

**1997 NORTH CAROLINA GENERAL ASSEMBLY
FISCAL NOTE**

BILL NUMBER: HB 665 - Proposed Committee Substitute - (June 25, 1997)

SHORT TITLE: Crime Victims' Rights Act

SPONSOR(S): Representatives Eddins et al.

Summary of Fiscal Impact of HB 665 Crime Victims Rights Act – All State Agencies*					
<u>EXPENDITURES</u>	<u>1997-98</u> **	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
1. Judicial Department (Court System)	\$3,351,629 (87)	\$4,529,785 (85)	\$4,681,319 (85)	\$4,842,678 (85)	\$5,014,936 (85)
2. Department of Correction (Probation and Parole; Prisons; Parole Commission)	\$336,878 (5)	\$224,479 (5)	\$234,089 (5)	\$244,080 (5)	\$254,600 (5)
3. Department of Justice (Attorney General)	\$22,303 (1)	\$35,462 (1)	\$36,664 (1)	\$37,943 (1)	\$39,304 (1)
4. Office of the Governor	No Fiscal Impact				
Subtotal	\$3,710,810	\$4,789,726	\$4,952,072	\$5,124,701	\$5,308,840
Positions:	(93)	(91)	(91)	(91)	(91)
5. Law Enforcement Subtotal (Primarily local)	\$441,127	\$850,354	\$878,923	\$909,332	\$941,776
Positions:	(27)	(27)	(27)	(27)	(27)
TOTAL	\$4,151,937 (120)	\$5,640,080 (118)	\$5,830,995 (118)	\$6,034,033 (118)	\$6,250,616 (118)
Revenues***	(\$484,966)	(\$969,933)	(\$969,933)	(\$969,933)	(\$969,933)
<p>*See Attachment 1 for differences from 5/26 fiscal note. **Assumes January 1, 1998 (Committee Substitute 6-25-97) ***No net loss; revenue will be shifted from state and local funds to victims since bill makes restitution first priority in disbursement of funds in criminal cases.</p>					

NOTE: Personnel costs assume inflation estimates as provided to FRD by Data Resources, Inc. (DRI). Salary inflation percentages are: - 3.4% for 98-99 and 99-2000; 3.5% for 2000-01 and 3.6% for 2001-02. Inflation for administration (brochures, postage, etc.) is 2.8% in 98-99, increasing to 3.2% by 2002.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Department; Department of Correction (Division of Prisons; Division of Adult Probation and Parole; Parole and Post-Release Supervision Commission); Department of Justice; Office of the Governor; Law Enforcement agencies

EFFECTIVE DATE: Sections 2.4 and 2.5 when they become law; assessment on August 1; remainder of Act, January 1, 1998

**ATTACHMENT 1
HB 665 Fiscal Note**

**CHANGES IN FISCAL IMPACT
IN 6/25/97 HOUSE COMMITTEE SUBSTITUTE
SINCE MAY 26 FISCAL NOTE**

The estimated new costs to state agencies due to the 6/25/97 Committee Substitute are minimal in relation to the original estimated cost. There are no changes anticipated to the May 26 cost estimates for the Department of Correction and Department of Justice.

Judicial – There will be some increase in estimated court manhours and thus positions due to the requirement that restitution be ordered in every case where an offense in HB 665 leads to a conviction (the original note assumed many but not all cases because judges had discretion). The estimated impact to the Judicial Department due to increased court time is an additional \$214,353 in 1997-98 and \$406,541 in 1998-99 for manhours equaling six positions and for indigent defense costs.

The primary fiscal impact of the 6/25 House Committee Substitute is Section 2 of the bill which establishes restitution as the first priority when courts are disbursing funds (costs, fines, etc.) in criminal cases. Costs due the counties, due the cities, and fines to the county school fund which are one, two and three respectively now, would be 2, 3, and 4 in the proposed order of priority. The Administrative Office of the Courts estimates that additional restitution amounts collected and distributed to victims for one year would be \$969,933. Increasing restitution would result in the following major shifts in funds from other categories of receipts as follows: fines to the county school fund reduced by approximately \$538,000; costs due to counties, reduced by approximately \$315,000; costs due the cities reduced by approximately \$40,000; costs due the state General Fund reduced by about \$20,000; and attorneys fees reduced by \$47,000. This analysis is limited since it uses 1996 data and assumes no major change in the frequency of orders of restitution.

Law Enforcement – FRD also further analyzed the estimated number of victims that would be involved in incidents involving law enforcement (93,014 victims of HB 665 crimes were estimated for the original HB 665 Committee Substitute for law enforcement only; new estimate is 129,733 for initial notices). The number of victims and the cost to law enforcement increases in the revised fiscal note. Estimates are an additional \$130,778 in 1997-98 and \$252,405 in 98-99. This not due to the 6/25 HB 665 Committee Substitute, but to updated and more refined data on the number of offenses and victims covered under HB 665.

Summary – Total difference between estimated cost of HB 665 in May 26, 1997 fiscal note and July 7, 1997 note is \$345,131 in 97-98 and \$658,946 in 98-99.

INSTITUTE OF GOVERNMENT BILL SUMMARY: “Enacts new art. 101 of GS Ch. 15A (Crime Victims' Rights Act) to establish certain rights for victims of class A, B, C, D, and E felonies and certain class F, G, H, and I felonies (including manslaughter, certain assaults, certain sexual offenses involving minors, burglary, and other designated offenses). Repeals GS 15A-824 through 15A-827 (current laws regarding victims' rights). Provides that new law does not create a claim for damages against the state, a county, or municipality, or any agency, instrumentality, or employee thereof.

Responsibilities of law enforcement agency. Within 24 hours of identifying a victim, law enforcement personnel must inform the victim of the availability of medical services, availability of victims' compensation funds, name and phone number of district attorney's office responsible for prosecuting the crime, and the name of a contact person in the responsible law enforcement agency. Within 24 hours of making an arrest, law enforcement agency must inform the victim of the accused's opportunity for pretrial release, and provide the victim with a law enforcement contact person who can inform the victim regarding pretrial release. Within 24 hours after accused has been detained (or within five days of arrest if accused has not been detained), law enforcement agency must forward the name, address, and telephone number of the victim to the district attorney.

Responsibilities of district attorney's office. Within 21 days after the arrest of the accused, the district attorney's office must send the victim written material explaining the victim's rights, inform the victim of steps taken in prosecuting a criminal case, and provide the victim with a contact person in the district attorney's office. After receiving this information, victim may indicate whether he or she wishes to receive further notices of trial proceedings involving the accused. The victim has a right to be present at every court proceeding at which the accused has a right to be present. District attorney must inform the victim of the time and date of these proceedings. Victim has the right to consult with the prosecuting attorney prior to disposition of the case to provide victim's views regarding dismissal, plea or negotiations, sentencing, or pre-trial diversion.

Victim impact statement. Victim has right to make oral or written impact statement to be considered by court or jury in sentencing defendant. Statement may include description of injury suffered by victim as result of offense, victim's need for restitution from defendant, and victim's recommendation regarding appropriate sentence.

Restitution. In addition to or in lieu of other penalties authorized by law, a court may impose a sentence ordering the defendant to make restitution to the victim for victim's medical costs, physical therapy, occupational therapy, and rehabilitation of victim, loss of income, psychological or medical treatment for victim's next of kin, and cost of victim's funeral to the extent such costs resulted from the offense committed by the defendant. An order of restitution is docketed as a civil judgment and may be executed in same manner as other civil judgments. An order of restitution does not bar the victim from bringing a civil action against the defendant. Amount of restitution paid by defendant is credited against any judgment rendered against defendant in civil action and subtracted from any compensation paid by Crime Victims' Compensation Fund after restitution has been made.

