

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

BILL NUMBER: HB 1124 First Edition
SHORT TITLE: Law Enforcement Officers' Security Act
SPONSOR(S): Representative Justice

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
REVENUE					
DMV	\$8.95 per program participant				
GENERAL FUND EXPENDITURES					
Correction	Exact amount cannot be determined				
Judicial	Exact amount cannot be determined				
DMV	(R) \$1.24 per program participant				
	(NR) \$614,600	\$439,000	-	-	-
SBOE	(NR) \$50,000 <i>(see technical considerations)</i>				
Local govt.	Exact amount cannot be determined				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined				
POSITIONS: (cumulative)	Exact amount cannot be determined				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction (DOC); Judicial Branch; Dept. of Motor Vehicles; State Bd. Of Elections					
EFFECTIVE DATE: December 1, 2003					
*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: This legislation would create the Law Enforcement Officers' Security Program, giving law enforcement officers the opportunity to participate in a program that would keep certain public record information confidential. The protected information may include the officers' and family members' social security numbers, residential telephone numbers and addresses, and the officer's birth date. The officer's work address would be used as a substitute address on public documents such as driver's licenses, and provisions are made for the real address to be used for school assignment, voting precinct assignment, and assessment of real property for tax purposes. It is incumbent upon the officer to inform public agencies of his enrollment in the program. Finally, this legislation creates a Class 1 misdemeanor and fine for individuals who knowingly and deliberately obtain or disclose this confidential information in violation of the Act and a Class I felony for individuals who release a law enforcement officer's personal information with the intent to intimidate or harm.

ASSUMPTIONS AND METHODOLOGY:

We cannot project the number of law enforcement officers and family members who would enroll in this program. There are a total of 27,786 officers in North Carolina and this legislation would cover them, as well as their spouses, ex-spouses, children, parents, and parents-in-law. Costs will depend on the number of officers and family members who choose to participate in the program.

State Board of Elections

Under current law, registered voters who submit a copy of a protective order or other court order or an Address Confidentiality Program authorization card can have their addresses kept confidential in State Board of Election (SBOE) data. HB 1124 would expand that statute to also cover participants in the Law Enforcement Officers' Security Program. However, the current statute, G.S. 163-82.10(d), only requires that the address be kept confidential. The text in other sections of HB 1124 specifies that telephone number and birth date information are also confidential. If the SBOE is required to protect this additional information, it will need to modify its software as well as the reports and programs that make data available to the public.

The SBOE will have to add additional fields to the State Elections Information Management System (SEIMS) database to indicate a second confidential category, change all the data entry programs to add an to allow the entry of the field indicating HB1124 confidentiality and modify the reports and programs that make data available to the public. Modifying the SEIMS data entry programs and databases are much more costly than modifying reports. The initial estimate to make these changes in SEIMS is \$50,000.

Please see technical considerations for further discussion.

Department of Motor Vehicles

Paragraph 17F-6 requires a participating officer to provide a copy of the notice of participation and the officer's law enforcement identification card to the Division of Motor Vehicles (DMV). The substitute address shall be used as the printed address on any operator's license or registration card provided by DMV to the officer or participating family members.

There would be two types of cost to DMV to implement this program. The first is the cost of additional personnel to handle the additional volume of transactions. The second is the cost to reprogram the State Automated Driver License System (SADLS) to handle the new requirements. In addition to the costs, there would be revenues from issuing duplicate drivers licenses of \$8.95 per license (\$10 license fee minus \$1.05 production cost paid to vendor).

Transaction costs. If retired examiners are used as temporary staff for the initial year of the program, the cost would be \$12.93 per hour, or \$1.24 per program participant.

