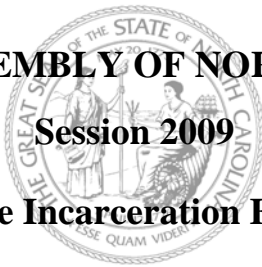


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 1414 (Second Edition)

SHORT TITLE: The Youth Accountability Act.

SPONSOR(S): Representatives Glazier, Bordsen, Parmon, and Bryant

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES					
GENERAL FUND:					
DJJDP					
Recurring			\$24,404,415	\$88,044,799	\$147,011,479
Nonrecurring		\$39,000,000	\$32,539,000	\$51,309,400	\$53,435,208
Correction					
Recurring				(\$2,176,676)	(\$8,814,193)
Probation				(\$497,950)	(\$995,900)
Judicial					
Recurring				\$2,145,739	\$4,783,431
Receipts				(\$14,134,558)	(\$21,285,204)
TOTAL					
EXPENDITURES:		\$39,000,000	\$57,042,415	\$124,690,754	\$174,134,821
ADDITIONAL BEDS:					
(cumulative)*					
DJJDP – YDC		96	192	288	384
DJJDP – Detention		128	192	384	576
DOC – Prison				(68)	(261)
ADDITIONAL POSITIONS:					
(cumulative)					
DJJDP			479	1,177	2,068
CORRECTION				(27)	(104)
JUDICIAL				9	25

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Juvenile Justice & Delinquency Prevention, Department of Correction; Judicial Branch.

EFFECTIVE DATE: Sections 1 through 4 of this act becomes effective December 1, 2011, and apply to acts or offenses committed on or after that date. The remainder of this act is effective when it becomes law.

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY:

House Bill 1414 raises the age of jurisdiction over delinquent juveniles from 16 to 18 years old by six month increments over a period of four years.¹

Section 1.

Section 1.(a): This section amends G.S. 7B-1501(7) to define the age of jurisdiction over delinquent juveniles as less than 16.5 years of age for all crimes except violations of the motor vehicle laws. The age of jurisdiction for violations of motor vehicle laws remains at less than 16 years. Effective June 30, 2012, and applies to acts or offenses committed on or after that date.

Section 1.(b): This section amends G.S. 7B-1501(7) to define the age of jurisdiction over delinquent juveniles as less than 17 years of age for all crimes except violations of the motor vehicle laws. The age of jurisdiction for violations of motor vehicle laws remains at less than 16 years. Effective June 30, 2013, and applies to acts or offenses committed on or after that date.

Section 1.(c): This section amends G.S. 7B-1501(7) to define the age of jurisdiction over delinquent juveniles as less than 17.5 years of age for all crimes except violations of the motor vehicle laws. The age of jurisdiction for violations of motor vehicle laws remains at less than 16 years. Effective June 30, 2014, and applies to acts or offenses committed on or after that date.

Section 1.(d): This section amends G.S. 7B-1501(7) to define the age of jurisdiction over delinquent juveniles as less than 18 years of age for all crimes except violations of the motor vehicle laws. The age of jurisdiction for violations of motor vehicle laws remains at less than 16 years. Effective June 30, 2015, and applies to acts or offenses committed on or after that date.

Section 2.

This section makes the same changes to G.S. 143B-515(7).

¹ HB 1414 incorporates recommendations made by the NC Sentencing and Policy Advisory Commission in its March 2007 report on youthful offenders to the General Assembly. See NC Sentencing and Policy Advisory Commission's Report on Study of Youthful Offenders Pursuant to Session Law 2006-248, Sections 34.1 and 34.2 submitted to the 2007 Session of the North Carolina General Assembly, March, 2007.

Section 3.

This section makes the same changes to G.S. 7B-1601(d).

Background

Current System

There are significant differences between the juvenile and adult criminal justice systems. A key difference between the adult and juvenile systems is the amount of discretion that may be exercised by the Department of Correction (DOC) and the Department of Juvenile Justice and Delinquency Prevention (DJJDP). DOC has no involvement in arrest, court, or sentencing decisions. Once an individual is sentenced, DOC has some discretion in the actual length of time served, but cannot alter the minimum or maximum length of sentence. DOC determines where the individual will serve their sentences and what level of custody (minimum, medium, or close) they serve.

DJJDP has significant discretion from the time that the court counselor receives a complaint. A court counselor decides whether to file a petition (for serious delinquency cases, the counselor *must* approve a filing of a petition.); dismiss the complaint; divert the juvenile into a community program; and recommends the disposition to the court. Under the statute juveniles committed to a Youth Development Center (YDC) are committed for an indefinite term of at least six months with some exceptions at the discretion of the Department. DJJDP may also release juveniles for home visits.

Major Difference between Adult & Juvenile Criminal Justice Systems

Item	Adult	Juvenile
Point of Entry	Arrests by law enforcement officer	Complaints from law enforcement officer & citizens
Court Venue	Superior Court & District Court	District Court only
Court Proceeding	Trial	Adjudicatory Hearing
Trial/Hearing Outcome	Guilty or Not Guilty	Adjudicated Delinquent or not
Sentencing Grid	Specific Sentencing option & length for each felony (60 cells) or misdemeanor (12 cells)	Disposition combining felonies and misdemeanors into three categories
Sentencing Length	Ranges from 8 months to Life Without Parole	Minimum of Six Months and then up to the Department's discretion up to the juvenile's 21 st birthday
Institutions	County & local Jails (115) State prisons (79)	YDCs (9) State & County Detention Centers (12) Multipurpose Group Homes (7) Eckerd Wilderness Camps (7)

The Juvenile Code (G.S. 7B) provides that juveniles are committed to the Department and shall be placed in an YDC that "would best provide for the juvenile's needs." After an assessment, if the Department decides a setting other than an YDC or Detention Center is better for the juvenile; they shall file a motion with the court detailing the recommendation for an alternative placement.

After the minimum six-months, the juvenile's commitment status is under the discretion of the Department, but the maximum time the Department can hold the juvenile is up to their 21st birthday. In contrast, in the adult system active prison sentences have a range from a minimum to a maximum sentence, and all prisoners start their incarcerative period serving the maximum sentence and earn time credit toward their minimum based upon their behavior and other factors.

The point of entry in the Juvenile Justice system is the court counselor. An intake court counselor receives the complaint and determines whether the complaint has merit and requires further action. If not, the case is dismissed and no further action is taken. If the counselor determines that the juvenile's act would be delinquent (would be a crime if committed by an adult) if proved true or if the severity of the activity alleged in the complaint is serious enough, a juvenile can be held in temporary custody at a detention center awaiting an initial court hearing.

The intake counselor interviews the parties involved and their evaluation takes between 15 to 30 days to determine whether to file a petition, which presents the facts in the complaint to determine whether the juvenile is alleged to be delinquent or undisciplined. A counselor may divert the case and refer the juvenile to community-based resources instead of proceeding to court (6,285 juveniles who were diverted in 2008), release the juvenile and they exit the system. For serious delinquency cases, the counselor *must* approve a filing of a petition.