Post-conviction responsibilities. Within 30 days of the final disposition of a case, the district attorney must inform the victim of the disposition and the defendant's right of appeal. If the defendant appeals the conviction, the Attorney General's office must provide the victim with information about the appellate process, notice of the date and time of any appellate proceedings, and notice of final disposition of the appeal. If the defendant is released on bail pending the outcome of the appeal, the victim must be notified of the release. The agency with custody of a convicted defendant must give the victim notice of the earliest date by which defendant can be released, defendant's transfer to a minimum security facility or release to a community residential program, reduction of the defendant's minimum sentence, defendant's escape, date of hearings before the Parole Comm'n on whether defendant should be released from custody and the victim's right to make a statement at that hearing, and date of defendant's release from confinement. Dep't of Adult Probation and Parole must give the victim notice of hearing on revocation or extension of

defendant's probation, final disposition of such hearing, defendant's leaving the jurisdiction without permission, capture of defendant, and date defendant is discharged from probation. Governor is required to inform victim if commutation of defendant's sentence or pardon is being considered.

Crime Victim's Rights Fund. Effective Jan. 1, 1998, enacts new art. 102 of GS Ch. 15A to establish new Crime Victims' Rights Fund to provide funds to law enforcement agencies and district attorneys' offices in the providing of services to victims. Fund will be administered by Dep't of Crime Control and Public Safety. Funds may not be used to supplant other federal, state, or local funding for services to victims of crimes. Fund will be funded by \$30 charge imposed whenever a defendant is convicted, or enters a plea of guilty or nolo contendere to a felony, to a class 1 or A1 misdemeanor, or to an offense of impaired driving.”

H 665. CRIME VICTIM'S RIGHTS ACT. Intro. 3/27/97. **House committee substitute** makes numerous changes to 1st edition, including the following major substantive changes. (1) Extends coverage of act to victims of felonious assault on emergency medical personnel. (2) Deletes provision making act applicable to victims of covered crimes in which defendant found not guilty by reason of insanity. (3) Provides that the next of kin of deceased victim is entitled to rights specified in act (except for restitution), and that person may designate anyone in the included class of next of kin to exercise rights. (4) Allows victim to refuse to disclose information to investigating law enforcement officer, and directs that agency to notify prosecutor of that fact. (5) Directs prosecutor's office to notify victim of date, time, place of trial court proceedings for which victim wants notice, but deletes provision giving victim right to be present at every court proceeding at which accused has right to be present. (6) Rewrites provisions dealing with evidence of impact of crime on victim to delete provision allowing victim impact statement, and replaces it with right of victim to offer evidence of the impact of the crime if he or she chooses to do so. (7) Rewrites provisions on restitution to require court to order restitution for any injury or damages arising out of offense that is supported by the record, instead of directing court to consider whether to do so. (8) Rewrites provisions dealing with enforcement of restitution to provide that order may be enforced in same manner as civil judgment. Directs that order be docketed and indexed in same manner as civil judgment, unless restitution is also a condition of probation. If restitution is probation condition, amount due after termination of probation is docketed, along with applicable fees, and clerk must notify victim by first class mail of right to enforce docketed order. Amends GS 1-1601 to provide that statutory exemptions do not apply to docketed restitution orders. (9) Directs Administrative Office of the Courts to maintain repository of victims names, addresses and "other appropriate information." (10) Rewrites provisions dealing with duties of those holding defendants in custody to make them applicable only to Dep't of Correction, and deletes all references to notices and other proceedings by Parole and Post-Release Supervision Comm'n. (11) Revises duties of Adult Probation and Parole Division to require notice to victim of conditions of probation imposed, and any changes to those conditions, modifications to restitution, or movement in or out of any intermediate sanction under structured sentencing. (12) Allows next of kin of victim who is incompetent by reason of age or disability to exercise incompetent's rights under act, except for restitution rights. (13) Directs Governor's clemency office to notify victim of any decision in clemency proceeding to which victim is entitled to notice. (14) Amends GS 7A-304(d) to place restitution as first priority for disbursement under that section, and retains provision that \$30 fee added to convictions for felony, class 1 or 1A misdemeanor, or impaired driving must be paid from "first monies paid" by defendant. Deletes provision adding the \$30 fee as a court cost under GS 7A-304, but requires that it be ordered in addition to any costs, fees, fines or penalties. (15) Retains provisions of existing Fair Treatment of Victims Act (Art. 40 of GS Ch. 15A) but specifies that provision of this new Art. 101 of GS Ch. 15A will control in case of conflict. (16) Adds provision to existing Fair Treatment for Victims and Witnesses Act to provide that district attorneys in allocating resources to victims of serious misdemeanors under that act, must "to the extent possible" provide services in that act to victims of domestic violence misdemeanors that could involve the infliction of serious bodily injury, and directs Conference of District Attorneys to study incidence of domestic violence, recommend statutory definition of domestic violence crimes that can be used by law enforcement to determine eligibility for services, and recommend elevating any current misdemeanors involving domestic violence to felonies. Report is due before 1998 legislative session. (17) Directs Parole and Post Release Supervision Comm'n to report by 1998 legislative session on notification services it provides to victims. (18) Provisions regarding studies are effective when act becomes law. Provisions regarding increased fees apply to crimes committed on or after Aug. 1, 1997. Remainder of act is effective Jan. 1, 1998 and applies to crimes committed on and after that date.

Assumptions and Methodology – All State Agencies and Local Law Enforcement

1. HB 665 is implementing legislation for the 1996 Constitutional Amendment on Victims Rights. **This**

fiscal note assumes that services listed in HB 665 must be provided to designated victims because these services are constitutionally mandated. The current Fair Treatment for Victims and Witnesses Act is discretionary to a certain extent; a lower level of services than required by HB 665 are now provided “to the extent reasonably possible and subject to available resources” (G.S. 15A - 825).

2. HB 665 mandates both new services to victims not required under the Fair Treatment Act and expansion of, or more precisely defined, services. **It is these new or expanded services that are covered under this fiscal note and that are the major cost drivers of HB 665.** Where appropriate, we have reduced anticipated service needs if HB 665 specifies a particular service should only be provided “upon request” of the victim. **It is assumed services under the Fair Treatment Act will continue to be provided to the extent possible. This fiscal note calculates the incremental time and manhours over and above current services.** If the Act is repealed, and previous services are not continued, the cost of implementing HB 665 will be considerably lower.
3. **HB 665 mandates services to victims of the most serious crimes – A to E felonies and selected F through I felonies** “if requested” in some cases or to all victims in other instances. The Fair Treatment Act defined victims as those who were victims of any felony or “serious misdemeanors as defined in the sole discretion of the district attorney”. **This fiscal note assumes that only the victims of the crimes outlined in HB 665 will be provided all the direct services outlined in the bill.** In calculating the population of victims under HB 665, each department estimated the number of offenders involved in the felonies defined in the bill (e.g. the Judicial Department estimated that 27, 583 offenders were charged (case filings) with the offenses listed in HB 665 in 1996 and then estimated 1.6 victims per case).
4. **SAVIN System** - The Department of Justice is leading a task force in the development of SAVIN, a statewide automated notification system for victims and all criminal justice agencies. This system, if implemented will speed up notification process and communications between law enforcement agencies. The cost estimates in this note do not include savings from this system since the systems design and total cost may not be evident until the end of 1997, according to the SAVIN coordinator. However, while the SAVIN system could save costs and improve services, it will not reduce the time needed by State and local staff to provide interpersonal contacts and assistance to victims.
5. **Cost Analysis** - The cost estimates in this note are based on FRD’s review and consultation with N.C. state agencies and victim programs in other states and then development of a “likely scenario” of the increased manhours and operating costs needed to serve a projected number of victims. **Projection of how many victims will want services was the most difficult analysis;** if more victims want services the projected costs will be higher than estimated in this note. Conversely, costs will decrease if fewer victims request services.
6. **Other States** - The discussions with other states highlighted three major findings. **First,** implementing legislation in other states, with one or two exceptions is not as specific or comprehensive as proposed in HB 665. The comprehensiveness of HB 665 in ensuring the constitutional mandate is carried out also creates the potential for significant additional manpower and support costs to ensure these new and expanded services are carried out. While other states experience was considered, emphasis was placed on the likely impact in N.C. based on HB 665. **Second,** many states did little or no preliminary cost analysis prior to ratifying a constitutional amendment, often because court systems are locally managed, making statewide analysis difficult. The scope of services to be provided and funded have been determined primarily through experience - states have set up victims funds as proposed in HB 665 and then reimbursed local law enforcement and prosecutors as services were documented. In

