

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 53 Committee Substitute

**SHORT TITLE:** Sex Offender Registration

**SPONSOR(S):** Senator Odom

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

**FUNDS AFFECTED:** General Fund (X) Highway Fund ( ) Local Fund ( )  
Other Fund (X) Indigent Persons Attorney Fee Fund

**BILL SUMMARY:** TO REQUIRE THE REGISTRATION OF PERSONS CONVICTED OF CERTAIN CRIMINAL SEXUAL OFFENSES. Adds new Article 27A to GS Ch. 14 (GS 14-208.5 through 14-208.12), establishing the Sexual Offender Registration Program. Defines a "reportable conviction" for purposes of the Article to include first or second degree rape; first or second degree sexual offense; attempted rape or sexual offense; intercourse and sexual offense with certain victims; incest between near relatives; incest between uncle and niece, nephew and aunt; employing or permitting minor to assist in offenses against public morality and decency; first, second, or third degree sexual exploitation of a minor; promoting prostitution of a minor; participating in prostitution of a minor; taking indecent liberties with children; a second conviction for indecent exposure; and a conviction in another state of an offense which, if committed in NC, would have been a sex offense as set out above. Requires a person who has a reportable conviction to register with the sheriff of the county where the person resides or intends to reside for more than ten days. Requires Division of Criminal Statistics in Department of Justice to provide registration forms, which shall include, among other things, the registrant's name, alias, date of birth, description, social security number, home address; the type of offense for which the person was convicted and the date and sentence imposed; a current photograph; and other information required by the Division, including fingerprints or other corroborative information. The sheriff must send a copy of each registration to the Division. Specifies pre-release notification responsibilities of penal institution from which someone required to register is about to be released or of the court that sentences such a person who is not incarcerated. Requires registrants to give notice of change of address and to return to sheriff's department annually an address verification form sent by the sheriff's department. Makes failure to register when required to do so a Class I felony for a first offense and a Class H felony for a subsequent offense. Requires Division to include the registration information in the Police Information Network under GS 114-10.1.

Adds new GS 15A-1343(b1)(9a) to allow the court, as a special condition of probation, to require a defendant who is required to register to post a sign at his residence warning others that the defendant has been determined to be a sex offender.

Adds new GS 15A-1334(f) requiring the court, when a defendant is convicted of an offense for which registration is required, to make findings to determine the degree of risk of re-offense by defendant upon release from custody, and sets out relevant factors to be considered by the court. Court must classify the risk of re-offense as low, moderate, or high. If the risk is moderate, the court must order that, upon defendant's release, the sheriff must notify organizations in the county, including schools and religious and youth organizations, in accordance with guidelines to be established by the Administrative Office of the Courts (AOC). If the risk is high, the court must order that upon defendant's release the sheriff must notify the public in accordance with guidelines to be established by the AOC. AOC guidelines are to provide for the manner in which records of notification provided pursuant to the section shall be maintained and disclosed.

Senate Committee Substitute - April 12, 1995 - Daily Bulletin #45

Senate committee substitute replaces 1st edition. Adds provisions (1) requiring that a determination of potential risk of commission of repeated offense shall be made with respect to person who has a reportable conviction and who moves to NC from outside state and establishing procedures for determination of potential risk of repeated offense with respect to such persons or other registered persons for whom no such determination has been made; (2) requiring that sex offender registration form include person's classification with regard to potential risk of repeated offense; (3) requires sheriff to maintain registry containing specified information regarding registered sex offenders; (4) provides that registry of sex offender information maintained by sheriff is a public record and authorizes disclosure of information from registry subject to certain conditions; (5) requires Division of Adult Probation and Parole to conduct prerelease notification on day of sentencing with respect to persons subject to registration who receive probation, suspended sentence, or fine; (6) establishing procedures for petitioning court for order to discontinue registration requirements; and (7) authorizing Division of Criminal Statistics to promulgate rules for administration of sex offender registration program.