Juveniles can be held in secure custody in a Detention Center, which is for short-term confinements, awaiting their court appearance or they may make their first appearance in court without being held in custody. At the hearing, there is a determination whether the allegations are true or if the case can be dismissed. A juvenile 13 years old and above accused of committing a felony may be transferred to Superior Court to be tried as an adult.

If there is enough information to determine the allegations to be true, then the juvenile is adjudicated delinquent (equivalent of being found guilty in the adult system), then the case proceeds to a dispositional hearing where the judge metes out punishment. The disposition depends upon the seriousness of the offense, the juvenile's delinquency history, and recommendations of the court counselor. The dispositions include Level I community-based sanctions, Level II intermediate sanctions, and a Level III commitment to a secure YDC or an alternative to commitment program (see disposition chart below).

Juvenile Justice Disposition Chart And Dispositional Options

OFFENSE	DELINQUENCY HISTORY		
	LOW 0 - 1 pts.	MEDIUM 2 - 3 pts.	HIGH 4+ pts.
VIOLENT (A-E Felonies)	<p style="text-align: center;"><u>LEVEL 2</u> <u>LEVEL 3</u></p> <p>1. Commitment</p>	<p style="text-align: center;"><u>LEVEL 3</u></p> <p>1. Commitment</p>	<p style="text-align: center;"><u>LEVEL 3</u></p> <p>1. Commitment</p>
SERIOUS (F-I Felonies and A1 Misd.)	<p style="text-align: center;"><u>LEVEL 1</u></p> <p>1. Community-Based Program 2. Victim-Offender Reconciliation Program 3. Community Service (up to 100 hrs) 4. Restitution (up to \$500) 5. Suspension of driver's license 6. Curfew 7. Counseling, incl. intensive SA treatment 8. Vocational or Educational Program 9. Regular Probation 10. Residential Placement with relative or group home 11. Intermittent Confinement (up to 5 days) 12. Fine 13. Eckerd Wilderness Camp 14. Structured Day Program</p> <p style="text-align: center;"><u>LEVEL 2</u></p> <p>1. Eckerd Wilderness Camp 2. Structured Day Program 3. Community Service (up to 200 hrs) 4. Restitution (+\$500) 5. Regimented Training Program 6. Intensive Supervision Probation 7. House Arrest with/without EM 8. Multi-purpose Group Home 9. Residential Placement in treatment facility or group home 10. Placement in an intensive nonresidential treatment program or intensive substance abuse program 11. Short-term Secure Confinement (up to 14 days)</p>	<p style="text-align: center;"><u>LEVEL 2</u></p>	<p style="text-align: center;"><u>LEVEL 2</u> <u>LEVEL 3</u></p>
MINOR (1, 2 &3 Misd.)	<p style="text-align: center;"><u>LEVEL 1</u></p>	<p style="text-align: center;"><u>LEVEL 1</u> <u>LEVEL 2</u></p>	<p style="text-align: center;"><u>LEVEL 2</u></p>

In 2008 there were 43,797 complaints received, the intake decisions by juvenile court counselors led to 11,608 juveniles referred to court and 12,593 juveniles had complaints that were not referred to court,

including approximately half (6,285) who were diverted from court with plans and contracts. The pool of juveniles is not discrete because they can be in multiple parts of the system. The juvenile sentencing grid categorizes offenses into three categories: minor, serious, and violent. Minor offenses (1-3 misdemeanors) accounted for 64% of the complaints, Serious offenses (F-I felonies and A1 misdemeanors) accounted for 22%, violent offenses (A-E felonies) accounted for 2%, and status undisciplined offense, and infractions accounted for 12% of the complaints. The type of sentences meted out is dependent upon the severity of the crime and the juvenile's delinquency history.

ASSUMPTIONS AND METHODOLOGY:

General

HB 1414 would have a fiscal impact on three State agencies: the Department of Correction (DOC), the Department of Juvenile Justice and Delinquency Prevention (DJJDP), and the Administrative Office of the Courts (AOC). Under current law, persons aged 16 or older are considered adults for the purposes of the criminal justice system. A 16-year old person charged with a criminal offense is tried in District or Superior Court depending upon the severity of the offense. If convicted, they will be sentenced to either probation or incarceration in a local jail or a DOC prison facility depending upon the length of the sentence. Persons under the age of 16 are considered juveniles in the criminal justice system and their point of entry into the criminal justice system is through DJJDP. If referred to court, these individuals are tried, with few exceptions, in juvenile District Courts and if "convicted" will be sentenced to be supervised by DJJDP in a community setting or committed to a juvenile facility operated by the State. HB 1414 proposes to increase the age of juvenile jurisdiction from 16 to 18 years old, by phasing it in over a four-year period. Under the proposal, persons younger than 18 would be considered juveniles under the criminal justice system. As such, they would no longer be tried in Superior Court, with some exceptions, for serious felony offenses nor would they be placed under DOC supervised probation or sentenced to serve time in a county jail or state prison. For purposes of the five-year time frame of this fiscal note, HB 1414 affects only adding individuals 16 years of age.

This fiscal note attempts to estimate the cost impact on the three agencies by determining the number of persons that will be shifted from the adult to the juvenile criminal justice systems. Data from three separate State criminal justice databases were used by the agencies to develop an estimate of the HB 1414 impact:

- The State Bureau of Investigation's (SBI) NC Uniform Crime Reporting (UCR) Program collects and compiles statistics of crime reported by law enforcement agencies and citizens. Specifically, the UCR provides information on the number and ages of persons arrested for all crimes except traffic violations. Note that the UCR database does not provide an "unduplicated count" of the number of persons arrested. For example, one person arrested and charged with 3 crimes, would be recorded as three separate arrests in the UCR database.
- The Automated Criminal Infraction System (ACIS) database used by AOC maintains data on court cases. However, ACIS data is entered by each county's court staff and different data entry approaches are used. For example, one county may assign a separate case number for each charge with an individual with three charges assigned three separate case numbers. In the same situation, another county would compile the three charges and assign only one case number to the individual. Thus, the ACIS database also does not provide an "unduplicated count" of the number of persons charged. However, for the purposes of this analysis, AOC did attempt to identify and remove duplicate data entries so as to produce an actual count of individual persons.
- DJJDP uses the NC Juvenile On-line Information Network (NCJOIN) System to collect and maintain data on the number of complaints received from citizens, parents, and law enforcement personnel

against juveniles. The NCJOIN system does track the number of complaints received for individual juveniles. For example, NCJOIN data indicates that in 2008, the Department received 43,797 complaints on 22,096 juveniles.

Because each agency used different databases in their calculations, their assumptions about the number of individuals that will shift from the adult to the juvenile systems differ.