several states, state agencies were directed to absorb costs with little consideration of actual costs in time and manpower. **Third,** most states with long term experience indicated manhours and costs have increased due to “victims” constitutional amendments and implementing legislation, but not to the extent anticipated. **This finding was a strong consideration in this note.**

7. All estimates of positions needed are based on the assumption that approximately 1,800 work hours are available per year (2080 hours - 280 hours for vacation, sick, and annual leave; holidays; and training). New positions would be effective 1/1/98 (bill effective date). Position costs (salaries, benefits, equipment and operating costs) are listed under each section of this note by department

Assumptions and Methodology – Difference from 1995 Fiscal Note on HB 130/SB 6

In 1995, a fiscal note was prepared on HB 130, the proposed Victims Rights Constitutional Amendment. (The ratified bill was Senate Bill 6 but there were no significant differences with fiscal implications). There are several reasons why the fiscal note for HB 130 cannot be compared to the costs outlined in this note:

1. HB 130 did not define the type of criminal offense that would require victims services so a range of cost options was developed to estimate the fiscal impact of HB 130. The cost options ranged from limiting services to victims of only the four major violent crimes to victims of most criminal offenses (most costly estimate). This fiscal note is based on the specific felonies defined in HB 665.
2. The 1995 note assumed one victim per case since no data was available. This fiscal note assumes 1.6 victims per case for state agencies, based on information that is now available from the AOC Court Information System. Total victims were identified for law enforcement agencies statewide.
3. The 1995 note assumed services would be provided to all eligible victims without any action or initiative from the victim. HB 665 specifies certain services as required in all cases and others “upon the request” of the victim. The “upon request” language has limited the potential cost of HB 665.
4. HB 665 mandates many new services (e.g. notification of all trial proceedings; conference with district attorneys; notification of all probation revocations; orders of restitution in all cases; notices of transfers of prisoners to minimum custody status). The 1995 note did not include many of these new services since they were not outlined in HB 130 or SB 6.
5. The 1995 note based position and other costs on 1994-95 costs; costs in this fiscal note are based on 1997-98 costs so there is a natural increase in cost.
6. The 1995 note did not project costs for law enforcement agencies (primarily sheriffs and police departments) since it was not anticipated that law enforcement would have a primary role in victims services. This note estimates costs to law enforcement for services listed in HB 665 – the bulk of the costs are due to local law enforcement (sheriffs/police departments).

	<u>1997-98**</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
<u>HB 665 Requirements</u>					
1. Notification of Victims -	\$1,028,100	\$1,590,635	\$1,644,716	\$1,702,282	\$1,763,564
a. Information Packet; (<u>expanded</u>)	(46)	(46)	(46)	(46)	(46)
b. Notification of all proceedings (<u>new</u>)					
c. Increased interpersonal contact (expanded requirements) (<u>Victim Witness Assistants</u>)					
2. Consultation with prosecuting attorneys (<u>new</u> requirement - A.D.A.'s)	372,317 (11)	746,407 (11)	771,785 (11)	798,797 (11)	827,554 (11)
3. Hearings for Victim Impact (<u>expanded</u>) and for restitution (<u>expanded</u>) <u>Statewide</u> court time and manpower and indigent defense --- (judges, A.D.A.'s court reporters and clerks -5 each; 6/25 Comm. Sub. added 4 posit.)	786,560 (20)	1,381,734 (20)	1,428,713 (20)	1,478,718 (20)	1,531,952 (20)
b. Indigent Defense (6/25 Comm. Sub increased)	182,825	375,888	386,789	398,393	411,141
4. Docketing Judgment for restitution (<u>new</u>) (Statewide - 6 deputy clerks) (6/25 Comm. Sub added 2 posit.)	82,938 (6)	157,780 (6)	163,145 (6)	168,855 (6)	174,933 (6)
5. Automation of Victim Database					
a. System Install	640,000	0	0	0	0
b. Personnel	200,120 (4)	163,407 (2)	168,963 (2)	174,877 (2)	181,172 (2)
6. Administration - Brochures, Letters, Envelopes, etc.	<u>58,769</u>	<u>113,934</u>	<u>117,238</u>	<u>120,756</u>	<u>124,620</u>
TOTAL JUDICIAL	\$3,351,629 (87)	\$4,529,785 (85)	\$4,681,319 (85)	\$4,842,678 (85)	\$5,014,936 (85)

*Positions listed are based on increased manhours statewide due to HB 665.

**All positions start January 1, 1998 since HB 665 is effective January 1, 1998

NOTE: Personnel costs assume inflation estimates as provided to FRD by Data Resources, Inc. (DRI). Salary inflation percentages are: - 3.4% for 98-99 and 99-2000; 3.5% for 2000-01 and 3.6% for 2001-02. Inflation for administration (brochures, postage, etc.) is 2.8% in 98-99 increasing to 3.2% by 2002.

ASSUMPTIONS AND METHODOLOGY – Overall Assumptions for Judicial Department

The Judicial Branch fiscal analysis estimates the potential fiscal impact of HB 665 on the court system statewide. Technical questions on the bill are noted if these questions have specific fiscal implications.

It is assumed for purposes of this note that current services provided under Article 45, Fair Treatment for Victims and Witnesses, will continue to be provided.

New and Expanded Requirements -- The key to the fiscal analysis is the intent of the constitutional amendment and the requirements of HB 665. The current Act applies to both victims and witnesses of crime, with crime defined as felony-level offenses and “serious misdemeanors as determined in the sole discretion of the district attorney.” Further, services are made available only “to the extent reasonably possible and subject to available resources.” HB 665 **mandates delivery of an enhanced level of services to certain victims**, including more intensive and focused rights and protections that go above and beyond those currently provided. This analysis assumes no reduction in the extent of victim and witness services currently provided by district attorney (DA) offices; thus, **this fiscal note estimates the incremental costs of HB 665 as compared to current practice.**

Judicial cost drivers in this note are:

- (1) Automation of victim information - notification, tracking, and a central victims database**
- (2) Increased man hours by Victim Witness Assistants due to new or expanded services**
- (3) Increased court time/manhours due to new and expanded requirements for restitution and victim impact statements/evidence**
- (4) Size of victim population; if fewer victims request services than anticipated, costs will be lower**

Position costs used were:	FY97-98 (1/1/98)	FY98-99
	<u>Position Cost</u>	<u>Position Cost</u>
Assistant District Attorney	\$33,847	\$65,624
Court Reporter	\$22,104	\$44,138
Deputy Clerk	\$13,823	\$25,432
Superior Court Judge	\$84,448	\$132,066
Victim and Witness Assistant (VWA)	\$22,350	\$33,442

