

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: HB 1402 4th Edition
SHORT TITLE: Address Confidentiality Program
SPONSOR(S): Representative Jeffus

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
EXPENDITURES	<i>The DOJ plans to use funds from the Nine West settlement to fund the program. There is no General Fund appropriation.</i>				
Dept. of Justice					
<i>Recurring</i>	\$ 19,728	\$ 29,334	\$ 38,939	\$ 48,545	\$ 58,150
<i>Nonrecurring</i>	\$ 2,880				
Judicial Branch	Exact amount cannot be determined; no substantial impact anticipated.				
Correction	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS:	0	0	0	0	0
POSITIONS:	0	0	0	0	0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice, Judicial Branch, Department of Correction					
EFFECTIVE DATE: January 1, 2003					

BILL SUMMARY: (Abstracted from the summary provided by the Research Division of the General Assembly). The Committee Substitute for House Bill 1402 would establish the Address Confidentiality Program in the Office of the Attorney General to protect the confidentiality of the addresses of relocated victims of domestic violence, sexual offense, or stalking. Under this program, the Attorney General would designate a substitute address for a program participant and act as the agent of the program participant for purposes of service of process and receiving and forwarding first-class, certified, and registered mail. State and local government agencies would use the address designated by the Attorney General as the program participant's substitute address when creating new public records.

Address Disclosure

A program participant's address and telephone number maintained by the Attorney General or an agency is not a public record. The Attorney General may only disclose the address or telephone number of a program participant under the following circumstances:

- The information is requested by a federal, State, or local law enforcement agency.
- The information is required by direction of a court order.
- Upon request of an agency to verify the participation of a specific program participant.
- Upon request of an agency that has received a waiver from the Attorney General.
- The program participant is required to disclose his or her address as part of registration in a sex offender registration.
- If, at the time of application, a program participant is subject to a court order or involved in a court action related to divorce proceedings, child support, child custody, or child visitation.

Penalties

A person who knowingly provides false information in an application shall lose certification in the Program and be subject to a civil penalty not to exceed five hundred dollars.

The Attorney General will notify a program participant of an address disclosure in response to a court order or an agency waiver. No person shall knowingly and intentionally obtain a program participant's actual address from the Attorney General or an agency knowing that he or she is not authorized to do so. No employee of the Attorney General or an agency shall knowingly and intentionally disclose a program participant's actual address to a person known to the employee to be prohibited from receiving the information. Any person who knowingly and intentionally obtains or discloses information in violation of these provisions is guilty of a Class 1 misdemeanor and will be assessed a fine not to exceed two thousand five hundred dollars (\$2,500).

The State, its agencies, and their officers and employees are immune from any liability in any action brought by or on behalf of any person injured or harmed by the actions or inactions of these entities or individuals in implementing the Program. However, if the Attorney General determines that an employee's actions resulting in harm were not within the course and scope of the employee's duties, then that employee may be subject to suit as an individual.

Funding

The Attorney General and all other agencies to which this act applies shall implement the provisions of this act with funds that are otherwise appropriated and available.

ASSUMPTIONS AND METHODOLOGY:

Department of Justice

The DOJ estimates that 300 people will be added to the address confidentiality list each year. Individuals will register through domestic violence or sexual assault centers. The DOJ estimates the following expenditures, the bulk of which are mail-related costs. Expenditures in all five years shown will be funded by the *Nine West* settlement money, for a total of approximately \$198,000. Based on data from other states, the DOJ's estimate of participants may be somewhat high, in which case actual expenditures would be lower. No funds are appropriated for this bill; the Attorney General and other agencies are directed to use *Nine West* settlement funds or other grants or funds not appropriated from the General Fund.

DESCRIPTION	Year 1	Year 2	Year 3	Year 4	Year 5
Estimated Number of Participants	300	600	900	1,200	1,500
Database Design and Construction (NR)	\$ 2,880	-	-	-	-
Program Supplies & Mail Processing	\$ 13,320	\$ 30,600	\$ 45,000	\$ 59,400	\$ 73,800
Agency Training and Implementation	\$ 4,873	\$ 4,873	\$ 4,873	\$ 4,873	\$ 4,873
Program Deliverables	\$ 17	\$ 35	\$ 52	\$ 70	\$ 87
Total	\$ 22,608	\$ 29,334	\$ 38,939	\$ 48,545	\$ 58,150

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

This bill creates the Address Confidentiality Program in the Office of the Attorney General and, along with that program, new Class 1 misdemeanor offenses for governmental entities and persons who engage in the unauthorized disclosure of actual address information about program participants. Any victims of domestic violence, sexual offense, or stalking, who fear for their own safety or the safety of their child, and who can provide documentation or evidence, are eligible to participate.

According to AOC data, numerous defendants are charged with various offenses related to domestic violence, sexual offense, and stalking every year. During calendar year 2001, some 876 defendants were charged with stalking offenses (includes misdemeanor, felony, and cyberstalking), 3,459 defendants with violating a domestic violence protective order, 5,360 defendants with various sexual offenses (including rape, sexual offense, crimes against nature, incest, indecent exposure, disseminating obscenity/harmful materials, and sexual exploitation of minors), 24,869 defendants with communicating threats, 6,785 defendants with harassing/ threatening phone calls, and 32,381 defendants with assault on a female. Statistics posted on the website for the N.C. Coalition Against Sexual Assault also note that there were 5,915 sex offenders and sexual

predators registered as living in North Carolina from January 1996 to March 2001. Given the frequency with which these various types of prohibited conduct are charged, the AOC assumes that there may be many victims who would utilize such a service to protect the confidentiality of their relocated address and prevent offenders from finding the victim.

In terms of the criminal penalty element of the proposed legislation, the potential defendants would be state or local government agencies, their employees and officers who have access to this type of address information and knowledge of the program participant status of victims, and persons who attempt to obtain this information unlawfully. Violations must be knowing and willful. The AOC assumes that state and local government agencies and persons associated with these agencies would comply with the disclosure restrictions, and would not expect many new charges to arise under the bill.

While the AOC does not anticipate a substantial impact on the courts as a result of this bill, it does note that court personnel would require some training on the circumstances in which a victim's address would be asked for (i.e., by clerks or district attorneys' staff), or be present in case file, victim/witness services information, or court records.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on December 2001 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Projected number of prison beds is based on beds completed or funded and under construction as of 12/13/01. The number of beds assumes the Department of Correction will operate at an Expanded Operating Capacity (EOC), which is the number of beds above 100% or Standard Operating Capacity. The EOC is authorized by previous court consent decrees or departmental policy. These bed capacity figures do not include the potential loss in bed capacity due to any proposals in the 2002 Session to eliminate prison beds or close prisons. Criminal Penalty bills effective December 1, 2002 will only affect inmate population for one month of FY 2002-03, June 2003, due to the lag time between when an offense is committed and an offender is sentenced.

Since the proposed legislation creates new offenses, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be sentenced for these offenses. On average, for every 7 convictions of a Class 1 misdemeanor, 1 offender receives an active sentence averaging 40 days to be served in a local jail. For 30-90 day sentences in local jails, the Department of Correction reimburses the county \$18/day. If sentencing practice for this offense is similar to that of other Class 1 misdemeanors, for every 7 convictions on 1st offense, the cost to the state would average \$720 (=40*18).

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

TECHNICAL CONSIDERATIONS: None.

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Signed Copy Located in the NCGA Principal Clerk's Offices