Department of Juvenile Justice & Delinquency Prevention (DJJDP)

Intake

DJJDP used the State Bureau of Investigation's UCR crime data to estimate the number of juveniles that would be added to juvenile justice's intake system. According to the UCR data, 14,045 crimes were committed by 16 year-olds in 2007. For the purposes of their analysis, DJJDP assumed each person committed one crime and these crimes were evenly distributed between two age groups: 16 to 16.5 year olds and 16.5 to 17 year olds. However, the UCR database does not provide unduplicated counts of the number of persons who committed crimes. *Therefore, Fiscal Research maintains that DJJDP's assumption overstates the number of juveniles that would be added to its intake caseload under HB 1414.*

For purposes of their analysis, DJJDP assumed half of those arrested were 16 to 16.5 years old and the other half were 16.5 to less than 17 years old, which is 7,022 per age group. DJJDP created its "Base Youth at Intake" population, and assumed a 1.4% growth in population consistent with NC demographic projections (see table below). DJJDP "applied the CY 2008 rates for intake decision outcomes to the Estimated Intake Youth to obtain estimates of youth at the differing decision points. Note that 'approved for court' and 'not approved for court' is not always a mutually exclusive category for all youth." The number of complaints and the number of juveniles are not discrete numbers. A single juvenile can have multiple complaints that will be handled differently, including some will be approved for court and some will not be approved for court. Based upon current practices, 53% of juveniles are approved for court and 57% of juveniles are not approved for court. These figures do not add up to 100% because a single juvenile can have multiple outcomes (e.g., a single juvenile could have multiple complaints with different outcomes).

DJJDP'S Estimate of New Juvenile Population and the Impact on Intake						
Year	Base Youth at Intake 2007	1.4% Pop increase per year from year one	Estimated Intake Youth	Estimated Youth Approved for Court at Current Rate (53%)	Estimated Youth Not Approved for Court at Current Rate (57%)	Estimated Youth Not Approved w/Diversion Contracts/Plans at Current Rate (28%)
FY 2012-13	7,023	N/A	7,023	3,722	4,003	1,966
FY 2013-14	14,045	197	14,242	7,548	8,118	3,988

DJJDP used the number of crimes reported in the UCR as the number of additional juveniles that would go through intake. As shown in table below, the number of complaints is double the number of juveniles that come through intake. Fiscal Research maintains that DJJDP's estimate of the number of additional juveniles going through intake may be overstated by twofold.

Average Number of Complaints Per Juvenile			
Year	# of complaints	# of juveniles	Complaints per juvenile
2005	45,389	22,857	1.99
2006	48,089	23,787	2.02
2007	46,231	22,997	2.01
2008	43,797	22,096	1.98
Total	183,506	91,737	2.00

Source: DJJDP annual reports

Sentencing and Policy Advisory Commission's Analysis of HB 1414's Impact on Convictions:

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. *Therefore, Fiscal Research does not assume deterrent effects for any criminal penalty bill.* Nor does Fiscal Research make assumptions regarding the impact of recidivism.

The Sentencing Commission developed a simulation model used to project juvenile resource needs. The model relies on historical data and other empirical information about how juveniles are processed through the juvenile justice system. Since 16 to less than 17 year olds were convicted in the adult system, assumptions had to be made about how these youthful offenders would have been processed in the juvenile system. This section describes how the 16 to less than 17 year olds were “fit” into the juvenile system and the rationale for the decisions.

In order to make the 16 to less than 17 year olds 'like' juveniles, it was assumed that the youthful offenders would be most similar to the oldest subgroup of juveniles, the 15 year olds. A more detailed explanation of this process follows.

Fitting the 16 to less than 17 year olds into the juvenile disposition chart was the first step in the process. An overall assumption made was that if a youthful offender was convicted in the adult system, he or she would also be adjudicated delinquent in the juvenile system. For 16 to less than 17 year olds, the most serious offense class of conviction in the adult criminal justice system was used to place the youthful offenders in the juvenile offense classification system (*i.e.*, violent=Class A-E offenses, serious=Class F-A1 offenses, minor=Class 1-3 offenses).

The next consideration was the delinquency history level for 16 to less than 17 year olds. Adult prior record level points do not include juvenile delinquent adjudications. Therefore, the distribution of juveniles adjudicated delinquent who were 15 years old at the time of the offense was used as a starting point to randomly assign a delinquency history level to the youthful offenders. Of the 16 to less than 17 year olds, 65.1% were randomly assigned to low, 17.7% to medium, and 17.2% to high delinquency history levels. After this random distribution, 16 to less than 17 year olds with two or more prior record level points in the adult system were increased one delinquency history level in the juvenile justice system. This adjustment was made to account for the possibility that the 16 to less than 17 year olds would have more adjudications than the current juvenile population.

Finally, a disposition level needed to be assigned to the 16 to less than 17 year olds. The adult system and the juvenile system are dissimilar in the sentencing process and options available. In order to determine the disposition of the 16 to less than 17 year olds, the disposition distribution by offense class and delinquency

history level of 15 year old juveniles adjudicated delinquent was used to randomly assign the disposition level to the 16 to less than 17 year olds. After randomly assigning the disposition levels for youthful offenders, the adjusted disposition rates for the new juvenile population were assumed to match the rates over the five-year projection period (68.7% for Level 1-Community, 27.9% for Level 2-Intermediate, and 3.4% for Level 3-YDC).

In FY 2007-08, there were 4,894 offenders below 17 years of age convicted in adult court. The Sentencing Commission assumes that if youth in their data sample were convicted in the adult system then they would be adjudicated delinquent in the juvenile system. Of the total pool of 4,894 offenders, 2,249 were aged 16-16.5 at the time of the offense and 2,645 were aged 17-17.5 at the time of the offense. The table below provides data on the number and type of convictions for offenders that are projected to be added to the juvenile system.

FY 2007-08 Felony & Misdemeanor Convictions for Offenders Aged 16 to less than 17 Years

Age at Offense and Effective Date for Raising the Age of Juvenile Jurisdiction				
	16 to less than 16 ½ years June 30, 2012		16 ½ to less than 17 years June 30, 2013	
	<i>#</i>	<i>%</i>	<i>#</i>	<i>%</i>
Felonies				
Class A	1	0.0	0	0.0
Class B1	2	0.1	0	0.0
Class B2	3	0.1	8	0.3
Class C	4	0.2	5	0.2
Class D	16	0.7	34	1.3
Class E	25	1.1	37	1.4
Class F	17	0.8	29	1.1
Class G	44	2.0	64	2.4
Class H	166	7.4	210	7.9
Class I	58	2.6	72	2.7
Subtotal	336	14.9	459	17.4
Misdemeanors				
Class A1	116	5.2	102	3.9
Class 1	962	42.8	1,116	42.2
Class 2	552	24.5	601	22.7
Class 3	283	12.6	367	13.9
Subtotal	1,913	85.1	2,186	82.6
Total	2,249	100.0	2,645	100.0

Source: NC Sentencing and Policy Advisory Commission, FY 2007/08 Felony and Misdemeanor Simulation Data