Number of Victims Covered by HB 665 -- The beginning point of the analysis is an estimate of the number of persons who would qualify as “victims” pursuant to HB 665. The AOC estimates that there are some 27,583 court cases filed annually involving victims of crime offenses specified in HB 665. Based on analysis of data from the AOC Financial Management System, it is estimated that there will be an average of 1.6 victims per case (calculated on the average number of payees per case involving restitution being paid on a partial payment plan). **This yields an estimate of 44,133 persons who would qualify annually as “victims” under HB 665 or those targeted for services by Victim Witness Assistants.**

The Judicial portion of the fiscal note, Section I, is organized by eight subsections. The first four sections relate to specific judicial responsibilities outlined in the bill (a) providing notifications of court proceedings and direct interpersonal communications with victims; (b) allowing victims the opportunity to consult with the prosecuting attorney; (c) providing enhanced opportunities for presentation and consideration of victim impact statements and restitution information at sentencing hearings; and (d) docketing judgments for restitution. Sections I (e) and (f) pertain to administrative needs to carry out the requirements of the bill: installation of the DA Case Management System (CMS) and estimates of miscellaneous costs, such as for postage, development and printing of a victims’ rights brochure, forms, paper, and envelopes.

Section I (g) estimates the fiscal impact of establishing a Crime Victims’ Rights Fund.

Section I (h) estimates the fiscal impact of establishing restitution as the first priority in the distribution of court fines and fees (**Added in House Committee Substitute 6/25/97**).

Section I(a) - NOTIFICATIONS AND DIRECT INTERPERSONAL COMMUNICATIONS WITH VICTIM WITNESS ASSISTANTS (VWA’s)

Court System VWAs in District Attorneys offices will be the primary delivery resource for by the new and enhanced level of victims services mandated by HB 665 and the central resource for other state and local agencies. This fiscal analysis assumes that VWAs will be responsible for providing victims with information and assistance, explanations, and notifications, including notices of court proceedings and final dispositions of cases, as well as coordinating victims' consultations with the prosecuting attorney, assisting victims with restitution documentation, and assisting with victim impact statement information. The following summarizes the nature of the duties, responsibilities, and specific VWA resource needs related to this bill.

(1) VWAs Identify and Locate Victims, Provide Information Packets, and Track Responses. **New G.S. 15A-2012** requires that the DA's office provide all victims with clear and concise written material that explains the victim's rights, including the right to consult with the prosecuting attorney about the disposition of a case, as well several other specific pieces of information. To implement these provisions, it is anticipated that AOC would first develop a publication that represents a consolidation and expansion of current materials. Estimates for development and printing of this publication are included in Section I (f), which itemizes postage and related expenses.

The manhours required for identifying all eligible victims, sending each a packet of materials, and following up to ensure each victim is invited to exercise his or her constitutional rights as a victim are included in this section. This stage will be the starting point for a standard system of tracking and documenting VWA activities, rather than a system developed by each district (current system). It is assumed a statewide system must be established and maintained to document the provision of this initial packet of information, record the victim's response about future involvement, and track that subsequent notifications are provided. Based on review of current VWA practices (annual report and follow up survey), it is assumed that these responsibilities will add about ten minutes per case; this is incremental time over and above current services.

For all 44,133 victims, at an estimated additional 10 minutes per victim would require 7,356 VWA hours (4 VWAs) (44,133 x 10 min. = 441,330 min./60 min. = 7,356 hours/1,800 hrs. = 4 VWA's Statewide).

(2) VWAs Provide Victims with Subsequent Notifications. **New G.S. 15A-2012** states that victims have the right to attend every future court proceeding although victims must request notices of these proceedings (New service not provided now) and to prepare a victim impact statement. (**5/20 Committee Substitute required notices of all proceedings if elected by the victim; 6/25 Committee Substitute allows the victim to elect whether to receive notices of all, some or no future proceedings**). **New G.S. 15A-2013** requires that victims be notified of the right to offer victim impact evidence at sentencing. **New G.S. 15A-2016** requires that the DA's office provide victims a written notification within 30 days after the final proceeding in a case, informing them of the final disposition, the crimes of which the defendant was convicted, and the defendant's right to appeal. (Optional now, depending on resources; if provided now, information may be less specific). If there is an appeal, the DA's office is to forward the victim information to the Attorney General's office.

It is assumed that in the wake of the constitutional amendment, and the increased efforts to reach out to victims, there will be a high level of interest in the trial court proceedings among the victims covered under this bill – victims of the most serious crimes. To estimate the average number of subsequent notifications per interested victim, we considered several factors: (1) there will be a notification regarding disposition in almost every case (this notification is time-consuming because it requires that VWAs summarize the manner of disposition and the specific outcomes of cases); (2) in most cases there will be a notification of the trial or plea hearing; (3) in some cases, there will be a probable cause hearing notice; (4) in some cases, there will be an arraignment hearing notice; (5) data suggest that anywhere from 2 to 6 non-disposition court proceedings are scheduled for most felony cases (e.g., trial continuances, motions); (6) except when postponement of a hearing is for reasons discovered at the time of the scheduled hearing, VWAs will attempt to notify victims in advance when proceedings will not be held as scheduled; (7) in appealed cases, VWAs will send a notice to the Attorney General's office.

Except for the disposition notification, which must be in writing, the subsequent notifications to victims may be either in writing or by phone, as appropriate to the particular situation. The analysis assumes that either type of notification will require, on average, about 10 minutes per case (longer for phone calls/shorter for mail notification).

It is assumed that 75% of victims who receive the initial packet will request notifications of proceedings. It is assumed most victims will want notifications, but not necessarily services. **(Now 50% of victims who request Victim Impact Statements complete this lengthy form so it is likely many victims of crimes under HB 665 will at least want to be notified. Also, Judicial intends, as outlined in HB 665, to send a form allowing victims a one-time "check off" if they want to receive notices of all, some or no proceedings, so the process will be easy. (NOTE: AOC assumed 85%, but FRD's review of other states indicate lower percentages of notification requests.)**

Assuming that 75% of the 44,133 victims, or 33,100 victims, will "opt in" for future notifications, at 10 minutes per written notice or phone call and assuming 5 new notices, yields 31,261 VWA hours (15 VWAs Statewide). (For comparison, 50% would yield 10 VWA's). (House Committee Substitute 6/25 -- FRD reviewed the 6/25 Committee Substitute that allows victims to elect to receive notices of specific proceedings and determined that this procedure would not measurably decrease or increase the fiscal estimate in the 5/26 fiscal note. FRD had originally assumed that not all victims would request notices of all proceedings and had assumed an average number of notices per victim (5) for the most common court proceedings.

(3) Incremental Interpersonal VWA Time. It is assumed that implementing the rights described in HB 665 will require a significant investment of VWA time spent in interpersonal communications with victims, responding to questions, providing follow-up information, and otherwise assisting victims. To estimate the incremental time required by this bill, it is assumed that for a subset of identified victims, there will be an increase in both the average frequency and the average length of interactions with VWAs.

A survey of VWA's indicates that VWA's currently have 3.4 interpersonal contacts with victims at 42 minutes on average or 2.4 hours per case. AOC assumed the time per case, on average, would double to 5 hours and that 72% of all victims would require additional services. While FRD agrees that the requirements of HB 665 will require additional time, our discussions with other states indicate that a smaller percentage of victims are likely to opt in for direct VWA services. However, since HB 665 offenses are the most serious, FRD still believes the level of followup and involvement will be high.

