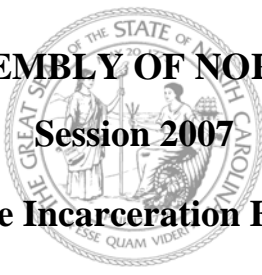


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 869 (Second Edition)
SHORT TITLE: Sex Offender/Register E-Mail Address.-AB
SPONSOR(S): Senator Boseman

	FISCAL IMPACT				
	Yes (X) FY 2007-08	No () FY 2008-09	FY 2009-10	No Estimate Available () FY 2010-11	FY 2011-12
GENERAL FUND					
Correction		DOC estimate assumes minimum fiscal impact of bill			
Recurring		\$160,026	\$460,874	\$474,701	\$488,942
Nonrecurring	\$1,088,640	((Capital)			
Judicial (Sect 10,11,12)					
Recurring	\$157,856	\$269,738	\$283,225	\$297,386	\$312,355
Nonrecurring	\$349,733				
Justice					
Recurring	\$260,800	\$268,624	\$276,682	\$284,983	\$293,533
Non-recurring	\$320,000				
Local Law Enforcement/ Crime Control	Sect 13 authorizes issuance of grants by Crime Control for local enforcement of sex offender laws but amount needed is unknown				
TOTAL EXPENDITURES	\$2,177,029	\$698,388	\$1,020,781	\$1,057,070	\$1,094,830
REVENUE (FEES)	\$100 fee for use of Justice information but cannot estimate # of users				
PRISON BEDS: (cumulative)*	NA	6	16	16	16
POSITIONS: (cumulative)					
Correction	-	2	6	6	6
Judicial	3	3	3	3	3
Justice	3	3	3	3	3
TOTAL	6	8	12	12	12
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch, Department of Justice, Crime Control and Public Safety.					
EFFECTIVE DATE: Section 12 is effective when it becomes law. Section 13 becomes effective July 1, 2007. The remainder of the act is effective December 1, 2007, and applies to persons who are on the sex offender registry as of that date, and to any person required by law to be on the registry on or after that date.					
*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.					

BILL SUMMARY (General Assembly Research Division)

This act would require persons required to register on the State sex offender registry to include any identifier the person uses or intends to use for the purpose of communicating on the Internet. The identifying information would be available to entities that provide Internet services for the purpose of allowing the entity to prescreen users, or for comparison with the registry for the purpose of protecting minors. The act also provides for the forfeiture of licensing privileges for a person who fails to properly register on the sex offender registry, and adds offenses which will require registration. The act applies to persons who are on the sex offender registry on or after December 1, 2007.

Section 1: Adds definitions to the sex offender registry statutes, including: electronic mail, entity, instant message, internet, and on-line identifier. Also adds two new offenses under the definition of "sexually violent offense"

- G.S. 14-318.4(a1) – Parent or caretaker commit or permit act of prostitution with or by a juvenile.
- G.S. 14-318.4(a2) - Commission or allowing of sexual act upon a juvenile by parent or guardian.

Section 2: Requires that forms used by sheriffs to register sex offenders include any online identifier that the person either uses, or intends to use. The registrant would also be required to execute a consent form that allows entities (as defined by the act) to provide information to the sheriff and Division of Criminal Information (DCI) necessary to determine accuracy of registry information.

Section 3: Amends the statute that requires a confinement facility to collect information for the registry from prisoners who are pending release (more than 10 days, but less than 30 days from release date).

Section 4: Amends catch line of statute.

Section 5: Prohibits a person required to register from using any online identifier that is not included in their registration. Also requires that the person report in person to the sheriff to register any changes, and to execute the necessary consent form authorizing entities to release information.

Section 6: Amends the statute requiring semiannual verification to provide for an updated or new consent form authorizing an entity to provide information to the Sheriff and the DCI.

Section 7: Amends penalty statute to provide that a person who willfully fails to provide an online identifier is guilty of a Class F felony.

Section 8: Requires the DCI to maintain a system that allows entities to compare the database of registered users of the entity to the line of online identifiers of persons in the sex offender registry.