According to the Sentencing and Policy Advisory Commission's *Juvenile Delinquent Populations Projections: FY 2008/09 to FY2012/13*, in FY 2007-08 7,321 juveniles were adjudicated delinquent, with the following dispositions: 5,091 (69%) received a Level I community sanction, 1,960 (27%) received a Level II intermediate sanction, and 270 (4%) received a Level III commitment sanction. Based upon their analysis of the current dispositions and their simulation model, the Sentencing Commission projects the following dispositions:

Dispositions of Juveniles With Age Change						
Age	Total	Transfer to Adult System	Adjudicated Delinquent	Level I	Level II	Level III
16-16.5	2,249	85	2,164	1,473	630	61
16.5-17	2,645	118	2,527	1,683	762	82

Source: Sentencing Commission

The projection for this proposed bill is based on a combined population of the current 15 year old and younger juveniles adjudicated delinquent and the proposed 16 to less than 17 year olds that are currently in the adult system, and excludes the 16 to less than 17 year olds assumed to be transferred from the juvenile system into the adult system. It is estimated that an additional 86 YDC beds would be needed in FY 2013 (representing the first full year of implementation of raising the age of adult jurisdiction to 16.5) and 203 additional YDC beds would be needed in FY 2014 (representing the first full year of implementation of raising the age of adult jurisdiction to 17). The need for additional YDC beds would occur outside the five-year projection period as a result of raising the age of adult jurisdiction to 17.5 in FY 2014 and to 18 in FY 2015.

Division of Intervention/Prevention

The implementation of HB 1414 will affect the DJJDP's Division of Intervention/Prevention primarily through court services and community-based programs. The need for additional court counselors to meet the increased population comes from the counselor's role approving cases for court, supervising juveniles that have been diverted and are receiving community-based services under a contract or plan, and supervising juveniles once they have been adjudicated and their case has been disposed either with a community-based sentence, intermediate, or a commitment to a YDC.

Court Services

In the juvenile justice system, all complaints are processed by juvenile court counselors during an intake process. As previously noted, currently, 53% of the juveniles at intake are approved for court, 57% are not approved for court, and 28% of the juveniles not approved for court have diversion plans or contracts. One juvenile can have multiple complaints with some approved for court and some that are not approved, which is why the number of juveniles will not add up to 100%.

Court counselors have an average of 30 cases per month, and the Department estimates they will need an additional 20 counselors to process the additional 7,022 juveniles (see table below). Fiscal Research contains DJJDP's estimation is overstated.

In addition to intake, counselors supervise juveniles whose cases have been disposed, with a Level I or Level II community sanction or a Level III commitment. In FY 2012-13, DJJDP estimates 2,124 youth will have a Level I or Level II disposition, which would necessitate 71 additional counselors. The Sentencing Commission estimates 86 additional Level III commitments, which would necessitate three additional court counselors to supervise those juveniles.

New Juvenile Population's Impact on Court Counselors							
Year	Intake Population	Additional Counselors (30 cases per month)	Level I & II Dispositions	Additional Counselors (caseload of 30)	Level III commitments	Additional Counselors (caseload of 30)	TOTAL
2012-13	7,022	19.5	2,124	71	86	3	93.5
2013-14	14,045	40	4,593	153	203	7	200

Source: DJJDP

In FY 2013-14, the age of juvenile jurisdiction would encompass 16.5 to 17 year olds, which would be an additional 7,022 juveniles. The juvenile population going through intake would be 14,045 juveniles below age 17. DJJDP estimates this would require 200 additional court counselors, including 40 counselors to process intake cases, 153 counselors to supervise Level I and Level II dispositions, and six counselors for the 203 additional Level III commitments. *Given that these new juveniles will have had additional time to build a delinquency history it is assumed that their sentences will be more severe.*

DJJDP has one court counselor supervisor for every eight court counselors, and based upon this ratio they estimate that they will need an additional 25 supervisors in FY 2012 and another 39 in FY 2013. In addition, the Department estimates they would need an additional nine support staff in FY 2012 and 19 in FY 2013 and two additional program staff in the first year and 4 additional program staff in year two. DJJDP offers a caveat: "this estimate assumes no changes in law enforcement, judicial or prosecutorial behavior." The cost of the additional counselors, supervisors, and support services is \$7.9 million in FY 2012 and \$16.7 million in FY 2013.

Community Programs

The Department notes that the "fiscal impact of HB 1414 on the Department's Community Programs Divisions may be one of the most fluid questions of all." The Sentencing Commission projects an additional 2,103 Level I and Level II dispositions in FY 2012-13 and an additional 2,445 Level I and Level II dispositions in FY 2013-14 and will need receive community-based programs. The major community programs that serve Level I and Level II dispositions are the Juvenile Crime Prevention Councils (JCPC), Eckerd Wilderness Camps, and Multipurpose Group Homes. DJJDP believes that the older population being added is likely to have a more extensive juvenile record and need more intensive services than Eckerd and Multipurpose Group Homes.

□ Juvenile Crime Prevention Council

Juvenile Crime Prevention Councils (JCPC) receive \$23.2 million in General Fund appropriation, which is allocated to all 100 counties by formula. In FY 2008-09, 28,209 juveniles participated in 446 JCPC programs, including 39% who were at-risk of delinquency, 19% who were diverted or recommended to programs by court counselors, and 35% who were adjudicated delinquent and JCPC programs were part of their disposition.

JCPC programs provide the largest portion of community-based programs. Projections indicate that Level I dispositions will account for two-thirds of the dispositions, so expanding JCPC programming

will be key to serving adjudicated juveniles in the community. Based upon the additional population, the Department estimates an additional \$6 million for FY 2012-13 and \$12.4 million in FY 2013-14 to provide community-based programs to serve the expanded population. An older population may need different and potentially more intensive services to address their needs.

□ **Eckerd Wilderness Camps**

Eckerd Wilderness Camps, along with Multipurpose Group Homes, are the primary community-based residential programs available to the juvenile justice population. In 2008, there were 411 admissions to the seven Eckerd Wilderness Camps. DJJDP asserts that their population will double with full implementation of the age change, including the years outside of this incarceration note's window, so they divided their current bed capacity (346 beds) by four to add 86 additional Eckerd beds each year for four years, with annual costs of \$4.2 million.

□ **Multipurpose Group Homes**

Multipurpose Group Homes serve primarily Level II juveniles, and the current bed capacity of seven homes is 57. DJJDP assumes that the population will double when the complete age change is implemented and projects the need for 14 additional beds each year, which will cost \$884,030 annually. The State owns the Multipurpose Group Homes which are operated under contract with the Methodist Home for Children. It is not clear how the State will obtain the expanded bed capacity.

□ **Additional DJJDP Personnel**

The Department proposes adding 16 positions to manage the expansion of JCPC, Eckerd, and Multipurpose Group Homes services, including four Administrative Officer Is, 11 Community Based Alternative Program Coordinators, and one Community Development Planner II position, which will cost of \$834,697 each year.