When estimating these increases, which are over and above the 10 minutes for notification of court proceedings (several factors were considered, including: (1) additional phone and in-person contacts with VWAs will be prompted by the victim's receipt of the initial packet of information, with victims desiring further explanation of their rights under HB 665; (2) each notification of court proceedings will trigger some personal contacts because some victims will have additional questions, concerns, or issues to discuss; (3) VWAs need to inform victims about their right to prepare a victim impact statement and offer victim evidence at sentencing, and they will answer questions about and otherwise assist victims who intend to make such statements or provide such evidence ; (4) the frequency with which victims attend court proceedings will increase as a direct result of victim notifications; increase in the attendance of victims will be accompanied by greater VWA time spent assisting such victims; (5) compared to other superior court felonies, those included under HB 665 tend to go to trial three times as often, are twice as likely to be resolved by guilty plea to a lesser charge, and are substantially less likely to be resolved by guilty pleas to the offense charged, all of which suggests that these are the more difficult cases, which are more likely to be disposed in ways that are associated with great opportunity for victim involvement (even greater under HB 665); (6) dispositional proceedings such as plea hearings and trials are expected to take longer due to the restitution issues that need to be addressed at sentencing as well as the victim's opportunity to present a statement at sentencing; (7) the VWA will often need to explain the right to meet with the prosecuting attorney, and will need to help arrange this meeting if one is desired; (8) VWA's will need to help victims

identify and gather relevant evidence documenting appropriate restitution amounts, including receipts, estimates, and insurance deductible information and so on. (e.g., the bill specifically mentions after-tax income loss suffered by the victim, as well as the non-victim expense of psychological or medical treatment costs for the victim's next of kin).

Assuming that 80% of all victims who request notifications of court proceedings, or 26,524 victims (60% of all victims covered by HB 665), require an average of 100 minutes (of 1.7 hours) per case of additional time, results in 44,207 additional VWA hours (about 25 VWAs statewide) (Note: Judicial/AOC believes there will be an average of 2.5 new hours per case and 72% of victims would need direct services - this would require 19 more VWA positions).

(4) VWA's to Notify Department of Corrections (DOC) - No provision was made originally in HB 665 for VWA's to provide conviction and victim information to DOC but it was assumed this action had to occur. **The 6/25 House Committee Substitute added a section requiring district attorney to submit a copy of the victim identification information to the court at sentencing so it can accompany the commitment papers to DOC or other custodial agency but the manours and cost should remain the same.** At 10 minutes per notification times 23,170 (convictions) = 2 VWA's statewide (3,862 manhours/1800 = 2).

Committee Substitutes (5-20-97) and (6-25-97) require AOC to maintain a repository of information on victims; it is assumed that the intent of this repository is to file victim information that would be provided to DOC and other agencies if requested. No additional cost is assumed, other than discussed above, since the AOC indicates that initially it will be up to individual districts to maintain a file in the automated case management system (CMS), whose cost is estimated in this fiscal note. Development of an automated centralized data repository would have additional fiscal impact but the AOC does not believe an automated central system is necessary at this time to implement the requirements of HB 665.

Summing personnel in Sections (Ia) through (Id) above yields an estimate of approximately 46 VWA positions. Estimated personnel costs for VWAs total \$1,028,100 during FY97-98 (1-1-98), and \$1,590,635 during FY98-99. (Same total for 6/25 Committee Substitute).

SECTION I(b) ALLOWING VICTIMS THE OPPORTUNITY TO CONSULT WITH THE PROSECUTING ATTORNEY - JUDICIAL

New G.S. 15A-2012 requires that the DA's office notify victims of their "right to confer with the attorney prosecuting the case about the disposition of the case" (new service). It specifies that prior to case disposition, each victim shall be offered the opportunity to consult with the prosecuting attorney, victim may share their views about "dismissal, plea or negotiations, sentencing, and any pretrial diversion programs." The following analysis estimates only the additional assistant district attorney (ADA) resources needed to actually conduct these consultations, and makes two conservative assumptions: (a) assume that only 75% of these 26,524 victims, who request notification of court proceedings and follow up with VWA's or 19,893 victims (45% of the 44,133 total victims) will meet with the prosecuting attorney; and (b) assume that the consultations with ADAs will only require, on average, one additional hour (some D.A.s indicated consultations would often last much longer).

Assuming an average of 1 hour per consultation for the estimated 19,893 victims yields an estimate of 19,893 manhours or 11 ADAs statewide. Estimated personnel costs for the ADA positions total \$372,317 during FY97-98, and \$746,407 during FY98-99. (NOTE: AOC assumed 23,915 or 54% of victims would consult with an attorney - this would require 14 A.D.A.'s).

SECTION I(c) - PROVIDING ENHANCED OPPORTUNITIES FOR PRESENTATION AND CONSIDERATION OF VICTIM IMPACT AND RESTITUTION INFORMATION AT SENTENCING HEARINGS

This section estimates the resources that would be required to implement the provisions of HB 665 relating to the conduct of sentencing hearings and court review of victim impact statements.

(1) Presentation and Consideration of Victim Impact at Sentencing. **The 6/25 Committee Substitute eliminated language giving victims the right to make oral or written impact statements at sentencing; instead the bill now gives the victim the right to offer evidence of the impact of the crime. However, the bill still gives victims the right to prepare victim impact statements and it is assumed that consideration of these statements by judges will continue and still require additional court time as estimated in the 5/26 fiscal note. When used as evidence, statements may include a description of the nature and extent of any physical, psychological, or emotional injury suffered by the victim, an explanation of any economic or property loss suffered by the victim, their need for restitution, and the victim's recommendation of an appropriate sentence. The following analysis estimates resource needs due to the additional in-court time for review of victim impact statements and court time for review when used as evidence.** The analysis assumes that 75% of all identified victims will desire to prepare and submit a victim impact statement. Current percentage is 50 % of victims who request Victim Impact Statements actually submit statements but it is assumed, as noted earlier, that since this bill covers only serious felonies that more victims will want to submit statements. For example, many of the current "50%" fill out statements for property loss as a result of misdemeanors and little followup is made with victims now on missing statements.

Assuming 75% of all 44,133 victims, or 33,100 victims, will desire to submit a victim impact statement either orally or in writing, and using an estimated conviction rate of 70%, yields an estimate of 23,170 victims (53% of victims). It is estimated by the AOC that 75% of 23,170 will have statements reviewed by court at 7 minutes each (2,027 hrs.) and that 25% of 23,170 will have statements used as evidence in court at 13 minutes each (1,255 hours). This includes time for review of statements generally and for consideration of victim impact statements to be used for evidence.

It is estimated that 3,282 additional in-court hours will be devoted to fulfilling the right granted by HB 665 for victims to make victim impact statements and for consideration of those statements as evidence when sentencing defendants. These hours increase slightly due to 6/25 committee substitute - - it is assumed approximately the same amount of court time will be needed. These 3,282 hours still represent the equivalent of about 2 positions each for superior court judges (the bulk of these convictions and sentencing hearings will take place in superior court), ADAs, deputy clerks, and court reporters. Personnel costs for these positions, as well as estimates of the increased indigent defense costs in these cases, are presented at the end of this section.

(2) Presentation and Consideration of Restitution Information at Sentencing. **New G.S. 15A-2014 addresses issues of restitution, and provides that the court shall require that defendants make restitution to victims for damages they caused.** (Current statutes do not require restitution). **(House Committee Substitute 6/25 clarified that restitution must be ordered in every case with a conviction for offenses covered under HB 665).** The presumption underlying G.S. 15A-2014, that restitution will be ordered, translates into more in-court time for the court to consider restitution issues. The treatment of restitution for victims in HB 665 is more expansive than that addressed in G.S. 15A-1343(d) ["restitution as a condition of probation"]. It specifically describes as eligible expenses medical and other professional services, devices, or equipment for the victim; physical therapy, occupational therapy, and rehabilitation for the victim; after-tax income loss suffered by the victim; costs for the victim's funeral and related expenses; and psychological or medical treatment for the victim's next of kin (defined in the bill as the victim's non-offender spouse, children, parents, or sibling).