Section 9: Requires the DCI to develop criteria and adopt rules for allowing entities, for a fee of one hundred dollars (\$100), to review the database of online identifiers. The authorized purposes include the prescreening of users or comparing the database of registered users of the entity against the online identifiers of persons in the registry to protect children from online sexual predators. The rules shall also require that the entity notify the DCI when a comparison indicates that a registered offender's online identifier is being used on the entity's system.

Section 10: Authorizes a judge who finds that a person has failed to comply with the sex offender registry laws to revoke some or all of the person's licensing privileges until the person has registered. The statute provides for notifications to the licensing agencies; requests for certification based on meeting the registry requirements or that the person is no longer subject to registration, to be filed with the clerk of court; and petitions to the district court for reinstatement.

The boards are to take action on revocations upon receipt of notice, and the actions of the board are not subject to the Administrative Procedures Act. A revocation under the procedure in the statute is to remain in place until such time as the board receives the required notice from the clerk of court.

Section 11: Provides for revocation of an occupational license upon receipt of a court order. The revocation is to remain in place until notification of compliance with the State registry laws. Revocations resulting from the board's own disciplinary action are not superseded by the provisions of the statute.

Section 12: Requires the Administrative Office of the Courts, in consultation with the N.C. Department of Justice, N.C. Department of Correction, and the North Carolina Sheriff's Association, to develop by December 1, 2007, a timely procedure to notify DCI when a person subject to the registration laws does not received an active term of imprisonment.

Section 13.(a) – Section 13.(e) Authorizes funds to the Department of Crime Control and Public Safety, to be allocated to the Governor's Crime Commission to award grants to sheriffs' offices. The funds are to be used for assisting in the registration and monitoring requirements of the sex offender registry statutes, and the investigation and apprehension of persons who commit reportable offenses. The funds would be available on a matching grant basis, dollar for dollar.

The funds would not revert to the General Fund, and shall not supplant any existing funds provided for tracking registered sex offenders.

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.

Department of Correction – Division of Prisons

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of December 6, 2006. Official Department of Correction capacity projections also assume the General Assembly will fund 500 additional prison beds, generated by partial double-celling of the future Tabor City facility (inmate admission FY 2008-09). However, Fiscal Research does not include these 500 beds in capacity estimates (row two), since these beds have not been authorized for funding.

¹ Expanded Operating Capacity (EOC) is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of SOC) and 50 (SOC) square feet per inmate.

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.* Therefore, the number of *additional beds needed* (row five) is *always equal to* the projected number of *additional inmates* resulting from a bill (row four). Rows four and five in the chart demonstrate the impact of SB 869. As shown, the Sentencing Commission estimates that this specific legislation will add 16 inmates to the prison system by the end of FY 2011-12.

	<u>June 30 2008</u>	<u>June 30 2009</u>	<u>June 30 2010</u>	<u>June 30 2011</u>	<u>June 30 2012</u>
1. Projected No. of Inmates Under Current Structured Sentencing Act ²	39,621	40,236	41,021	41,848	42,718
2. Projected No. of Available Prison Beds (DOC Expanded Capacity)	38,505	39,353	39,353	39,353	39,353
3. Projected No. of Beds Over/Under Inmate Population	-1,116	-883	-1,668	-2,495	-3,365
4. Projected No. of Additional Inmates <u>Due to this Bill</u> ³	<i>N/A</i>	<i>6</i>	<i>16</i>	<i>16</i>	<i>16</i>
5. No. of Additional Beds Needed <u>Each Fiscal Year Due to this Bill</u>	<i>N/A</i>	<i>6</i>	<i>16</i>	<i>16</i>	<i>16</i>

POSITIONS: It is anticipated that by FY 2011-12, approximately 6 positions would be needed to supervise the additional inmates housed under this bill. This position total includes security, program, and administrative personnel at a ratio of approximately one employee for every 2.5 inmates. This ratio is the combined average of the last seven prisons opened by DOC – two of the prisons were medium custody and five were close custody.