According to the FY 2009-11 budget, DJJDP has 14 staff supporting the JCPCs, one staff for Eckerd, and two staff for Multipurpose Group Homes. Fiscal Research questions whether DJJDP will need the full complement of personnel they are recommending to manage this expansion since they are proposing to double their current staffing.

Division of Detention Services

The Department projects "given that detention services may be the largest or one of the largest components impacted by bringing 16- 17 year old juveniles into the system, substantial capital and staff investments would be required." In addition to juveniles being detained pre disposition ("Delinquent before Disposition" status) because of the seriousness of their offense, juveniles adjudicated delinquent can be confined to a detention facility for five days for a Level I disposition; 14 days for a Level II disposition or 28 days for a probation violation if the juvenile has a Level II disposition; and Detention Centers house juveniles who are bound over to Superior Court to be tried as adults.

The analysis of the juvenile age change on detention services included a number of assumptions by the Department: "older adolescents tend to commit more serious or aggressive crimes and a somewhat larger proportion may require detention (as they do jail in the current adult system); and the fact that more may be held in bound-over status for extensive lengths of stays creates concerns regarding the need for ensuring adequate short and medium term detention capacity as a public safety requirement." Detention is divided between pre-adjudication (temporary custody), post-adjudication, and juveniles bound over to appear in Superior Court.

The Department doesn't make any assumptions that 16 and 17 year olds will be treated differently regarding pre-adjudication, and they applied the same rate of pre-adjudication and predisposition for juveniles charged with a felony, an assault, or class A1 misdemeanor offense last fiscal year. The average length of stay (ALOS) for juveniles detained for the reason, "Delinquent before Disposition", was used to estimate the number of increased days and thereby derive an estimate of increases in average daily population (ADP).

The base pool of detainable juveniles for FY 2012-13 is 5,014, and the current detention rate is 44 %, with the ALOS for Delinquent before Disposition cases is 15 days. The Department has also developed scenarios of pre-adjudicated juveniles being held at 54% and 59% rates. Given the potential juvenile history of 16-year-olds, Fiscal Research asserts that the 54% rate is more realistic (and potentially 59%) to use for estimating a population increase. Using the 54% rate, the Department estimates a population increase of 111 juveniles in FY 2012 and 142 in FY 2013 in detention awaiting a hearing.

Currently, 26% of the Level I dispositions (387) are 5-day commitments and 10% of Level II dispositions (312) are 14-day commitments to Detention Centers. In FY 2012-13, the base detainable population is 5,014 juveniles who the Department estimates will be detained at a 54% rate (10% higher than the current 44%), which is 2,708 juveniles and 5,491 juveniles the following year. The Department projects 2,708 juveniles would be detained for an average of 15 days, which would increase the average daily population by 111 juveniles in FY 2012-13 and 226 in year two (based upon 5,491 juveniles detained for an average of 15 days). Again, Fiscal Research asserts that DJJDP's estimate is an overstatement. This affects the base detainable population and would seem higher than if they had treated the complaints and juveniles as separate populations.

Additional Detention Beds Needed						
Estimate of Increased Average Daily Population on Detention Services						
Year	Base Detainable 2007 Population	Delinquent before Disposition: Detained @ 54% Rate	Level I Disposition: 5 Days	Level II Disposition: 14 Days	Level II Disposition: 28 Days	Bound Overs
2012-13	5,014	111	5	12	5	58
2013-14	10,028	226	11	26	11	138

Source: DJJDP

Additional Detention Facilities Needed

The Department estimates the need for 13 new 64-bed detention centers for the full implementation of HB 1414. The Department currently operates nine state-run facilities, with a standard capacity of 194 and an expanded capacity of 239, and counties operate three facilities, with a capacity of 78. In addition, the Department seeks to separate the older juvenile population from the younger offenders. DJJDP estimates the need for six additional 64-bed facilities to meet the needs of this expanded population.

The Department project each facility will cost \$8.1 million to construct and \$5.6 million for annual operations. The increased population will begin arriving in FY 2012, so DJJDP proposes constructing two new detention centers in 2010-11, one additional center in FY 2011-12, three additional centers in FY 2012-13, and three additional centers in FY 2013-14. The capital expenditure will be \$77.3 million, and the annual operating cost will be \$20.4 million by 2013-14. Counties pay half of the operating costs of detention, so the annual operating costs will be offset by \$10.2 million.

Estimate of Increased Detention Resources Needed

Year	#	Capital*	Personnel	Operating & Transportation	Programming	NR Equipment	Receipts	TOTAL
2010-11	2	\$16,000,000						\$16,000,000
2011-12	1	\$8,300,000	\$13,300,000	\$3,100,000	\$167,400	\$189,000		\$25,000,000
2012-13	3	\$25,900,000	\$26,700,000	\$6,200,000	\$334,800	\$189,000	(\$13,800,000)	\$45,500,000
2013-14	3	\$26,900,000	\$40,100,000	\$9,400,000	\$502,200	\$189,000	(\$20,800,000)	\$56,300,000
TOTAL	6	\$77,100,000	\$80,100,000	\$18,700,000	\$1,000,000	\$567,000	(\$34,600,000)	\$142,800,000

* Capital figures are based upon a 4% inflationary increase
 Source: DJJDP analysis of HB 1414

Staffing of a 64-Bed Detention Center

Classification	FTE	Annual Salary
School Educator I, II	8.00	57,903
Education Aide	4.00	30,036
Facility Director	1.00	64,778
Assistant Facility Director	1.00	54,271
Administrative Officer II	1.00	43,940
Transportation Driver	8.00	31,099
Intake Counselor	11.00	36,030
Youth Services Counselor Tech	38.00	36,030
Supervisor	3.00	38,886
Licensed MH Clinician	2.00	56,667
Staff Nurse	2.00	49,903
Food Service Supervisor IV	1.00	38,886
Cook II	3.00	28,265
Cook Supervisor I	1.00	30,036
Human Service Coordinator II	2.00	42,121
Administrative Assistant II	1.00	42,121
Processing Assistant V	1.00	34,732
TOTAL	88	3,405,229

Source: DJJDP

Division of Youth Development Centers

Juveniles who commit violent crimes and/or who have a long juvenile record receive a Level III disposition and are committed to the Department. Typically, Level III commitments serve their punishments in Youth Development Centers (YDCs were formerly called training schools) for at least six months. The Juvenile Code provides for alternative placement such as an Eckerd Wilderness Camp or alternative to commitment program in the community, but given the juvenile history of this additional population most of the new commitments will take place in an YDC. The Sentencing Commission estimates an additional 86 Level III commitments in FY 2013 and 203 commitments in FY 2014.

Based upon these estimates, the Department anticipates the need for three additional YDCs for FY 2012-13 and FY 2013-14. The capital expenditure is projected to be \$71.8 million to construct one 96-bed YDC (\$23 million) each year beginning in 2010 in order to meet the needs of the expanded population beginning in 2012. The cost to operate YDCs is based upon using a therapeutic treatment model developed by DJJDP. The model uses a higher level of staffing and staff with more advanced degrees that are more costly.