New G.S. 15A-2014 also states that the court may require documentation for such costs. G.S. 15A-2014(c) authorizes the court to consider all of the defendant's real and personal property, when deciding *whether* to require that restitution be made. Finally, the bill requires that the court state reasons on the record if restitution is only partial restitution is ordered. This analysis estimates the additional in-court time that

would be required to implement these provisions relating to restitution.

House Committee Substitute 6/25 requires restitution in every convicted case, thus slightly increasing the population of victims likely to receive restitution (5/26 fiscal note for HB 665 on 5/20 Committee Substitute assumed restitution would only be ordered in cases in which a victim impact statement was submitted and a conviction was made). Therefore, it is assumed that 30,893 victims (70% conviction rate applied to all victims - - 44,133 - - not just those making victim impact statements) represent the subset of victims for whom the court will spend significant additional time considering issues of restitution. For the most part, these are the victims for whom the court will have detailed information about economic losses that were suffered. HB 665 specifically lists certain eligible expenses, as outlined above, that represent fairly expansive views of restitution, such as after-tax losses and some items that are unrelated to the victim -- specifically, psychological or medical treatment for the victim's next of kin. Consideration of restitution issues at sentencing hearings, particularly for these non-victim expenses, may sometimes escalate into civil hearings on the issue of damages, to determine causality or to debate allowable or reasonable costs. Further, requiring that reasons be stated for the record whenever only partial restitution is ordered clearly represents additional in-court time at sentencing hearings. Finally, the bill specifically authorizes the court to require evidence documenting requested restitution amounts, and the scrutiny and evaluation of such documents by the court will certainly require additional time. We estimate an average minimum additional time involvement of 10 to 15 minutes, and therefore use a conservative figure of 12 minutes in the following analysis.

Assuming 12 additional minutes per sentencing hearing for an estimated 30,893 victims yields an estimate of 6,179 additional in-court hours for consideration of restitution issues at sentencing.

Estimated additional personnel and indigent defense costs for the anticipated increased length of sentencing hearings are based on estimated court time state-wide. Adding estimates in (1) and (2) above, yields 9,461 additional court hours for HB 665 Comm. Sub. 6/25 during a one-year period (9268/1800 hours = 5 positions of each type listed below needed in court - an increase of 4 positions over the 5/26 fiscal note).

	Personnel Needs:					
	<u>5 Superior Court Judges</u>	<u>5 ADAs</u>	<u>5 Deputy Clerks</u>	<u>5 Court Reporters</u>	<u>Indigent* Defense</u>	<u>Total</u>
FY 97-98 (1/1)	\$422,240	\$169,235	\$69,115	\$125,970	\$182,825	\$969,385

***Indigent Defense - - It is assumed that 75% of the defendants in these serious cases are indigent (current practice) and will be represented by court-appointed counsel. Conservatively assuming an average fee of \$50 per hour, the estimated costs of court-appointed counsel for the additional hours totals \$182,825 (1-1-98).**

SECTION I(d.) - - DOCKETING JUDGMENTS FOR RESTITUTION

New G.S. 15A-2015 requires that orders of restitution be docketed with the clerk of superior court

and may be collected in the same manner as civil judgments (new requirement and clerk duty). This provision would have an impact on the courts since clerks would be responsible for ensuring that civil judgments for restitution are appropriately docketed and processed. It is assumed that HB 665 is intended to apply only to restitution orders for victims of the crimes covered by the bill. (AOC did an alternative analysis that estimated an additional cost if judgments were documented in all criminal cases).

No change is anticipated in cost due to clarifying procedures on docketing of restitution in the HB 665 6/25 Committee Substitute. The original fiscal analysis assumed that the restitution order would be docketed and indexed as a judgment immediately following sentencing (cases such as worthless check waivers, in which restitution is ordered and paid immediately, are *not* included). It was also assumed that clerks will not be required to post on the civil judgment docket each partial payment that a defendant makes pursuant to a payment schedule. This could take an inordinate amount of time over several years. **However, requiring restitution in each case will increase manhours and cost above original fiscal note estimate.**

Based on interviews with clerks and AOC personnel familiar with clerk operations, our analyses use a minimum estimate of 21 minutes as the average additional time investment by clerks for each restitution order that becomes a civil judgment. Everyone contacted stressed that, in addition to the increase in paperwork, record-keeping, and bookkeeping duties that would be involved, time would be devoted to answering questions from and assisting both victims and defendants concerning the meaning of the civil judgment, and the procedures that may be followed after the judgment is *entered*. However, the majority of this 21 minutes is for basic administrative duties associated with judgments.

It is estimated that 30,893 victims (cases with convictions) will have restitution ordered. At 21 minutes per judgment, an additional 10,813 hours would be invested by deputy clerks, or approximately 6 new deputy clerk positions statewide. Estimated personnel costs for 6 deputy clerk positions total \$82,938 during FY 97-98 (1-1-98) and \$157,780 in 1998-99. (6/25 House Committee Substitute added 2 positions since restitution now required in all cases affected by HB 665)

Section I(e) -- DISTRICT ATTORNEY CASE MANAGEMENT SYSTEM

The AOC is in the process of providing an automated case management system to district attorneys throughout the state. This system, referred to as CMS, requires Local Area Network (LAN) connectivity because it downloads criminal case activity information from the central Court Information System to DAs' offices on a daily basis. To provide the victims' services in HB 665, it is anticipated that CMS will be modified to accommodate victim information and other VWA data needs, and that it will serve as the primary record-keeping and notification-generation system that VWAs will use. This section itemizes costs for modifying and maintaining CMS for this purpose, as well as costs that would be necessary to connect the 16 DA offices that have not yet been connected to the LAN.

The AOC estimated costs for 16 DA offices to achieve LAN connectivity that enables implementation of CMS for use by VWAs is \$40,000 per site, or a total of \$640,000. The AOC also estimated costs for establishing seven positions to develop and modify a "victims system" for tracking and notification of victims services and for use in compiling victims information. FRD reviewed the AOC's CMS proposal within the context of AOC budget requests and believes a portion of these positions would be necessary to maintain the entire CMS, not just the portion devoted to the victims services module. **FRD agrees the installation of the CMS in 16 remaining counties will include activities not associated with this bill, but that such installation is necessary to keep overall "victims rights" manpower costs down. However, we have reduced the number of staff to reflect only the victims services responsibilities.**

FRD has estimated the number of positions to develop, operate and install and follow-up at four the first year of the system and two the second; it is assumed that the bulk of the work will occur the first year and will not require ongoing support just for the victims services module. Cost estimates are summarized below:

Summary of Fiscal Impact of HB 665 D.A. Case Management System					
	<u>1997-98</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
1. Case Management System	\$640,000 NR	0	0	0	0
2. Personnel*	105,628	87,461	90,435	93,600	96,969
a. Applic/Prog.	(2)	(1)	(1)	(1)	(1)
b. LAN Support Staff	94,492	75,946	78,528	81,277	84,203
	(2)	(1)	(1)	(1)	(1)
TOTAL	\$840,120	\$163,407	\$168,963	\$174,877	\$181,172
	(4)	(2)	(2)	(2)	(2)
*1-1-98					

Section I(f) -- POSTAGE AND RELATED EXPENSES

This section provides cost estimates for a variety of non-personnel items, including postage, development and printing of a brochure to be distributed to victims at the time of the initial mailing, letterhead pages and envelopes for mail correspondence, and forms and other documentation materials cost estimates are.