Revises provisions regarding penalties for failure to register or falsification of registration information. Provides that person is guilty of (a) Class 1 misdemeanor (and notwithstanding Structured Sentencing Act, may be sentenced to active term of up to 6 months) for first violation if offense for which person was required to register is a misdemeanor offense; (b) Class I felony (punishable by up to 12 months imprisonment) for second or subsequent violation of preceding

clause or first violation of section and underlying offense was a felony; (c) Class H felony (punishable by up to

24 months imprisonment) for second or subsequent violation of preceding clause. Provides that if person charged with failure to register registers within 72 hours of arrest, court shall consider this as a mitigating factor and may impose a maximum active sentence of 30 days.

Revises responsibilities with respect to classification of risk of repeated offense. Provides that determination will be made by court if active term of imprisonment is not imposed or sentence does not exceed three years active imprisonment, or by Post-Release Supervision and Parole Commission for sex offender prisoners who receive active sentences of three years or more.

Deletes provision allowing court to require as a condition of probation that a defendant who is required to register as a sex offender post a sign at residence warning others that defendant has been determined to be a sex offender.

**EFFECTIVE DATE:** Effective upon ratification except that registration requirements under Section 1 become effective January 1, 1996. Applies to all persons convicted before, on, or after ratification.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:** Judicial Branch;  
Department of Justice

**COMBINED FISCAL IMPACT**

**Department of Justice and Judicial Branch**

	<u>FY 95-95</u>	<u>FY 96-97</u>	<u>FY 97-98</u>	<u>FY 98-99</u>	<u>FY</u>
<u>99-00</u>					
Justice Expenditures	\$12,000	\$0	\$0	\$0	\$0
Judicial Expenditures	\$68,730 \$83,542	\$72,167	\$75,775	\$79,563	
Total Expenditures	\$80,730 \$83,542	\$72,167	\$75,775	\$79,563	

**FISCAL IMPACT**  
**Department of Justice**

	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	<u>FY</u>
99-00					
<b>TOTAL EXPENDITURES</b>	\$12,000	\$0	\$0	\$0	\$0
<b>RECURRING</b>	\$0	\$0	\$0	\$0	\$0
<b>NON-RECURRING</b>	\$12,000	\$0	\$0	\$0	\$0

**POSITIONS:** None

**ASSUMPTIONS AND METHODOLOGY:** Department of Justice; Division of Criminal Information

Extrapolating from Judicial Department data on sexual offenses, it is anticipated that 1,500 offenders would come on line each year and be required to register as a result of the proposed legislation. The Division of Criminal Information (DCI) is responsible for providing registration forms for each sheriff. Upon receiving the sex offender information, DCI is required to include the information in the Police Information Network (PIN). DCI does not anticipate needing additional personnel to meet their responsibilities outlined in this legislation. However, a one time expenditure of \$12,000 would be required for additional storage capacity in the PIN system to accommodate sex offender data for the next 5 years.

**Fiscal Impact - Judicial Branch**

	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	<u>FY</u>
<u>99-00</u>					
Costs for court time*	\$41,242 \$50,131	\$43,305	\$45,470	\$47,743	
Indigent defense costs	\$27,488 \$33,411	\$28,862	\$30,305	\$31,820	
Total expenditures	\$68,730 \$83,542	\$72,167	\$75,775	\$79,563	

\* Court time costs, actual time in court, represent the additional workload placed on Judicial Branch officials and personnel by the proposed legislation. The cost of court time depends on the particular configuration of the case involved. Some, or all, of the following personnel and their related activities are included in court time

costs: Judge, Assistant District Attorney, Deputy Clerk, Court Reporter, Assistant Public Defender, Jury.

The figures above show increases of 5% for 1996-97 and beyond due to estimated increases in caseload and indigent fee awards.

**ASSUMPTIONS AND METHODOLOGY:** Judicial Branch

\* The Administrative Office of the Courts (AOC) has provided the following information regarding the fiscal impact of this bill on the Judicial Branch. The Fiscal Research Division has reviewed this information and is in agreement with their findings.

