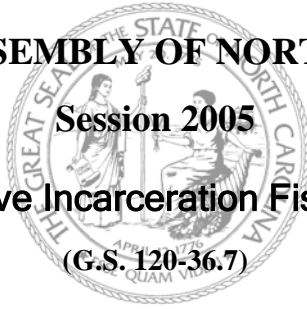


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1871 (Second Edition)
SHORT TITLE: Sex Offender/Out of State Registry/DMV Check.
SPONSOR(S): Representatives Glazier, Goforth, and Ray

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
EXPENDITURES:	Possible fiscal impact. Exact amount cannot be determined				
DMV Personnel	\$0 - \$60,400	\$0 - \$106,648	\$0 - \$109,847	\$0 - \$113,143	\$0 - \$116,537
Equipment	\$0 - \$11,100	-	-	-	-
Uniforms	\$0 - \$900	\$0 - \$900	\$0 - \$900	\$0 - \$900	\$0 - \$900
Range of Total Costs	\$0 - \$74,400	\$0 - \$107,548	\$0 - \$110,747	\$0 - \$114,043	\$0 - \$117,437
POSITIONS (cumulative):	0 - 3	0 - 3	0 - 3	0 - 3	0 - 3
Correction	Possible fiscal impact. Amount cannot be determined. *See Assumptions and Methodology – p.2-3*				
Judicial	Possible fiscal impact. Amount cannot be determined. *See Assumptions and Methodology – p.3-4*				
ADDITIONAL PRISON BEDS*	Amount cannot be determined.				
POSITIONS (cumulative)	Cannot be determined.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Division of Motor Vehicles; Department of Correction; Judicial Branch; Local Governments.				
EFFECTIVE DATE:	December 1, 2006				

BILL SUMMARY: Amends the definition of a “reportable conviction” (G.S. 14-208.6(4)) to provide that individuals convicted of an offense requiring registration as a sex offender in another state must also register in North Carolina. Enacts G.S. 20-9.3 to require the Division of Motor Vehicles to provide notice to each applicant, for a driver’s license, learner’s permit, instruction permit, or identification card, of the requirement to register as a sex offender in North Carolina.

The bill also amends G.S. 20-9 and 20-37.7 to require the Division of Motor Vehicles to check the National Sex Offender Public Registry when someone from another state applies for a driver's license or special identification card. If the applicant is registered as a sex offender, he must submit proof of registry in North Carolina, issued by the sheriff of the county in which the offender resides. In the event that the DMV is temporarily unable to access the national registry, the applicant must submit an affidavit stating that he or she is not listed in the national registry, and that he or she has been notified of the requirement to register in North Carolina. Upon access, the Division must then confirm the applicant's registration. If it is found that the individual appears on the national registry but indicated otherwise, the Division shall immediately revoke his driver's license (but not identification card) and promptly notify an appropriate law enforcement officer of the offense. Subject to the denial or revocation of a license or identification card, a person may petition the appropriate judge or court of that district for a hearing on the matter within 30 days after the denial or revocation. A hearing shall be set upon 30 days' written notice to the DMV.

ASSUMPTIONS AND METHODOLOGY:

Division of Motor Vehicles

The following assumptions apply:

- Written notice of the sex offender registration requirements may be provided to each applicant at minimal cost, appended to the required affidavits upon application.
- All local driver's license offices and mobile units are currently equipped with computers and internet connections. Thus, registry searches could be provided at no additional fixed cost. However, to maintain the current quality level of customer service and handle the additional workload that this proposed service would entail, additional positions may be necessary.
- Presently, the North Carolina Department of Transportation, Division of Motor Vehicles estimates approximately 320,000 first time customers at its driver license offices for FY 2006-07. Of those, approximately 40% are projected to be born in other states; therefore, it is estimated that approximately 128,000 searches will be conducted each year. Each search is assumed to take approximately 1-2 minutes on average, and the printing and signing of the affidavit approximately one minute – for a total of nearly 6,400 additional customer hours. Hence, it is estimated that three additional, full-time equivalent positions would be needed to provide this service.
- Any impact on DMV workload as a result of required testimony is assumed to be minimal.
- Any positions would be filled in December, per the effective date of the bill. Thus, this fiscal estimate accounts for up to three positions beginning in December 1, 2006. These positions are annualized beginning in FY 2007-08, with a 3% cost-of-living adjustment included.

