

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 860

SHORT TITLE: Criminal Investigative Records

SPONSOR(S): Senator Sands

FISCAL IMPACT:      Expenditures:      Increase ( )      Decrease ( )  
                         Revenues:              Increase ( )      Decrease ( )  
                         No Impact (X)  
                         No Estimate Available ( )

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

**BILL SUMMARY:** Adds new G.S. 132-1.4 generally providing that records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information compiled by such agencies are not public records under G.S. Ch. 132. Defines "records of criminal investigations" as records pertaining to person or group of persons compiled by public law enforcement agencies in attempting to solve or prevent violations of law. Defines "records of criminal intelligence information" as records pertaining to person or group of persons compiled by public law enforcement agencies in effort to anticipate, prevent, or monitor possible violations of law. Defines "public law enforcement agency" as city or county police dep't, county sheriff's dep't, company police agency commissioned by Attorney General, or any state or local agency responsible for investigating, preventing, or solving violations of law.

Specifies that following information is public record: (1) time, date, location, and nature of violation or apparent violation of law reported to public law enforcement agency; (2) name, sex, age, address, employment, and alleged violation of law of person arrested, charged, or indicted; (3) circumstances surrounding an arrest; (4) contents of 911 or similar emergency telephone calls, except as they reveal name, address, telephone number, or other information that may identify caller, victim, or witness; (5) contents of communications among employees of public law enforcement agencies broadcast over public airwaves; and (6) name, sex, age, and address of complaining witness, defined as victim or other person who reports violation or apparent violation of law to public law enforcement agency. Permits agency to temporarily withhold information about complaining witnesses from public inspection, if release is reasonably likely to pose threat to such witness or materially compromise continuing or future criminal investigation; and provides procedure for challenge to such withholding of record. Permits agency to seek court order to prevent disclosure of other information in above list of public records, if agency can prove release will jeopardize right of state to prosecute or right of defendant to fair trial.

Provides that section not to be construed as requiring disclosure by law enforcement agencies of information not required to be disclosed under G.S. Ch. 15A or of information reasonably likely to identify a confidential informant. Provides that law enforcement agencies may not be required to retain 911 or similar tapes more than 30 days. Provides that following court orders are public and may be withheld from public inspection only upon court order: arrest warrants, search warrants, indictments, criminal summons, and nontestimonial identification orders. Repeals provision in G.S. 114-15 about confidentiality of SBI investigations.

AMENDMENTS April 30, 1993

Senate amendment (1) clarifies that law enforcement agencies may be required to maintain tape recordings of "911" or other communications for more than 30 days if a court orders a portion sealed, and (2) makes clear that the subsection of G.S. 132-1.4 dealing with deletions does not authorize the destruction of the original record.

**EFFECTIVE DATE:** October 1, 1993

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

**FISCAL IMPACT**

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

**POSITIONS:** No new positions.

**ASSUMPTIONS AND METHODOLOGY:** Based on a telephone interview with the Director of the Administrative Office of the Courts (AOC), it is not anticipated that the proposed legislation would have a significant impact on the Judicial Branch.

The bill requires that certain civil petitions regarding the disclosure of public information by public law enforcement agencies "be set down for immediate hearing". The AOC estimates few instances where the proposed legislation would apply. However, for those petitions that would require an immediate hearing, the result would be the delay of cases that would have previously been heard.

The bill could have fiscal impact in some of the smaller counties where superior court is not always in session. In these counties, any petitions filed in superior court when court is not in session, would result in an emergency judge temporarily holding court. However, the proposed legislation is unclear if a petition needs to be filed in superior court. The bill states that a person may petition a "court of competent jurisdiction." Representatives of the

AOC note that there is no current statute or guidelines to mandate that such petitions must be filed in superior court although related public records matters generally are. Hence, in the smaller counties, new filings covered under this bill may be filed and receive an immediate hearing in district court at no additional costs. For individuals or law enforcement agencies that choose to file in superior court, there may be additional costs. The AOC has no data to confidently predict the number of instances where an emergency judge may be required, but anticipates that there will be few. Based on this assumption, additional costs could be absorbed within existing resources.

Although the AOC is not anticipating a fiscal impact as a result of this individual bill, AOC representatives note that "at some point, the cumulative additional workload from bills that impact upon the courts will require additional resources."

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

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** 05-MAY-93

**[FRD#003]**



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