FISCAL IMPACT BEYOND FIVE YEARS: Fiscal notes examine a bill’s impact over a five-year horizon, through FY 2011-12. However, when information is available, Fiscal Research also attempts to quantify longer-term impacts. Accordingly, the chart below illustrates the projected number of available beds given current conditions; the projected number of additional inmates due to (bill number); and, the estimated number of new beds required each year through FY 2015-16.

	<u>June 30 2013</u>	<u>June 30 2014</u>	<u>June 30 2015</u>	<u>June 30 2016</u>
1. Available Beds (Over/Under) Under Current Structured Sentencing	-4,234	-5,117	-5,996	-6,866
2. Projected No. of Additional Inmates Resulting From (<u>Bill Number</u>)				
3. Estimated No. of New Beds Required Under (<u>Bill Number</u>)			Cannot be determined	

CONSTRUCTION: Construction costs for new prison beds, listed in the following chart, are derived from Department of Correction cost range estimates (FY 2006-07) for each custody level, and assume Expanded Operating Capacity (EOC). Figures represent the midpoints of each range.

² The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in December 2006.

³ Criminal penalty bills effective December 1, 2007 should not affect prison population and bed needs until FY 2008-09, due to the lag time between offense charge and sentencing - 6 months on average. No delayed effect is presumed for the Court System.

As shown, there are two primary options for prison bed construction: 1) a “stand alone,” or entirely new institution;⁴ or, 2) an addition within or adjacent to the perimeter of an existing institution, termed an “add-on.”⁵ Cost estimates for “add-on” beds are based upon a prototypical design, and assume that program/core support from the base institution will support 500 additional close or medium custody inmates, or 250 additional minimum custody inmates. “Add-on” costs are lower, relative to “stand-alone,” due partly to the usage of existing sites and infrastructure.

Estimated Construction Cost per Custody Level, FY 2006-07

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Cost Per Bed: EOC “Stand Alone”	\$56,000	\$63,000	\$109,000
Cost Per Bed: EOC “Add-On”	\$52,000	\$39,000	\$71,000

Construction costs are shown as *non-recurring costs in the “Fiscal Impact” table* (p.1). An annual inflation rate of eight percent (8.0%) is applied to these base costs.⁶ As illustrated (p.1), these costs also assume that funds to construct beds at a “stand alone” facility should be budgeted four years in advance, since building a prison typically requires four years for site selection, planning, design, construction, and occupancy. The overall duration for facility addition (“add-on”) is shorter, requiring that funds be budgeted three years in advance.

Accordingly, given an increase of 16 inmates, bed provision through construction of a “stand alone” facility could cost approximately \$1,088,640. Provision through “add-on” could cost approximately \$624,000.

OPERATING: Operating costs are based on actual FY 2005-06 costs for each custody level, as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical, etc.), and administrative overhead costs for the Department and the Division of Prisons. A three percent (3.0%) annual inflation rate is applied to these base costs, as shown in the *recurring costs estimate in the “Fiscal Impact” table* (p.1).

Daily Inmate Operating Cost per Custody Level, FY 2005-06

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Daily Average</u>
Daily Cost Per Inmate	\$54.81	\$70.83	\$79.72	\$66.87

Assuming daily average cost of \$24,408 in 05/06, plus inflation the cost will be \$160,026 in 2008/09 to operate 6 new beds and \$460,874 to operate 16 beds.

⁴ New, “stand alone” institution built for Expanded Operating Capacity; single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC).

⁵ Close and medium custody “add-on” facilities are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody “add-on” is built adjacent to an existing perimeter. Add-on facilities built for EOC employ the same custody configurations as “stand alone” (i.e. single cells for close custody, and dorms for medium and minimum custody levels).

⁶ Office of State Construction, March 24, 2006.

Methodology for Prison Bed Impact

The following chart summarizes the minimum bed impact for each criminal penalty in the bill. Further discussion of the basis for these estimates follows the chart.