Department of Correction

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available over the immediate five-year horizon, or beyond.*

Section 1: By amending the definition of a “reportable conviction” to include a final conviction in another state, this bill increases the number of persons eligible for conviction of failure to register as a sex offender, a Class F felony (G.S. 14-208.11). In FY 2004-05, there were 147 convictions under G.S. 14-208.11. For the same fiscal year, 48% of Class F felony convictions resulted in active sentences, with average minimum and maximum terms imposed of 18 and 22 months, respectively; 52% of those convicted received intermediate punishments, primarily special and intensive supervision probation.

Though it is not known how many additional violations might occur as a result of this bill, *if two additional convictions occurred per year, it would necessitate one additional prison bed the first year and two additional beds the second year. Assuming this threshold and a medium custody level, the construction of additional prison beds could cost the State \$65,340 the first year, and \$141,134 the second year; operating costs could be \$26,680 the first year, and \$54,960 the second.*

Sections 3 and 4: Create two new offenses for falsely asserting on an affidavit that one’s name does not appear on the National Sex Offender Public Registry: 1) a Class 1 misdemeanor for a violation while attempting to obtain a driver license (G.S. 20-30(5)), and 2) a Class 2 misdemeanor for a violation while attempting to obtain a special identification card (G.S. 20-37.8). Because these are new offenses, there is no historical data from which to estimate the impact of these proposed penalties on the State’s prison population. In FY 2004-05, 19% of Class 1 misdemeanor convictions resulted in active sentences, and only 16% of Class 2 misdemeanor convictions resulted in active sentences. The average terms served for each class were 44 and 23 days, respectively. *Since offenders serving active sentences of 90 days or less are housed in county jails, additional convictions resulting from this bill would not have a significant impact on the State’s prison population. The impact on local prisons cannot be determined.*

Community Corrections: Assuming some intermediate and community sentencing, additional costs for probation supervision could also be incurred. Presently, general supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs. Intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender per day (includes probation officer cost) and is for an average of six months; electronic house arrest costs \$6.71 (plus \$1.93 daily supervision cost). Such costs are projected to begin in FY 2007-2008, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee. Those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court’s records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of a specific bill. For such 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.

In calendar year 2003, there were 176 out-of-state sex offenders registered in North Carolina; 198 registered in 2004; and 260 registered in 2005.¹ However, these numbers do not distinguish among new entries, nor it is known how many offenders came off the registry each year. In addition, it is not known how many out-of-state offenders would apply for driver's licenses, learner's permits, instruction permits, or identification cards; or if so, when the application would occur. Thus, the AOC cannot project the number of out-of-state offenders who would violate the provisions of this bill, or who would petition for hearings upon denial or revocation.

However, any additional charges or petitions resulting from this bill would increase judicial workload, thereby generating additional costs to the court system. The AOC estimates court-time costs for a single Class F felony jury trial of \$8,452; a Class 1 misdemeanor \$3,153; and a Class 2 misdemeanor \$2,380. Estimated court-time costs per plea are \$409 for Class F; \$224 for Class 1; and \$211 for Class 2.

County Sheriffs' Departments

Current statutory requirements for Sheriffs are that they 1) photograph and take fingerprints from sex offenders at the time of registration; 2) immediately send the registration information to the Division of Criminal Information (DCI); and 3) retain the original registration form and other information collected, and compile the information as a public record into a county registry. Accordingly, it is assumed that a copy of this registration information would suffice as proof of registry for the offender, at minimal additional cost to sheriffs' departments.

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

TECHNICAL CONSIDERATIONS: None

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Fiscal Research Division

DATE: July 6, 2006



Signed Copy Located in the NCGA Principal Clerk's Offices

¹ Registered offenders whose crimes were committed out-of-state, and which require registration under North Carolina law.