



# NORTH CAROLINA GENERAL ASSEMBLY

Session 2017

## Legislative Fiscal Note

**Short Title:** Strengthening Victims' Rights.  
**Bill Number:** House Bill 551 (Third Edition)  
**Sponsor(s):**

### SUMMARY TABLE

FISCAL IMPACT OF H.B. 551, V.3 (\$ in millions)					
	<u>FY 2018-19</u>	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>
<b>State Impact</b>					
General Fund Revenue	-	-	-	-	-
Less Expenditures	-	-	-	8.8	11.2
<b>General Fund Impact</b>	-	-	-	<b>(8.8)</b>	<b>(11.2)</b>
<b>NET STATE IMPACT</b>	-	-	-	<b>(\$8.8)</b>	<b>(\$11.2)</b>
<b>STATE POSITIONS</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>150.00</b>	<b>150.00</b>

### FISCAL IMPACT SUMMARY

The estimated cost of implementing this bill is driven by the conversion of 150 district attorney victim services coordinator FTE from grant support to state-funding support on October 1, 2021. These positions would be necessary to provide notice to these victims of certain court proceedings of the accused and inform victims of their rights.

The changes in the bill may eventually lead to other costs to the court system or to the Division of Juvenile Justice in the Department of Public Safety, but Fiscal Research cannot estimate these costs at this time.

### FISCAL ANALYSIS

Section 1 of this bill amends Section 37 of Article I of the North Carolina Constitution by expanding the current Victim Rights Act-applicable cases to those involving juvenile offenders, as well as certain other criminal offenders, in which there is a victim. Currently, the Victim Rights Act applies to certain classes of felony offenses or specific crimes, and specific domestic violence misdemeanor offenses. In addition to increasing the number of potential cases in which the Victim Rights Act is applicable, the bill would expand several existing victim rights. The bill would strike the existing phrase "as prescribed by law" in all instances throughout the section. The bill would add new

subsection (1b), which directs the General Assembly to provide the procedure for victims to assert their rights by general law. The bill would add new subsection (5), which allows the General Assembly to further define and implement this section by general law.

Sections 2 and 3 of the bill require a vote for a constitutional amendment change for the general election of November 2018 and establishes that if the amendment passes, it will become effective August 31, 2019.

### Judicial System

The full financial implications of the changes in this bill on the Administrative Office of the Courts (AOC) and the Office of Indigent Defense Services (IDS) is unclear.

Although the direction “as prescribed by law” is stricken in all instances throughout the amended Section 37, new subsection (5) allows the General Assembly to further define and implement this section by general law. Fiscal Research assumes that the General Assembly will establish guidelines and rules regarding the actions and requests of the victim in court events.

IDS would not anticipate any direct impact from this amendment, but there may be indirect fiscal impact. To the extent the changes in the bill could delay court proceedings to ensure that victims have been notified or if the changes in the bill lead to increased motions filed in court, IDS may have costs related to lengthier representation and more court appearances for public defenders and private assigned counsel attorneys. Fiscal Research cannot estimate the extent of this indirect impact at the current time.

The Conference of District Attorneys reports that the proposed legislation would significantly expand the number of cases in which District Attorneys (DAs) are required to provide victim services. By increasing the pool of victims, the bill would require DA staff to spend more time on notices and discovery while simultaneously requiring quicker results. This would require more specialized staff to handle this expanded pool of cases, and AOC workload tables indicate that many DA offices are currently understaffed. The Conference of DAs estimates that the workload created by the changes in the bill would require state funding for 150.0 FTE of victim service coordinator (VSC) positions that are currently grant-funded. The cost of salaries and benefits for each position is estimated at \$63,665 in recurring funds with \$4,198 in nonrecurring operating funds associated for each. The VSC positions are currently funded through a grant provided by the Governor’s Crime Commission which runs through September 30, 2019. The Conference of DAs expects that this funding would be continued for another two years until September 30, 2021. Assuming that all 150 VSC positions become state-funded on October 1, 2021, the costs in FY 2021-22 would be \$8,815,563.<sup>1</sup>

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<sup>1</sup> 150 VSCs times \$63,665 equals \$9,549,750. Adjusting for inflation between 2018 and 2021, the annual recurring cost would be \$10,804,194. Since these positions would start on October 1, 2019, the recurring cost for FY 2021-22 would be \$8,103,146. Nonrecurring costs are 150 VSCs times \$4,198, which equals \$629,700. Adjusting for inflation between 2018 and 2021, the nonrecurring cost in FY 2021-22 would be \$712,417. Recurring costs of \$8,103,146 plus nonrecurring costs of \$712,417 equals \$8,815,563 in FY 2021-22. These estimates adjust for inflation based on rates from Moody's economy.com (Jan. 2017) and annualize the recurring costs for subsequent years.

AOC is concerned that the bill could lead to an increase in workload on other court personnel. For the most part, any increases in workload would be absorbed by current personnel, but these would lead to an impact on the court's timely dispositions of cases. There is a threshold at which AOC would need additional personnel to handle increased casework, but Fiscal Research cannot determine at this time what additional resources may be needed.

#### Department of Public Safety – Division of Juvenile Justice

Fiscal Research does not anticipate a significant increase in restitution related to juvenile justice from the changes in this bill.

The Division of Juvenile Justice (DJJ) handles restitution claims differently from the adult correction system. Because many juveniles or their parents are unable to pay restitution, the courts and the Division use their discretion for disposition of cases to provide an alternative solution when available. In many of these cases, DJJ's Community Programs section will pay the amount of court-ordered restitution to the court through the Juvenile Crime Prevention Council (JCPC)-assigned local program, which the court will then pass to the victim(s). The delinquent juvenile(s) will then, as part of their disposition or diversion program, be required to perform community service, typically through a JCPC-supported program, as an in-kind restitution payment. Funding for restitution programs is factored in to the overall contract between the JCPC and the local program for the various services they provide. For most cases, restitution is capped at \$500, although the courts do have some discretion to award higher levels of restitution.

DJJ is concerned that the inclusion of a constitutional victim's right to restitution could result in restitution awards for all juvenile cases at the maximum-possible amount. If that were to occur, the costs would be significant for JCPC-supported programs, and they would be unlikely to be able to meet these needs at their current levels of funding.

However, the courts and Juvenile Court Counselors (JCCs) currently award restitution in approximately a third of all cases with an average award that is significantly less than the \$500 maximum that applies in most cases. Because of the discretion that the courts and JCCs have historically shown with restitution in juvenile justice cases, Fiscal Research does not anticipate a significant increase in restitution related to juvenile justice.

#### State Board of Elections

The State Board of Elections oversees all elections for the State and provides policy guidance to counties and local boards of elections in carrying out the process of elections administration. The local governments are responsible for the cost to run all elections. There is no additional cost to the State for a constitutional amendment vote to occur. Also, since this bill requires a proposed constitutional amendment to appear on the November 2018 ballot and there is already in place a November 2018 election, there should not be additional costs to local governments as a result of this bill.

## **TECHNICAL CONSIDERATIONS**

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N/A.

## **DATA SOURCES**

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ADMINISTRATIVE OFFICE OF THE COURTS, CONFERENCE OF DISTRICT ATTORNEYS, STATE BOARD OF ELECTIONS,  
DEPARTMENT OF PUBLIC SAFETY

## **LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS**

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This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

## **CONTACT INFORMATION**

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Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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June 25, 2018



Signed copy located in the NCGA Principal Clerk's Offices