing to agree to plea bargains, and may proceed to trial at a higher rate. However, the impact this bill may have on the trial rate cannot be estimated because there is no data relevant to an evaluation of the frequency of DWI defendants having a child under the age of 16 in the automobile at the time of offense. [Note that both the Fiscal Research Division and the Administrative Office of the Courts have diligently sought to obtain relevant statistics. After exhausting available sources, only incomplete data pertaining to alcohol related accidents/children and DWI charges/companion charges (i.e., the absence of child restraint, seatbelt violations, etc.) was obtained.]

A second effect may be an increased number of Level One and Level Two offenders admitted to the Department of Correction. However, without data to suggest the frequency that the new grossly aggravating factor may apply, the impact this bill would have on the Department of Correction cannot be estimated.

In addition to a potential increase in the trial rate, the presentation of evidence relating the the proposed grossly aggravating factor may require some additional time at trial. Increases in trial rates and time required at trial would result in increased indigent defense requirements and other costs (most of which would be spread across the state and likely absorbed within existing resources), and may contribute to delays in case processing in the court system generally. At some point, the cumulative additional workload from bills that impact on the courts cannot simply be absorbed, and additional resources will be required.

**SOURCES OF DATA:** Administrative Office of the Courts

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** 7-APR-93

**[FRD#003]**



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