The Department proposes hiring staff six months prior to accepting juveniles to train and prepare for the additional population in FY 2012. In addition, DJJDP estimates \$18.8 million in costs to staff two facilities in FY 2012 and \$37.7 million to staff four facilities in FY 2013. Currently, the General Assembly has capped the staffing at 198 positions for a 96-bed facility, but DJJDP assumes a staff of 215 to implement HB 1414. DJJDP proposes additional personnel, primarily educators, mental health, and substance abuse staff. The annual operating cost of a 96-bed facility is \$9.4 million for personnel, \$4.7 million for non-personnel costs, and a nonrecurring cost of \$110,000 to purchase two 15-passenger buses to transport juveniles. The Department estimates \$242,334 in FY 2012-13 and \$484,668 in FY 2013-14 in revenue from the Department of Public Instruction for the child nutrition program (see table below).

Estimate of Increased Population on YDC Services

Year	YDCs	Capital*	Personnel	Operating	Programming	One-Time NR Equipment	TOTAL
2011-12*	1	\$23,000,000	\$6,500,000	\$1,000,000	\$100,700	\$110,000	\$30,700,000
2012-13	2	\$23,900,000	\$24,900,000	\$4,300,000	\$402,800	\$110,000	\$53,600,000
2013-14	3	\$24,800,000	\$48,900,000	\$8,600,000	\$805,600	\$220,000	\$83,300,000
TOTAL	6	\$71,700,000	\$79,800,000	\$13,900,000	\$1,300,000	\$440,000	\$167,100,000

* Capital figures are based upon a 4% inflationary increase

* 2011-12 figures are based on six months of operation

Source: DJJDP analysis of HB 1414

Staffing of 96-Bed YDC

Current Staffing Model @ 96-Bed YDC			2011-12 Proposed Staffing Model @ 96-Bed YDC		
Classification	FTE	Salary	Classification	FTE	Salary
Academic Counselor	n/a	n/a	Academic Counselor	1	57,903
Administrative Officer II	1	37,818	Administrative Officer II	1	43,940
Assistant Facility Director	1	46,445	Assistant Facility Director	1	54,271
Cook II	3	24,626	Cook II	3	28,265
Cook Supervisor I	2	25,964	Cook Supervisor I	2	30,036
Education Aide	n/a	n/a	Education Aide	4	30,036
Facility Director	1	55,199	Facility Director	1	64,778
Food Service Supervisor IV	1	33,571	Food Service Supervisor IV	1	38,886
Licensed MH Clinician	6	48,419	Licensed MH Clinician	6	56,667

Maintenance Mechanic III	n/a	n/a		Maintenance Mechanic III	2	37,418
Maintenance Mechanic IV	n/a	n/a		Maintenance Mechanic IV	2	40,456
Nurse Supervisor	1	46,445		Nurse Supervisor	1	54,271
Principal	1	69,248		Principal	1	59,334
Processing Assistant IV	2	27,869		Processing Assistant IV	2	32,232
Processing Assistant V	2	30,033		Processing Assistant V	2	34,732
Processing Asst IV (Admissions)	n/a	n/a		Processing Asst IV (Admissions)	1	32,232
Recreation Worker II	n/a	n/a		Recreation Worker II	4	38,886
School Educator I, II	15	52,694		School Educator I, II	21	57,903
Social Work Supervisor	n/a	n/a		Social Work Supervisor	1	54,271
Social Worker III	8	41,019		Social Worker III	6	47,791
Sr. Licensed MH Clinician	1	60,453		Sr. Licensed MH Clinician	1	70,982
Staff Nurse	3	42,801		Staff Nurse	3	49,903
Subs Abuse Treatment Spec	1	41,019		Subs Abuse Treatment Spec	3	47,791
Youth Counselor	75	39,384		Youth Counselor	54	45,834
Youth Counselor Associate	21	33,571		Youth Counselor Associate	42	38,886
Youth Counselor Supervisor	12	42,801		Youth Counselor Supervisor	12	49,903
Youth Monitor	30	31,141		Youth Monitor	30	36,030
Youth Monitor Supervisor	7	33,571		Youth Monitor Supervisor	7	38,886
Total	194	7,510,917		Total	215	9,437,078

Note: The FY 2011-12 salaries are based upon the midpoint.

Source: DJJDP

Division of Administrative Services

DJJDP estimates that the additional caseload will require a doubling of central administrative services (*i.e.*, overhead and central operations such as budgeting and human resources). As a result, DJJDP projects the need for an additional 82 positions in FY 2012-13 and 62 additional positions in FY 2013-14. This will cost \$5.3 million (\$5.2 million recurring) the first year and \$9.3 million total in FY 2013-14.

DJJDP currently has 13,637 juveniles under supervision and operates its Administration Services division with 84 positions. Fiscal Research maintains that the DJJDP estimate is excessive. DJJDP has not demonstrated the need to double its Administrative Services staffing in order to accommodate a 16% increase in the Department's caseload. The major impact on the juvenile justice system will occur with operations of court services and secure detention facilities and their increases have been included in the Department's estimate.

Department of Correction – Division of Prisons

The chart below depicts the projected Department of Correction (DOC) inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,² and represent the total number of beds in operation, or authorized for construction or operation as of January 2009.

Rows four and five in the chart demonstrate the impact of HB 1414. As shown, the Sentencing Commission estimates that this specific legislation will add 261 fewer inmates to the prison system by the end of FY 2013-14.

Five-Year Prison Bed Impact						
		June 30 2010	June 30 2011	June 30 2012	June 30 2013	June 30 2014
1.	Projected No. of Inmates Under Current Structured Sentencing Act ³	42,296	43,165	44,024	44,987	45,998
2.	Projected No. of Available Prison Beds (DOC Expanded Capacity)	40,014	42,022	42,282	42,282	42,282
3.	Projected No. of Beds Over/Under Inmate Population	-2,282	-1,143	-1,742	-2,705	-3,716
4.	<i>Projected No. of Additional Inmates Due to this Bill</i> ⁴	<i>N/A</i>	<i>0</i>	<i>0</i>	<i>(68)</i>	<i>(261)</i>
5.	<i>No. of Additional Beds Needed Each Fiscal Year Due to this Bill</i>	<i>N/A</i>	<i>1,143</i>	<i>1,742</i>	<i>2,637</i>	<i>3,455</i>

POSITIONS: It is anticipated that by FY 2013-14, approximately 104 fewer positions would be needed to supervise the additional inmates housed under this bill. This position total includes security, program, and administrative personnel at a ratio of approximately one employee for every 2.5 inmates. This ratio is the combined average of the last seven prisons opened by DOC – two of the prisons were medium custody and five were close custody.

DISTRIBUTION OF BEDS: Fiscal Research asked DOC’s Office of Research and Planning to project the impact of proposed HB 1414 on inmate custody levels. Research and Planning staff used the information provided by the Sentencing Commission to prepare the following estimates.