97-98 (1-1-98)

Postage	\$ 33,321 (55¢ initial mailing; 32¢ thereafter)
Envelopes/Letterhead	12,149
Brochure	6,000 (includes 50,000 copies) (\$5,296 - 98-99)
Docket Forms	<u>7,299</u> (.70 per judgment for forms and other documents)
	\$58,769

Section I(g) -- POTENTIAL REVENUES TO THE CRIME VICTIMS' RIGHTS FUND

HB 665 creates a special fund, separate from the General Fund, to provide reimbursement for victims rights services to law enforcement agencies. This section of the note provides a tentative analysis of the potential revenues that would be generated pursuant to the assessments authorized by HB 665. Pursuant to new G.S. 15A-2026, an assessment of \$30 to be paid by defendants convicted of a felony, a Class 1 or A1 misdemeanor, or a Chapter 20 impaired driving offense.

AOC estimates that about 160,700 defendants were convicted during 1996 of the crimes qualifying for the \$30 assessment. This suggests a tentative annual "theoretical maximum" revenue amount of \$4,821,000.. **Collections are likely to be significantly less than 100% and there is no rationale for estimating a specific collection rate. As examples, if the collection rate were 75%, revenues would be \$3,615,750, if the collection rate were 50%, revenues would be \$2,410,500.** Because the bill requires that this assessment be the first monies collected from installment payments, it is quite likely that there would be some decline in collections on other obligations such as fines, costs, restitution, and probation oversight fees. We are unable, however, to estimate the extent and nature of such decreases.

FRD contacted several states that have set up Crime Victims Funds. The State of Michigan estimates that 44% of assessments are collected (bulk of funds from misdemeanants). If 44% of \$4,821,000 were collected in North Carolina, the total would be \$2,121,240.

NOTE: 6/25 House Committee Substitute establishes assessment starting date as August 1, 1997. This will reduce estimated annual figures, depending on collection rate, for 1997-98 only to \$4,416,036 (100%); \$2,208,018 (50%); \$1,943,056 (44%); and \$1,457,292 (33%).

Section I(h) – REVENUE AS FIRST PRIORITY (6-25 COMM. SUB.)

The provisions contained in Sections 2.1 of the proposed committee substitute except restitution judgments from eligibility for the statutory exemptions generally applicable for executions of civil judgments. Section 2.2 changes the disbursement hierarchy for restitution in G.S. 7A-304(d) from fourth to first priority and moves costs due county, costs due county and fines to county school fund from first, second, and third respectively to second, third and fourth. Both of these features were present in HB 217, and the fiscal estimate is the same for HB 665 as in the HB 217 fiscal note. The following table highlights the impact of restitution as first priority.

Receipt Type	AFFECTED AMOUNTS			
	Actual Collected (1995-96)	What-If Collected	Statewide Estimates Monetary Change	Percent Change
Prob/par supvn & comm svcs fees	\$9,567	\$1,486	(8,081)	-84.47%
Costs due the county	\$362,493	\$47,035	(\$315,458)	-87.02%
Costs due the city	\$45,827	\$5,243	(\$40,582)	-88.55%
Fines to county school fund	\$685,470	\$147,193	(\$538,277)	-78.53%
Restitution	\$6,912,969	\$7,882,901	\$969,932	14.03%
Costs due the State	\$24,178	\$4,004	(\$20,174)	-83.44%
Attorney's fees	\$57,438	\$9,918	(\$47,520)	-82.73%
	\$8,097,942	\$8,097,782	(\$160)	0.00%

In order to determine the impact from such a change, analysis was done on historical data. The following items were considered in selecting the data from the AOC Financial Management System (FMS):

- use only counties operating on the FMS for an entire fiscal year
 - the most recent fiscal year is 1995-1996
 - 59 counties were operating the entire year, representing 88% of statewide receipt volume
- use all accounts on cases with Bills of Cost entered into FMS during the fiscal year and all accounts on cases with a remaining balance due at the beginning of the fiscal year.
- determine the total amounts due and collected for cases that would not be affected by the proposed legislation
 - accounts on cases paid in full during the fiscal year
 - accounts on cases without Restitution
 - accounts on cases with no payments made during the fiscal year
 - accounts on cases where Restitution priority is already 'one'
 - cases where Restitution was paid in full
- compare 'before' and 'after' versions of cases that would be affected by the proposed legislation
 - cases where Restitution is not first priority
 - and where Restitution has not been paid in full

In sum, these tables suggest the following: assuming no change in the frequency or amounts of restitution ordered and no change in the total amounts collected from defendants, we estimate additional restitution amounts collected and distributed to aggrieved parties during a one-year period would total \$969,933. Further, we estimate that the increased restitution funds would represent a “shifting” of funds from other categories of receipts, as shown in the above table, and summarized as follows: fines to the county school fund, reduced by over \$500,000; costs due the county, reduced by over \$300,000; attorney’s fees, reduced by nearly \$50,000; costs due the city, reduced by over \$40,000; and costs due the State, reduced by over \$20,000.

The limitations of this analysis must be stressed, however, in light of the fact that the bill will result in an increase in the frequency with which restitution is ordered, which would likely be accompanied by a greater reduction in funds distributed for purposes other than restitution.

**JUDICIAL DEPARTMENT - SUMMARY OF METHODOLOGY
FOR CALCULATING STAFFING REQUIREMENTS DUE TO HB 665**

This chart summarizes the calculations for estimating the number of victims that will receive services from the Judicial Branch. It is assumed that all victims must receive the initial information, while smaller percentages, or subsets of the total number of victims, will request additional services from the Judicial Branch.

<u># Victims*</u>	<u>Service</u>	<u>Result**</u>
1. 44,133 (<u>All</u>)	Expanded Information Packet and followup	4 new VWA's (7,356 manhours)
2. 33,100 (75%)	Victims, if requested, will be notified of <u>all</u> court proceedings	15 new VWA's (31,261 manhours)
3. 26,524 (60%)	Victims will spend average of 100 <u>new</u> minutes with VWA's	25 new VWA's (44,207 manhours)
4. 23,170 (53%) (convictions)	AOC to provide victim information to DOC	2 new VWA's (3,862 manhours)
5. a. 23,170 (53%) (cases with convictions will have V.I.S.)	a. Present Victim Impact Statement as Evidence in court or for review by judge	5 of each, or 20, due to increased court time: (9,461 court hours) 1. Superior Court Judge 2. Deputy Clerk 3. A.D.A. 4. Court Reporter
b. 30,893 (70%) (Restitution ordered)***	b. Restitution hearing (impact is longer court time - average is 12 minutes)	
c. 30,893 (70%) (Restitution)***	c. Docket judgments for restitution	6 deputy clerks (10,813 manhours)
6. 19,893 (45%)	Confer with Attorney (1 hour each)	11 A.D.A.'s (19,893 manhours)

*#1 assumes 27,583 cases involved offenses listed in HB 665 and 1.6 victims per case, or, 44,133 victims of felonies in HB 665. The Judicial Department assumed a higher number of victims would require services in items 2-6; FRD adjusted numbers in 2-6 downward based on experiences in other states.

** (1800 hours per position); total positions = 87 (including 4 data processing personnel; 46 VWA's; 11 deputy clerks; 16 A.D.A.'s; 5 superior court judges; and 5 court reporters).