Programming SADLS. DMV states that SADLS will require complex modifications to implement the requirements of this bill. **These changes would be completed by January 2005.** The following process changes to the computer system will be required:

- Customer Merge
- Adjudication
- What-If
- Hearing Officer
- Event History
- Pending Event
- Driver Clinic
- Driver History
- Conviction
- “Next Customer Selection”
- New Customer Entry
- Select Accident
- Microfilm Event
- Name History
- Address History
- Letter Request by Customer
- Accident

For the activities required, DMV estimates the hours as follows:

Analysis	1036
Design	634
Programming/Testing	6782
System Testing	2306
Client Testing	628
Implementation	108
Post Implementation	176
TOTAL	11,670 hours X \$80/hour= \$933,600

In addition, Information Technology charges would total \$120,000, for an overall total for modifying SADLS of \$1,053,600.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2003 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. They do not take into account changes in judicial or prosecutorial practices or deterrent or incapacitative effects.

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.

§17F-7(e) makes it a Class 1 misdemeanor to knowingly and intentionally obtain or disclose the information made confidential under this act. On average, for every seven convictions of a Class 1 misdemeanor, one offender receives an active sentence averaging 35 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 first offense, the cost to the state would average \$810 (=45*18). In addition, 84% of Class 1 misdemeanants are sentenced to non-active sentences under the Division of Community Corrections, at costs ranging from \$1.83 to \$11.47 per offender per day.

§17F-12 makes it a Class I felony to release the personal information of a law enforcement officer with the intent to harm or intimidate (and without express permission or a court order). For every three convictions of a Class I felony, there will be the need for one new prison bed in the first year and two new prison beds in the second year, due to revocations, at a cost of. In addition, 91% of Class I felons are sentenced to non-active sentences under the Division of Community Corrections, at costs ranging from \$1.83 to \$11.47 per offender per day.

~~The chart below compares the projected inmate population to prison bed capacity and shows whether there is adequate bed capacity for any population increases caused by a specific bill. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five year Fiscal Note horizon and beyond. That means the number of beds needed (Row 5) is always equal to the projected additional inmates due to a bill (Row 4).~~

~~Rows 4 and 5 in the chart show the impact of this specific Bill. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation will add ___ inmates to the prison system by the end of FY 2007-08.~~

	June 30				
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
1. Projected No. Of Inmates Under Current Structured Sentencing Act ¹	35,851	36,787	37,739	38,687	39,557
2. Projected No. of Prison Beds (DOC Expanded Capacity) ²	34,561	34,729	34,729	34,729	34,729
3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	1,290	2,058	3,010	3,958	4,828
4. No. of Projected Additional Inmates Due to this Bill ³					
5. No. of Additional Beds Needed Each Fiscal Year Due to this Bill ²					

POSITIONS: It is anticipated that approximately ___ positions would be needed to supervise the additional inmates housed under this bill by 2007-08. These position totals include security, program, and administrative personnel at a ratio of one employee for every 2.5 inmates. This ratio is the combined average of the last three prisons opened by DOC and the three new prisons under construction.

FISCAL IMPACT BEYOND FIVE YEARS: Fiscal Notes look at the impact of a bill through the year FY 2008. However, there is information available on the impact of this bill in later years. The chart below shows the additional inmates due to this bill, the projected available beds, and required beds due only to this bill each year.

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Inmates Due to —This Bill				
Available — Beds (over/under)	-5,616	-6,339	-7,039	-7,684
New Beds Needed				

DISTRIBUTION OF BEDS: After analyzing the proposed legislation, the Department of Correction estimates the following distribution of beds as needed under this bill:

- _____ Close Custody _____
- _____ Medium Custody _____
- _____ Minimum Custody _____

CONSTRUCTION: Construction costs for new prison beds, as listed in the following chart, are based on estimated 2002-03 costs for each custody level as provided by the Office of State Construction and an assumed inflation rate of 5% per year.

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Construction — Cost Per Bed <u>2002-0203</u>	\$38,595	\$73,494	\$85,444

Construction costs, where applicable, are shown as non-recurring costs in the Fiscal Impact Table on Page 1 of this note. These costs assume that funds to construct prison beds should be budgeted in advance. Based on previous prison construction projects we are assuming it will typically require three years for planning, design and construction of new beds.