<u>Change in Offense</u>	<u>Prison Bed Impact</u>				
	<u>FY 07/08</u>	<u>FY 08/09</u>	<u>FY 09/10</u>	<u>FY 10/11</u>	<u>FY 11/12</u>
<u>Expands # Offenders who must register as Sex offenders</u>					
<u>Fail to Comply with Photo Class 1 Misd</u>	<u>Possible minor impact on local jails</u>				
<u>Fail to Register violations and certain residential restrictions/working with children Class F</u>		1	3	3	3
<u>Fail to report Non-Compliance Class H</u>		1	2	2	2
<u>Violate Residential Restrictions Class G</u>		1	2	2	2
<u>Failure to Register Email (NEW) Class F</u>		1	3	3	3
<u>Fail to Enroll in GPS Class F</u>		1	3	3	3
<u>Tamper with GPS Device Class E</u>		1	3	3	3
<u>TOTAL Beds</u>		6	16	16	16

Source: Sentencing and Policy Advisory Commission

The following analysis of the impact of SB 869 on Correction is primarily based on comments from the Sentencing Commission. Since the data on these offenses did not allow the Commission to use the prison population simulation model, Fiscal Research used Commission data for a “what if” scenario based on the bed impact if a small number of convictions occurred.

Section 1

Section 1 of the proposed bill amends G.S. 14-208.6(5), the definition of “sexually violent offense,” to include G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile) and G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). In FY 2005/06, there were no convictions under G.S. 14-318.4(a1) and eight convictions under G.S. 14-318.4(a2), both of which are Class E felonies.

Adding these offenses to the definition of “sexually violent offenses” expands the group of “reportable offenses” requiring registration as a sex offender. The expanded group of reportable offenses expands the pool of potential convictions under:

- G.S. 14-208.9A(c) (sex offender failure to comply with Sheriff’s request for new photo; Class 1 misdemeanor)
- G.S. 14-208.11(a) (failure to register; Class F felony)
- G.S. 14-208.11A (fail to report non-compliance of sex offender; Class H felony)
- G.S. 14-208.16 (violation of sex offender residential restriction; Class G felony)
- G.S. 14-208.17 (registrant working or volunteering for child-involved activities, violation of limitations on residential use; Class F felony)

In FY 2005/06, there were 234 convictions for failure to register under G.S. 14-208.11(a) (which represents an increase from 147 convictions in FY 2004/05 and 116 convictions in FY 2003/04). With the exception of G.S. 14-208.11(a), the listed offenses are new offenses (effective December 1, 2006). As a result, there are no historical data available for these offenses.

It is not known how many of the additional offenders under this section will fail to comply with their registration requirements.

- G.S. 14-208.9A(c): In FY 2005/06, 20% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 31 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, additional Class 1 convictions under this proposed bill would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.
- G.S. 14-208.11(a) and G.S. 14-208.17: In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.
- G.S. 14-208.11A: In FY 2005/06, 34% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. If, for example, there were three additional Class H convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.
- G.S. 14-208.16: In FY 2005/06, 42% of Class G convictions resulted in active sentences, with an average estimated time served of 16 months. If, for example, there were two additional Class G convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

Adding G.S. 14-318.4(a1) and G.S. 14-318.4(a2) to the group of reportable offenses also expands the pool of persons potentially required to submit to GPS monitoring under G.S. 14-208.40(a)(2) (subject to DOC's risk assessment), which could result in additional resource needs for DCC. *Based on analysis by the Division of Community Corrections and discussions with Fiscal Research, DOC does not expect any significant increase in the number of offenders on GPS.*

The new group required to submit to GPS monitoring would expand the potential pool of offenders under G.S. 14-208.44, subsections (a) (failure to enroll; Class F felony) and (b) (tampering with GPS device; Class E felony). However, it is not known how many of the additional offenders under this section will be required to submit to GPS monitoring and may fail to enroll or tamper with the GPS device. These offenses are new offenses (effective December 1, 2006). As a result, there are no historical data available for these offenses.

