

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1154 3rd Edition

SHORT TITLE: Crime Victims' Rights Act Amendments

SPONSOR(S): Rep. Holliman

| FISCAL IMPACT | | | | | |
|--|--------------------------|--------------------------|----------------------------------|--------------------------|--------------------------|
| | Yes (X) | No () | No Estimate Available () | | |
| | <u>FY 2001-02</u> | <u>FY 2002-03</u> | <u>FY 2003-04</u> | <u>FY 2004-05</u> | <u>FY 2005-06</u> |
| REVENUES | | | | | |
| EXPENDITURES | | | | | |
| Judicial Branch | \$96,510 | \$108,497 | \$111,752 | \$115,105 | \$118,558 |
| POSITIONS: | 3 | 3 | 3 | 3 | 3 |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch, Local Law Enforcement Agencies, Department of Correction, Department of Health & Human Services (Mental Health) | | | | | |
| EFFECTIVE DATE: October 1, 2001 | | | | | |

BILL SUMMARY: Section 1 of HB 1154 extends the definition of custodial agency for purposes of responsibilities of notification of victims to include facilities used for involuntary commitments. Section 2 clarifies the responsibilities of local law enforcement to include defendants name in the information they provide to the district attorney. It also clarifies that the victim can ask the law enforcement agency for updates during the pretrial process (existing law does not specify what kinds of information might be requested from the LLA). Section 3 clarifies that it is the responsibility of the Clerk of Court (existing law does not specify which party is responsible) to include the victims' information with the final judgment papers. Section 4 adds a new responsibility for magistrates who take information from domestic violence victims who have not first gone to local law enforcement. The magistrate will be required to record victim-identifying information and transmit it to the Clerk of Court who will then forward it to the District Attorney. Section 5 allows a representative of the district attorney or law enforcement to proffer victim impact information at the victims request. Section 6 requires the notification letter from the District

Attorney to a victim to include a telephone number of offices to contact for restitution information (earlier versions said Department of Correction). Section 6 also removes the requirement that the Conference of District Attorneys maintain a repository of victims' information. Section 7 requires custodial agencies to notify a victim about an escape within 24 hours (current law—72 hours) if there has been a specific threat against the victim but extends from 30 to 60 days the time limit for a custodial agency to notify victims about the defendants timetable for release, etc. Section 8 clarifies that the Division of Adult Probation & Parole (Division of Community Corrections) include information on the location as well as date of any hearings on revocation. Section 9 requires the Department of Correction to prohibit an inmate from contacting (including via a third party) a victim or family member if requested by the victim and to develop sanctions for inmates who violate this provision. Section 10 requires the Department of Correction to make a reasonable effort to house an inmate outside the county of the victim if requested to do so by the victim or family. If that is not feasible, they must provide written notification.

ASSUMPTIONS AND METHODOLOGY: Sections 1-3, 5,7 and are primarily clarifications and are not expected to have any fiscal impact. Sections 5 and 8-10 are procedural and would not have any fiscal impact.

Section 4 has potential fiscal impact because it adds a new responsibility for magistrates. Currently, local law enforcement agencies have the responsibility for providing certain information to the victim, collecting victims identifying information and providing it to the District Attorney. When victims of domestic violence go directly to a magistrate, law enforcement cannot fulfill this requirement. Section 4 would require magistrates to collect and provide information in these cases.

The Administrative Office of the Courts estimates that this new responsibility would involve about 10 minutes work per case. To determine the number of cases, they first estimated the number of misdemeanor offenses that are covered by the Victims Rights Act. Based on a 1996 study, they looked at 16 offense codes in G.S. 14-33, G.S. 14-34, G.S. 14-134.3 and G.S. 14-277.3, ranging from assault and battery to assault with a deadly weapon. The 1996 study assigned a percentage to each offense to estimate the share of these broad offenses that could be considered domestic violence. These percentages range from 95% for domestic criminal trespass to 25% of simple assault. Based on these percentages and 86,206 cases in CY2000, they estimate 47,309 domestic violence misdemeanor cases per year to be covered under victims' rights.

To estimate the impact of HB 1154, they also had to estimate the share of cases that appear before a magistrate without prior contact with local law enforcement. There was no data available on this question and widely varying opinions. Some magistrates and advocates estimated as much as 80% of cases would first appear before a magistrate but this might be an overestimate because some of these cases may be ex parte orders rather than actual charges. Some District Attorneys involved in domestic violence projects estimated 55%. This gives a range of estimates for the number of cases from 26,020 to 37,847. At 6 cases per hour, 1,800 hours per year, this gives a range of estimate of workload from 2.4 to 3.5 fulltime magistrates.

This fiscal note assumes 3 positions as a compromise estimate. The costs of these 3 positions are reflected in the box on p. 1. The first year cost reflects October 1 effective date and the nonrecurring costs to establish the positions and costs are assumed to increase 3% per year. As a practical matter, the additional workload would be spread statewide but

the positions would have to be assigned to the districts with greatest need (since part-time magistrate positions can be allocated this could be more than 3 districts).

Section 6 relieves the Conference of District Attorneys from maintaining a repository of victims' information forms. This will result in some minor savings in staff time for the Conference of DA's and postage for DA's office across the state. Based on an estimated 10,000 forms per year mailed monthly by each DA, this will save about \$350 in postage costs. This reduction is reflected in the totals on p.1.

TECHNICAL CONSIDERATIONS: Section 6 is identical to HB 1286 which has been ratified.

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