OPERATING: Operating costs are based on actual 2001-02 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate will be added each year to the base costs for FY 2002 shown below and included in the recurring costs estimated in the Fiscal Impact Table on Page 1.

Daily Inmate Operating Cost 2001-02

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Statewide Average</u>
Daily Cost Per Inmate (2001-02)	\$50.04	\$65.17	\$80.19	\$62.43

~~Only operating costs of new prison beds, not construction costs, will be included in the fiscal estimate under the following circumstances: (1) when a bill increases the inmate population in the first two years of the fiscal note horizon, FY 2004 and 2005; this is based on the assumption assumes that Correction cannot build prisons quickly enough to house additional offenders before 2005-06 and, (2) if the number of beds is anticipated to be less than 400 beds total since it is not practical to assume DOC would construct a general population prison with fewer than 400 beds.~~

~~In practice under these circumstances, DOC will have to take all or one of several actions: purchase additional beds out of state or in county jails; pay counties to increase jail backlog; or, establish temporary beds in the State system. For these circumstances, FRD will use the DOC statewide average operating cost, plus 3% annually, to calculate the prison bed cost.~~

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 Law Enforcement Officers' Security Program 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. It also creates new Class I felony offenses for individuals who release a law enforcement officer's personal information with the intent to intimidate or harm.~~

The AOC has no data from which to estimate the number of officers who would participate in the security program created by this bill. In addition, the AOC was unable to determine how many agencies collect personal information of law enforcement officers and would thus be subject to the provisions of this bill. It seems likely that the custodians of protected information are, for the most part, State agencies that would comply with the requirements of this bill; thus we would not expect a significant number of charges under this bill. However, depending on the number of violations, petitions to obtain protected information, civil proceedings initiated to enjoin violations, and civil actions instituted to recover damages, this bill could have a significant impact on the court system.

On average, for every Class 1 misdemeanor charge that results in a trial, the cost to the court system will be \$3,144; each guilty plea will cost \$279. For every Class I felony charge that results in a trial, the cost to the court system will be \$5,687; each guilty plea will cost \$323.

In addition to the criminal penalties in this bill, AOC does note that court personnel would require some training on the circumstances in which an officer's or family member's personal information would be asked for (i.e., by clerks or district attorneys' staff), or be present in case file or court records. AOC personnel have a protocol in place for deleting confidential information from public computer records and paper files, and would not require new systems or processes to implement this legislation.~~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.~~

Local Governments

This legislation would require local boards of election and registrars of deeds to remove personal information of law enforcement officers and their families in the law enforcement officer security program from public records, with certain exceptions. Such information, although a public record, would remain confidential, and the officer's work address would be used as a substitute address for public information purposes. Effective January of this year (2003), similar requirements were placed on these local agencies to protect the addresses of victims of stalking or domestic violence. To the extent that agencies have put these systems in place, the costs borne by local governments will be reduced. However, since we are unable to project the number of individuals who would be enrolled in this program, we cannot estimate the impact on local governments. Given large number of law enforcement officers and their family members, the impact could be substantial.

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

TECHNICAL CONSIDERATIONS:

1. This legislation requires law enforcement officers to inform local boards of election of their participation in this program. There is also a statewide voter registration database maintained by the State Board of Elections (SBOE). It is not clear how the officer's enrollment information would reach the State Board.
2. The implementation cost to the SBOE is approximately \$50,000. However, the SBOE has noted that if G.S. 163-82.10(d) were amended so that the address, phone number and date of birth were confidential in all cases, it would only have to modify the reports and programs that make data available to the public. The SEIMS changes for this would cost approximately \$5,000 to implement, rather than \$50,000.
3. Due to the major computer changes required, the DMV could not implement this program before January 2005.

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DATE: April 23, 2003



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