- G.S. 14-208.44(a): In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.
- G.S. 14-208.44(b): In FY 2005/06, 49% of Class E convictions resulted in active sentences, with an average estimated time served of 31 months. If, for example, there were two additional Class E convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. In addition, since a period of Post-Release Supervision follows release from prison for offenders convicted of Class B1-E felonies, there will be some impact on Post-Release Supervision caseloads and prison beds due to revocations.

Section 7

The proposed bill amends several statutes governing sex offender registration to require that offenders include in their registration information any “online identifier” (*e.g.*, e-mail address) that they use or intend to use and to prohibit the use of any such identifier before it is provided to the Sheriff. Section 7 of the proposed bill creates a new offense under G.S. 14-208.11(a) (failure to register) by making it a Class F felony to fail to provide such online identifiers during registration. Failure to comply with registration requirements at any point during the registration period is a Class F felony. In FY 2005/06, there were 234 convictions for failure to register under G.S. 14-208.11(a).

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2005/06, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two additional Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.⁷

⁷ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Adding G.S. 14-318.4(a1) and G.S. 14-318.4(a2) to the group of reportable offenses also expands the pool of persons potentially required to submit to GPS monitoring under G.S. 14-208.40(a)(2) (subject to DOC's risk assessment), which may result in additional resource needs for DCC and may also result in impact to the prison population due to revocation. Based on analysis by the Division of Community Corrections and discussions with Fiscal Research, DOC does not expect any significant increase in the number of offenders on GPS.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

Department of Justice

General Impact: This bill expands information submission requirements for sex offenders that register on the State sex offender registry to include any identifier the person uses to communicate on the Internet. The information collected would be made available via the Internet for a fee (\$100 per database access request) to various entities to allow them to prescreen their potential site users. In addition to new reporting requirements, failure to report or providing false information would result in forfeiture of an offender's driving privileges. The act applies to all persons who are on the sex offender registry on or after December 1, 2007.

Assumptions and Methodology

The Department of Justice (DOJ) currently operates the sex offender registry database. This bill requires that the Department expand the database to collect Internet identification information. DOJ estimates that it will cost **\$735,718** in 2007-08 and **\$380,233** in 2008-09 to implement this bill. The additional costs are associated with database development/maintenance, software/equipment purchases and additional staff positions to support the database's expanded

purpose. These estimates have been adjusted based on information received from the agency to more accurately reflect the anticipated cost of implementing this bill. More specifically, the following adjustments were made:

Fiscal Research Division Adjustments

		DOJ Estimate	FRD Estimate
		Recurring	Recurring
1	Salary and wages	\$ 275,928	\$ 210,300
2	Benefits/Medical	\$ 63,020	\$ 39,000
3	Office Lease	\$ 23,625	\$ 0
4	Operating Expenses	\$ 17,660	\$ 11,500
Total Recurring		\$ 380,233	\$ 260,800
		Nonrecurring	Nonrecurring
5	IT Contractors	\$ 254,139	\$ 254,000
6	Furniture	\$ 16,000	\$ 10,600
7	Auto/Accessories	\$ 23,800	\$ 23,200
8	Computers	\$ 46,897	\$ 21,000
9	Training, Equipment and Software	\$ 14,649	\$ 11,200
Total Nonrecurring		\$ 355,485	\$ 320,000
Total Requirements		\$ 735,718	\$ 580,800

Position cost reduction. The agency estimate included funding for 5 staff positions to support the database’s expanded purpose: Two IT positions for database development and maintenance, a Computer Crimes Agent to investigate/apprehend violators and two Information Processing Technicians to support database operations and ensure data input accuracy. The two Information Processing Technician positions were taken out of the agency’s estimate. The agency already has staff doing information monitoring/database support functions for the sex offender registry. This bill does not create a new process. It adds an additional function to the information monitoring process. This bill will not increase agency’s workload enough to require two additional staff positions. (-\$89,648). *(NOTE: House Budget includes two new Computer Crimes Agent positions, but these funds cannot be considered to cover the cost of this bill unless these positions are included in the final budget).*