To prepare these estimates, Research and Planning staff applied the distribution of current custody assignments for each crime class to the projected populations by crime class. Current custody assignment practice is the basis for this projection; therefore any changes to current DOP inmate custody assignment practices will affect these estimates. This estimate does not take into account the proposed changes in Section 1(c) and (d) of HB 1414 since these sections will become effective after the five-year projection window.

² Expanded Operating Capacity (EOC) is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of SOC) and 50 (SOC) square feet per inmate.

³ The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in January 2009.

⁴ Criminal penalty bills effective December 1, 2009, should not affect prison population and bed needs until FY 2010-11 due to the lag time between offense charge and sentencing - 6 months on average. No delayed effect is presumed for the Court System.

The table below contains an estimate of the net change allocated to each custody level for FY 2009-10 through FY 2013-14 if HB 1414 is enacted. Any difference between the Sentencing Commission’s population projections and those shown in the tables below are due to rounding.

Distribution of Beds				
Fiscal Year	Close	Medium	Minimum	Total Beds
2009-10	0	0	0	0
2010-11	0	0	0	0
2011-12	0	0	0	0
2012-13	-16	-30	-22	-68
2013-14	-85	-105	-71	-261

Source: NC Department of Correction, Office of Research and Planning

OPERATING: Operating costs are based on actual FY 2007-08 costs for each custody level, as provided by the DOC. These costs include security, inmate programs, inmate costs (food, medical, etc.), and administrative overhead costs for the Department and the Division of Prisons. DOP is estimated to save \$2.1 million in 2012 and \$8.8 million in 2013.

Daily Inmate Operating Cost per Custody Level, FY 2006-07				
Custody Level	Minimum	Medium	Close	Daily Average
Daily Cost Per Inmate	\$60.87	\$79.27	\$89.17	\$74.77

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.⁵

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$8.43 to \$16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.71 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

DOC data indicates that about 2,300 (2 %) of the 111,000 probationers currently supervised by the Division of Community Corrections are ages 16 and 17 years old. Under the full implementation of HB 1414 in FY 2015-16, DCC would no longer supervise probationers under age 18. For the purposes of this fiscal

⁵ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

analysis, it is assumed that the ages of these 2,300 probationers are equally distributed among the four age groups specified in the proposed bill. DOC is projected to supervise 575 and 1,150 fewer probationers in FY 2012-13 and FY 2013-14, respectively. In FY 2007-08, DCC's average supervision cost was \$866 per probationer. Using the FY 2007-08 average cost, HB 1414 would reduce DCC's annual costs by \$497,950 in FY 2012-13 and by \$995,900 in FY2013-14.

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The cost estimates included in this analysis are generalized and involve a number of assumptions. The proposed legislation would appoint a task force to study, among other things, the costs of implementing the juvenile age changes. In-depth study and interviews with court personnel would serve to better clarify the costs estimated in this analysis.

AOC staff reports that this bill would have two effects on how cases involving 16 and 17 year olds are handled in the court system. First, it would increase the resources required to dispose of the affected misdemeanor cases. This is because juvenile matters are more time consuming than adult criminal proceedings. Second, it would shift some cases from Superior Court to District Court, because juvenile matters are handed in District Court.

In FY 2007-08, the following defendants were charged:

Charges by Age and Offense Category		
Age	Misdemeanor	Felony
16 to 16.5	7,228	1,511
16.5 to 17	7,761	1,876
17 to 17.5	9,104	2,221
17.5 to 18	8,929	2,404
Total	33,022	8,012

Misdemeanors

A 2007 study of North Carolina court workload conducted by the National Center for State Courts (NCSC) provided estimates of the minutes per case required for judges and clerks handling juvenile and adult cases. The estimated time required for a judge in a juvenile delinquency case is 48.21 minutes, compared to 20.14 minutes for an adult, non-domestic violence, non-traffic criminal District Court cases. The net result is that juvenile proceedings require approximately 2.4 times as long as adult District Court proceedings in terms of a judge’s time. Because the time required for juvenile cases includes felony dispositions, AOC has reduced the multiplier for misdemeanors that become juvenile cases from 2.4 to 2.0 for the purposes of this analysis (the majority of juvenile cases are misdemeanors).⁶

⁶ Based on the National Center for State Courts’ workload study, backing out some weights added to cases not relevant to this bill, juvenile matters make 2.4 times as long to dispose in District Court compared to adult matters. This estimate is based on judges’ workload and is applied to all court personnel for the purposes of this analysis. (Adjustments were made to the NCSC figures to back out weighted increases for non-applicable cases such as abuse, neglect, and domestic violence.) AOC reduced the 2.4 figure to 2.0 to account for the fact that some (a minority) of the existing juvenile workload is for felonies.

The NC Sentencing and Policy Advisory Committee, in its 2007 youthful offender study, estimated that 12.7% of 16- and 17-year-olds charged with felonies and misdemeanors would be diverted into community programs by juvenile court counselors and therefore would not consume court resources. Sentencing Commission data also indicate that it is likely that 97% of diverted youth were charged with misdemeanors. AOC has therefore applied a diversion rate of 15.3% to misdemeanor charges for these youths (12.7% x 41,034 x 97% / 33,022), reducing the estimated charges from 33,022 to 27,967. The estimated costs for the 33,022 defendants charged with misdemeanors to be disposed as adult cases in District Court compared to 27,967 juveniles charged with misdemeanors is shown below.⁷

Estimate Cost for Adult District Court Dispositions					
Offense Class	16 to 16.5	16.5 to 17	17 to 17.5	17.5 to 18	Total
A1	\$47,236	\$52,408	\$71,273	\$63,552	\$234,469
1	\$560,392	\$605,735	\$704,551	\$702,130	\$2,572,808
2	\$185,025	\$183,220	\$206,781	\$189,791	\$764,817
3	\$79,385	\$95,533	\$117,367	\$123,415	\$415,700
Total	\$872,038	\$936,896	\$1,099,972	\$1,078,888	\$3,987,794
Estimated Cost for Juvenile District Court Dispositions (adult less 15.3% x 2.0)					
Total	\$1,477,232	\$1,587,102	\$1,863,353	\$1,827,636	\$6,755,323
Difference between Adult and Juvenile District Court Dispositions					
Total	\$605,194	\$650,206	\$763,381	\$748,748	\$2,767,529

The first group of defendants to be affected by this bill would be those at least 16 years old but less than 16.5 at the time of their offense, as of June 30, 2012. The age of adult jurisdiction would be increased by another six-month increment in each of the next three years. Using the above calculations and assuming a 1% increase in cases annually, the following costs would result.

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Net Costs	0	0	0	\$629,768	\$1,319,438

Felonies

This bill would shift some cases from Superior Court to District Court, because juvenile matters are handled in District Court. Under current law, juveniles 13 years old and older charged with Class A felonies are automatically transferred to Superior Court, and juveniles 13 years old and older charged with other felonies may be transferred to Superior Court at the discretion of the judge. Therefore, the majority of cases with 16- and 17-year-old defendants that are currently filed as felony cases in Superior Court would instead be handled in District Court.

