

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Incarceration Fiscal Note

BILL NUMBER: House Bill 684 (First Edition)

SHORT TITLE: Sex Offender Registry Fee.

SPONSOR(S): Representatives Hastings, Davis, R. Turner, and Zachary

FISCAL IMPACT					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:
Administrative Office of the Courts; Indigent Defense Services; Department of Public Safety

EFFECTIVE DATE December 1, 2017

TECHNICAL CONSIDERATIONS:
None

BILL SUMMARY:

This bill creates a new requirement for individuals who are required to register as sex offenders under the Sex Offender and Public Protection Registration Program to pay a \$90 registration fee and an annual \$90 renewal fee. Violations of this section may result in a civil action against the offender, but there is no criminal penalty. In addition, it requires individuals who are on probation and post-release supervision who are required to register with the Sex Offender and Public Protection Registration Program to pay the registration fee and renew the registration annually.

ASSUMPTIONS AND METHODOLOGY:

General

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, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

S.L. 2011-192 (H.B. 642), the Justice Reinvestment Act (JRA), made changes to North Carolina’s court system, corrections system (both to prisons and probation), and to post-release supervision. All active sentences for felony offenses now result in a minimum of twelve months of post-release supervision (PRS) for B1-E level offenses and a minimum of nine months of PRS for F-I level offenses.

JRA also created the Statewide Misdemeanant Confinement Program (SMCP) for housing misdemeanants with sentences between 90 and 180 days in county jails (misdemeanants with shorter sentences were already the responsibility of the counties). County participation in the program is voluntary. The SMCP pays participating counties for misdemeanants' housing, transportation, and medical costs. In 2014, the program was expanded to include all misdemeanants with sentences longer than 90 days. The Sentencing and Policy Advisory Commission does not track county jail capacity, so it is not possible to estimate the impact of new or increased misdemeanor penalties on county jails.

The Sentencing Commission provided the following analysis for this bill:

SECTION 1. This section enacts G.S. 14-208.7A, Registration fees, which provides that each person required to register as a sex offender shall pay an initial registration fee of \$90.00, and an annual registration fee of \$90.00 on the anniversary of the person's initial registration date. This section does not criminalize failure to pay, but rather, provides for recovery in a civil action.

SECTION 2. This section adds to the list of special conditions of probation found in G.S. 15A-1343(b2) for sex offenders and persons convicted of offenses involving physical, mental, or sexual abuse of a minor. New subdivision (1a) provides that as a special condition of probation, a defendant that has been convicted of a reportable offense as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must pay an initial registration fee and annual registration fee pursuant to G.S. 14-208.7A, Registration fees. Violation of this section may result in revocation of probation and activation of a suspended sentence after two CRVs (for felons) or after two short-term confinements (for misdemeanants).

Felons who are found in violation of their probation for technical violations (e.g., missed appointments, positive drug screens, failure to pay fees) can be ordered to serve a 90-day CRV period. Most CRV periods are served in CRV Centers, which are not classified as prison beds. Probation may be revoked for a technical violation after the felon has received two separate CRV periods. Felons who have their probation revoked serve the time remaining on their sentence in the prison system. Correspondingly, violation of this section may result in impact on the CRV Center population and on the prison population; however, the impact cannot be determined. Impact on the prison system would depend on the number of probationers who have violations under this section and whether they have previously served a CRV period or periods.

Misdemeanants who are found in violation of their probation for technical violations (e.g., missed appointments, positive drug screens, failure to pay fees) can be ordered to serve a period (two or three days) of short-term confinement (also referred to as quick dip confinement). Probation may be revoked for a technical violation after the misdemeanant has received two separate periods of short-term confinement. Misdemeanants who have their probation revoked serve the time remaining on their sentence in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Correspondingly, violation of this section may result in impact on county jails; however, the impact cannot be determined. Impact on the county jails would depend on the number of probationers who have violations under this section and whether they have previously served a short-term confinement period or periods.

SECTION 3. This section adds to the list of additional required conditions of post-release supervision found in G.S. 15A-1368.4(b1) for sex offenders and persons convicted of offenses involving physical, mental or sexual abuse of a minor. New subdivision (1a) provides that a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must pay an initial registration fee and annual registration fee pursuant to G.S. 14-208.7A. Violation of this section may result in revocation and the offender being returned to prison up to the time remaining on his maximum imposed term.

Sex offenders are subject to 60 months (5 years) of post-release supervision. Offenders who are found in violation (technical, absconding, or new crime) of their post-release supervision can be ordered to serve up to the time remaining on their maximum term, which is 5 years total for Class B1-E felons and 9 months total for Class F-I felons. Violation of this section may result in impact on the prison population; however, the impact cannot be determined. Impact on the prison system would depend on the number of offenders who have violations under this section, whether they are Class B1-E felons or Class F-I felons, and the time remaining on their maximum term. Long-term impact would occur for any Class B1-E felons who were revoked any period of time beyond 1 year and up to 5 years, with short-term impact for any Class F-I felons revoked for any portion of the 9 month period.

Judicial Branch

The Administrative Office of the Courts 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.

AOC notes this bill does not contain a new criminal offense. Failure to pay these fees would be a technical violation of probation or post-release supervision.

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

TECHNICAL CONSIDERATIONS: None

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