Offices Lease cost reduction The agency indicated that they will need an additional 1,500 square feet of work space to accommodate the staff positions requested at a total cost of \$23,625. As part of their 2007-09 agency budget request, the agency requested over 40 staff positions to support the agency’s office and field operations with no request for additional office space to accommodate the new staff positions. It is very unlikely that the agency will be receiving an additional 40 positions in the budget process. They should have space to accommodate the three staff positions needed to implement this bill. The agency estimate was reduced to eliminate the costs built in for lease space. (-\$23,625)

Furniture cost reduction The agency requested \$16,000 for furniture cost. This amount was reduced to reflect the amount of furniture needed to accommodate three staff positions recommended. (-\$5,400)

Computer cost reduction The agency estimate for computer costs was reduced base on the number of units needed to accommodate the three staff positions. Amounts requested for high-tech computers for similar functions in prior agency requests further justifies this reduction. (-\$25,897)

Training, equipment, software and operating cost reduction The amount requested for training, equipment, software other operating expenses was reduced to reflect the amount needed for three staff positions. Also, the agency mentioned that some of the software costs were already included in the computer cost estimate. (-\$10,341)

Based on the adjustments made, the Fiscal Research Division estimates that it will cost \$580,800 in 2007-08 and \$260,800 in 2008-09 to implement this bill.

NOTE: Section 9 of the bill allows DOJ to collect a fee from entities to review the database for online identifiers but there is no way to determine the number of entities that will choose to use this service. This fee may offset some of the costs detailed in this Note for DOJ.

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.

Sections 1-11

Section 1: Expand definition of sexually violent offense

This bill expands the definition of sexually violent offense to include certain child abuse offenses, thus expanding the pool of defendants who would be required to register as sex offenders if convicted of these offenses.

Under current law, defendants with certain reportable convictions, including a conviction for a sexually violent offense, must register with the Sex Offender and Public Protection Registration Program or the Sexually Violent Predator Registration Program. Failure to register is punishable as a Class F felony under current GS 14-208.11. This bill expands current GS 14-208.6(5) by adding two child abuse offenses to the list of sexually violent offenses: a parent committing or permitting prostitution with or by a juvenile (GS 14-318.4(a1)) and the commission or allowing of a sexual act upon a juvenile by a parent (GS 14-318.4(a2)).

AOC data for calendar 2006 show approximately 5 defendants charged and none convicted under current GS 14-318.4(a1); there were 47 charged and 16 convicted under current GS 14-318.4(a2). AOC has no data from which to determine the number of defendants convicted of these child abuse offenses who would fail to register as a sex offender, or thereafter violate provisions of the Program.

Sections 2, 5, 6, and 7: Registration and updating of online identifier

Section 2 of this bill expands the type of information collected on the sex offender registration form by requiring the registrant to provide any online identifier, as defined in new GS 14-208.6(1o), that he/she uses or intends to use. Section 5 prohibits a registrant from using any online identifier that has not been included on the registration form, and requires him/her to notify the sheriff of any changes to the online identifier before using it. Online identifier is defined broadly to include electronic mail addresses, and instant message, IP and other Internet communication addresses.

Section 5 also requires a registrant to execute a consent form enabling the sheriff and Department of Justice to obtain any information necessary to verify his/her changed or new online identifier. Section 6 expands current GS 208.9A by providing that a registrant who has an online identifier must update the consent form or execute a new one to enable the sheriff and DOJ to verify the online identifier.

Current GS 14-208.11(a) provides that a person required to register is guilty of a Class F felony if he/she fails to register, fails to return the verification form, or fails to update registry information. Section 7 of this bill expands current GS 14-208.11(a) by specifying that it is a Class F felony to fail to provide an online identifier as required.

AOC data for calendar 2006 show 716 defendants charged under current GS 14-208.11. AOC has no data from which to estimate the number of sex offenders with online identifiers who would fail to register or update them as required by this bill. Thus we cannot estimate the number of additional felony charges that would arise. Considering the prevalence of Internet communication, a substantial number of additional violations could arise. For any new charges, there would be an increase in the workload of superior court judges, district attorneys, clerks, court reporters, and indigent defense counsel.