In FY 2007-08, there were 8,012 16- and 17-year-olds charged with felony offenses. AOC estimated that a small number of youths charged with low level felonies will be diverted prior to interaction with the court system. Sentencing Commission data indicates that it is likely that approximately 3% of diversions are for felony charges, primarily for H and I felonies. AOC has therefore reduced the number of H and I felony

⁷ The trial rates for the 33,022 identified cases are assumed to be the same as the trial rates for each overall offense class. The time for a disposition other than a plea or trial is assumed to be the same as the time for a plea.

charges by approximately 156 charges, distributed proportionately over the age groups and the two different offense classes. The table below reflects this adjustment.

Adjusted Distribution of Felony Charges by Age and Offense Classification					
Offense Class	16 to 16.5	16.5 to 17	17 to 17.5	17.5 to 18	Total
A	4	6	7	12	29
B1	24	17	16	11	68
B2	4	11	13	14	42
C	27	37	55	58	177
D	108	167	219	207	701
E	47	70	69	73	259
F	32	55	46	47	180
G	82	82	104	118	386
H	771	926	1,093	1,138	3,928
I	211	385	440	541	1,677
Unknown*	71	83	117	139	410
Total	1,481	1,839	2,178	2,358	7,857

* More than one offense class possible

The Sentencing Commission estimates that 35.7% of Class B1 through E felonies and 23.4% of Class F through I felonies for 16-year-olds will be transferred to Superior Court. As a conservative estimate, AOC has applied these transfer rates to 16 and 17 year olds facing felony charges. Thus this bill would generate two types of costs for felony charges:

1. New juvenile court transfer hearings for 16 and 17 year olds transferred to Superior Court, along with the potential for a more vigorous defense during probable cause hearings for these offenders.
2. A reduction in Superior Court workload and a corresponding increase in District Court workload for 16- and 17-year-olds now under juvenile jurisdiction. Because this would be new workload for District Court, it would require additional District Court judges. (Due to current backlogs in Superior Court caseload, there would not presently be a sufficient decrease in workload to obtain an offsetting reduction in Superior Court judges).

1. Transfer Hearings

Based on available information, AOC estimates that when the State pursues transfer, approximately 75% of transfer hearings will result in a transfer to Superior Court. Using this estimate and the Sentencing Commission's transfer rate, AOC estimates that the following number of defendants would have had transfer hearings under this bill (FY 2007-08 data):

Number of Juvenile Defendants with Transferred Hearings					
Offense Class	16 to 16.5	16.5 to 17	17 to 17.5	17.5 to 18	Total
B1 – E	100	144	177	173	594
F – I / Unknown	617	746	877	966	3,207
Total	733	907	1,071	1,157	3,800

Transfer hearings generally require a minimum of one hour of court time, but may take as long as a full day of court. In addition, most transfer hearings now involve expert witness testimony, at a cost of \$1,000 to \$3,000. Using the minimum of one hour of court time and \$1,000 per case for expert testimony, and assuming one hour of district attorney preparation time per hearing and a 3% increase in cases in FY 2009-

10 and a 2% annual increase thereafter (based on the Sentencing Commission’s Forecasting Advisory Committee’s latest estimates), AOC has estimated the following costs:

	FY 2009-11	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
In-Court Personnel Time	0	0	0	\$182,919	\$419,330
Expert Witness	0	0	0	\$569,065	\$1,304,542
Total Costs	0	0	0	\$751,985	\$1,723,872

By FY 2013-14, the last year of the five-year fiscal note horizon, there would be the need for one District Court judge, one deputy clerk, and two assistant district attorneys. The cost for non-courtroom support positions, such as judicial assistants or new judges, is not included in this estimate.

2. New District Court Cases

One of the primary differences between Superior Court and District Court cases is the District Court’s use of bench trials rather than jury trials. AOC has no available data to estimate the time required for a bench trial of a felony-level juvenile case in District Court compared to a jury felony trial for an adult defendant in Superior Court. For the purposes of this estimate, AOC has provided an estimate based on a scenario that assumes all 16- and 17-year-old dispositions of felony charges will take the same amount of time as plea dispositions for the same level of felony in Superior Court.⁸ This is a minimal estimate intended to illustrate the potential magnitude of the costs. It is possible that juvenile felony cases will require considerably more time to dispose than adult felony cases; further increasing new District Court costs. Using the Sentencing Commission’s transfer rate estimates and FY 2007-08 cases, there would be approximately 8,000 new District Court cases as a result of this bill. Assuming the same annual percent increases in cases as above, new District Court judge and staff requirements would be as follows:

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
District Court Judges	-	-	-	3	7
Judicial Assistants	-	-	-	3	7
Deputy Clerks	-	-	-	3	7
Position Costs				\$763,986	\$1,740,121

Note: Costs do not include any changes to indigent defense requirements.

3. Impact on Superior Court Caseload

In FY 2007-08, a typical felony case took approximately 220 days to dispose in Superior Court. HB 1414 would reduce Superior Court caseload as shown in the table below by shifting cases for defendants ages 16 and 16.5 years old to District Court.

⁸ The National Center for State Courts’ reports that voir dire for felony trials in North Carolina averages 2 hours. Excluding jury costs, the difference between a day in court in Superior Court versus District Court is \$525. Daily jury costs in Superior Court range from \$280 to \$560 depending on the length of the trial. However, the trial rates for low-level felonies – those least likely to be transferred to Superior Court – are less than 1%, and trial rates for the highest level felonies are less than 8%. Therefore, AOC would not expect substantial savings from a shift from jury to bench trials.

Felony Offense	# Charges: 16 to 16.5	# Charges: 16.5 to 17
B1	24	17
B2	4	11
C	27	37
D	108	167
E	47	70
F	32	55
G	82	82
H	771	926
I	211	385
Unknown	71	83
Total	1,477	1,833

For any cases that would have handled as felony trials in Superior Court and would now be handled in District Court, there would be a savings in jury fees, which range from \$920 to \$2600 per trial. However, AOC reports that the vast majority felony cases are disposed other than by trial. Note that under current law, District Attorney's may seek to try juveniles as adults for the more serious A-E felony offenses. So a significant number of those cases may remain in Superior Court.

AOC indicates that the effect of reducing the Superior Court caseload, would be to somewhat reduce the average time to dispose of felony cases. In FY 2007-08, a typical felony case took approximately 220 days to dispose in Superior Court. AOC indicates that due to the backlog of cases in Superior Court, there would be no reduction in the costs or positions in the immediate future due to HB 1414. In the future, if the Superior Court backlog were to be eliminated, there could be a savings due to a reduction in Superior Court judge caseload from this bill.

SOURCES OF DATA: Department of Juvenile Justice and Delinquency Prevention; Department of Justice; Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Office of State Construction.

TECHNICAL CONSIDERATIONS: None

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