The AOC anticipates that this legislation would have a fiscal impact on judicial costs. This note specifically examines provisions of the bill that could have a fiscal impact on the Judicial Branch. They include: (1) hearings to determine risk of repeated offense; (2) additional criminal cases for failure to register; and (3) hearings for relief from reporting requirement. The provisions are outlined in more detail below.

1. Fiscal impact of hearings to determine risk of repeated offense

A. Defendants with active sentences "that do not exceed three years"

This proposed committee substitute requires a court determination of the risk (low, medium or high) that an offender will commit a repeated offense. The court determines the risk in cases where the defendant "is given a sentence that does not exceed three years active imprisonment." This language would also include probationers. Thus, there would be a fiscal impact on judicial costs in these cases due to the increased number of hearings held in court.

Extrapolating from October to December 1994 data, the AOC estimates that 1,500 defendants would be convicted of reportable felony sex offenses per year, and 90 for misdemeanors. Based on these estimates, and interpreting where defendants would fall under the Structured Sentencing punishment grid, the AOC predicts 543 defendants would receive active sentences of 3 years or more (487 defendants sentenced as Class B1, B2, C, or D felons; 3 as Class E felons; 10 as Class F felons; and 43 under other categories). This leaves 957 defendants who would receive lesser sentences and for whom court determinations would be required.

Assuming that each determination would require an additional .25 hours, for 957 superior court defendants, there would be an estimated 239 court hours ( $957 \times .25 = 239$ ). Based on 6 hours per court day at a cost of \$954 per day, additional court costs would \$37,998 ( $239/6 \times 954 = 37,998$ ). For the estimated 90 misdemeanor cases in district court, there would be 22.5 additional court hours ( $90 \times .25 = 22.5$ ) or 3.75 days ( $22.5/6 = 3.75$ ). Based on district court costs of \$865 per day, additional costs would total \$3,244 ( $3.75 \times 865 = 3,244$ ). Assuming the indigency rate would be approximately 70% for both district and superior court, the estimated costs for indigent defense total \$27,488 [ $733 \text{ defendants} \times (0.25 \text{ hours in court} + 0.5 \text{ hours preparation time}) \times$

\$50/hour = 27,488]. The fiscal impact on page three increases these figures by 5% for 1996-97 and beyond due to anticipated caseload growth and increases in indigent fee awards.



\* Note: This fiscal note assumes that court determination of risk under this section of the bill would be at the time of sentencing. The fiscal implications would be much more substantial if this assumption is not accurate.

#### B. Out-of-state and pre-ratification offenders

The AOC has no way to predict the number of out-of-state offenders who would have to register under this legislation. It is anticipated that this number would be minimal. As a result, the AOC does not anticipate that these costs would be significant.

#### 2. Fiscal impact from additional criminal cases for failure to register

The AOC has no adequate way to predict the number of offenders who would fail to register, be caught, and be prosecuted. The vast majority of the reportable offenses would be felonies. However, with no reliable data, the AOC cannot estimate any potential costs at this time.

#### 3. Fiscal impact from additional hearings for relief from reporting requirement

The amount of time that must elapse before a petition may be filed differs depending on the level of risk of a repeated offense. The bill gives the offender the burden to prove by a preponderance of the evidence that "the petitioner no longer poses a substantial risk of committing an unlawful sexual act." There is no reliable way to predict the number of offenders who would file petitions under this section. The AOC anticipates that these costs would be minimal.

#### **ASSUMPTIONS AND METHODOLOGY:** Parole Commission

According to representatives from the Parole Commission, the proposed legislation would not have any fiscal impact on them as they are already performing similar functions outlined in this bill.

**SOURCES OF DATA:** Administrative Office of the Courts; Department of Justice; Parole Commission

**FISCAL RESEARCH DIVISION: 733-4910**

**PREPARED BY: Charles E. Perusse**

**APPROVED BY: Tom Covington TomC**

**DATE: April 18, 1995**

**[FRD#003]**

Official

**Fiscal Research Division  
Publication**



**Signed Copy Located in the NCGA Principal Clerk's Offices**