Sections 10 and 11: Revocation of licensing privileges for failure to register as sex offender

This bill outlines new procedures for revoking the licensing privileges of persons who fail to register as sex offenders under current Article 27A of Chapter 14.

Current GS 15A-1331A(b) provides that the licensing privileges of a person convicted of a felony are automatically forfeited for the full term of his/her probation period if he/she was offered a suspended sentence conditioned upon acceptance of probation and rejects probation, or probation is revoked or suspended. „Licensing privilege_ is defined in current GS 15A-1331A(a)(2) to include regular and commercial driver’s licenses, occupational licenses, and hunting and fishing licenses and permits.

New GS 14-208.18 provides that the court may revoke some or all of the licensing privileges of a person who has failed to register as a sex offender. Licensing privilege is broadly defined to include regular and commercial driver’s licenses, hunting, fishing, and trapping licenses, and occupational, business, and professional licenses. The person may petition the court for reinstatement of the licensing privileges; the court may reinstate such privileges if the person has complied with or is no longer subject to the registry requirement.

AOC assumes that for every person charged with failure to register, the court would devote time to consider revocations. Given the importance of licensing privileges, it can be anticipated that the prospect of having these privileges revoked as a result of failing to register or failing to update registration information would affect prosecution and defense strategies, and that all persons whose privileges are revoked would seek reinstatement of such privileges.

Fiscal Research generally agrees with this analysis. While it is unlikely all 716 offenders who fail to register will have licenses of some type, the broad range of licenses covered in the bill (including drivers licenses) makes it likely that a large majority of the 716 cases will fall under the proposed law.

If an average of two hours of in-court time, including revocation and reinstatement proceedings, is spent on each of the 716 defendants charged with failure to register under current GS 14-208.11, these 1,432 hours would require one position each for a district court judge, clerk, and assistant district attorney. Cost for each position is

Position	07/08 (7 mos.)Recurring	07/08 NR	FY 08/09
ADA	\$55,544	\$3,596	\$95,598
Dist Court Judge	\$21,786	\$2,203	\$37,480
Deputy Clerk	\$80,526	\$9,434	\$136,660
TOTAL	\$157,856	\$15,233	\$269,738

Total costs over 5 years are shown in the Fiscal Impact table on Page 1

Section 12

This Section requires the AOC to develop a procedure to ensure timely notification to the sheriffs and the Department of Justice's Division of Criminal Information of those registered sex offenders who do not receive an active term of imprisonment.

Under current procedure, the clerk manually fills out the „notification of requirement to register as a sex offender_ form (AOC-CR-261) for each person who is required to register under Article 27A of Chapter 14, and who does not receive an active term of imprisonment. The clerk leaves copies of this form in the courthouse for the sheriff to pick up. The AOC will not modify this procedure as a result of this bill; the AOC will continue to give this form manually to the sheriffs, and will incur no programming costs as a result.

The AOC Automated Criminal/Infractions System (ACIS) contains a sex offender flag that is manually triggered by the clerk when he/she enters information on the AOC-CR-261 form into ACIS. Since this flag is not automatically triggered when AOC-CR-261 information is entered, there is a possibility that the clerk would fail to trigger the flag for some sex offenders. In addition, the sex offender flag does not contain all the case information needed to comply with this new requirement. To resolve these two issues, an estimated 4,460 hours of design, programming, and implementation would be required in ACIS and CourtFlow at an estimated cost of \$334,500. These programming changes would allow for the electronic transmission to the DOJ of all pertinent data on sex offenders who receive a suspended sentence.

Crime Control and Public Safety and Local Law Enforcement

Section 13 establishes a grant program under the Governors Crime Commission to provide funds to sheriffs' offices to enforce sex offender laws. However, no appropriation figure is included in SB 869 and the amount of funds needed for such a program cannot be determined

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

TECHNICAL CONSIDERATIONS: None

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