*****Increase due to 6/25 Committee Substitute.**

SECTION II - DEPARTMENT OF CORRECTION

Summary of Fiscal Impact of HB 665
Department of Correction

	<u>1997-98**</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
1. Automation					
a. Personnel (1)	\$ 39,853	\$ 69,625	\$ 71,993	\$ 74,513	\$ 77,195
b. System Software Changes	182,000	0	0	0	0
2. DAPP Personnel (4)*	110,909	144,321	149,227	154,450	160,011
3. Postage and Supplies	<u>4,116</u>	<u>10,533</u>	<u>12,869</u>	<u>15,117</u>	<u>17,394</u>
TOTAL	\$336,878	\$224,479	\$234,089	\$244,080	\$254,600
	(5)	(5)	(5)	(5)	(5)

*DAPP is Division of Adult Probation and Parole.

**1-1-98 effective date

NOTE: Inflation is added for 1989-99 through 2001-02.

ASSUMPTIONS AND METHODOLOGY:

DOC has two major areas of responsibility for victims of offenses covered under HB 665:

- (1) Notification of all prisoner activity – release dates; transfers to minimum security; reduction of minimum sentences (Fair Sentencing Act only); escapes; and releases. (all but escapes and releases are new).
- (2) Notifications of victims of all probationer activity, (new requirement) including:
 - a. Hearings on probation revocations
 - b. Final disposition of probation revocation
 - c. Probation “absconders” (leaving court jurisdiction without permission)
 - d. Captures of absconders
 - e. Probation discharge date
 - f. Supervision requirements and special conditions (added 5/20 Comm. Sub.)
 - g. defendant movement in/out of house arrest with EHA and in/out of intensive supervision (5-20).
 - h. defendant movement in/out of intermediate status (**added 6/25 Comm. Sub.**)

Cost assumptions and methodology are as follows:

1. It is assumed the intent of HB 665 is for victims to request notification (6/25 Comm. Sub. added language requiring victims to request any posttrial proceedings which was interpreted to include DOC); it is assumed 75% of victims will request notices because of the seriousness of crimes covered under HB 665.
2. The activities required of the Division of Adult Probation and Parole in new G.S. are new activities not currently handled by the Department (exception is pilot program in two Judicial Districts). The notifications required for prisoner activities Division of Prisons are a mix of current and new activities (e.g. victims are notified of releases from custody of most high level felons).

3. Work Volumes (Prison Custody) - - Based on an analysis of likely release or transfer activity of Fair Sentencing and Structured Sentencing inmates, DOC Research and Planning calculated the following number of custody notifications of victims (assumes 75% will require notification and services at 1.6 victims per case).

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
DOC Est. Notice Assume 75% request	4,332	5,984	7,631	8,452	8,523
Assume 1.6 victims *1-1-98 = 2,599	5,198*	7,180	9,157	10,142	10,227

Custody Notifications are:

- (1) Notification of earliest release date and victims "rights"
- (2) Promotion of an inmate from medium to minimum custody
- (3) Date of expected release (other notifications are already being sent or are of negligible volumes).

Also, notices will be sent for the small number of escapes from DOC custody.

4. Work Volumes - Probation notifications. Based on an analysis of felony offenders under HB 665 by DOC Research and Planning, it is estimated that the following number of probation supervision notifications will be required:

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
DOC's Est. Notice Assume 75%	13,258	15,910	19,092	22,910	27,492
Assume 1.6 Victims *1/1/98 = 7,955	15,910	19,092	22,910	27,492	32,991

Probation volumes are based on notices of:

- (1) #revocation hearings
- (2) # revocation dispositions
- (3) # absconds
- (4) # captures
- (5) # discharge from probation
- (6) supervision requirements (5-20 Comm. Sub.)
- (7) defendants movement in/out of EHA and intensive supervision (5-20 Com. Sub.)

5. Cost Analysis

- a. Postage and Materials (Use Volumes from #3 and 4)

	<u>1997-98*</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
Custody	2,599	7,180	9,157	10,142	10,227
Probation	7,955	19,092	22,910	27,492	32,991
Total	10,554	26,272	32,067	37,634	43,218
Letter, Env., Postage	x .39	x .39	x .39	x .39	x .39
Total *(1-1-98)	\$4,116	\$10,246	\$12,506	\$14,677	\$16,855

NOTE: Total at front of this section adds inflation for 1998-99 and beyond.

b. Personnel

- (1) Assume 2800 hours to develop new "Victims Module" for DOC automated system (for Prisons, Probation and Parole and Parole Commission) – Involves 7 databases/22 programs (option would be more personnel/no automation change). Cost would be \$182,000 for contractors.
- (2) Assume 1 system analyst position to develop and maintain a victim database and assist the contractor in development. Cost would be \$73,521 for one position in 97-98.
- (3) Division of Adult Probation and Parole (DAPP) Personnel - HB 665 does not specify responsibility for providing victim information to DAPP. However, this note assumes that AOC and law enforcement will provide victim information to DAPP – otherwise the number of DAPP positions would increase by 2 as DAPP would be required to obtain information from multiple sources – law enforcement, courts, victims - - and develop their own victim impact statements for revocation hearings and "release" decision points. The lower position numbers also assume automation of a new "victims module".

FRD assumes 3 positions for notification events (Office Assistants) and routine mailing, processing and data entry and 1 Victim Assistance coordinator for DAPP (1942 hours for ongoing responsibilities – data entry, discussions with victims; maintenance and update of database – and 2,634 hours for notifications to victims (adjusted by FRD to 10 minutes per event for notification of all events - hearings, captures, discharges etc.) – for a total of 4,576 hours x 1.6 victims = 7,321 hours/1,800 hours per position = 4 positions). **(Note: committee substitute of 5/20 doubled notification hours and increased personnel by 1)**

DAPP position costs for 97-98 are:

45,706 Office Asst. III (no computer control unit)
51,271 Office Asst. III (Includes computer/office equipment)
45,706 Office Asst. III (No computer control unit)
49,409 Victims Coordinator
\$192,092 (1-1-98 = \$110,909 (R&NR))

(NOTE: FRD excluded funds for postage and most supplies for positions since such costs are identified separately in this note).

(NOTE : 6/25 Committee Substitute also added (1) an additional notice required when offender moves in/out of intermediate probation (computer will automatically generate notice) and (2) required AOC to send sentencing information to DOC – this will require DOC to key additional information into their OPUS system. In both instances, DOC believes these tasks can be handled within the current fiscal note funding estimate.

**SECTION III - DEPARTMENT OF JUSTICE (DOJ)
(ATTORNEY GENERALS OFFICE)**

	Summary of Fiscal Impact of HB 665				
	Department of Justice				
	<u>1997-98</u> *	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
1. Position	\$21,728	\$34,592	\$35,769	\$37,021	\$38,353
2. Pamphlet	200	99	102	105	108
3. Materials and Postage	<u>375</u>	<u>771</u>	<u>793</u>	<u>817</u>	<u>843</u>
TOTAL	\$22,303	\$35,462	\$36,664	\$37,943	\$39,304
*1-1-98 effective date					

ASSUMPTIONS AND METHODOLOGY:

Section 1 (G.S. 15A-2016 (b)) of HB 665 requires the Attorney Generals Office, if a case covered by HB 665 is appealed to the Court of Appeals or the Supreme Court, to contact the victim and provide:

- (1) An explanation of how the appellate process works, including possible actions that could be taken and,
- (2) Notice of date, time, and place of any appellate proceedings
- (3) Final disposition of appeal

Cost assumptions and methodology are as follows:

1. The victims services required in HB 665 are new services not required by current statutes and not carried out now by DOJ.
2. The number of felony appeals is estimated at 700 annually by DOJ. FRD has assumed 600 offenses will be covered under this bill (“**upon request**” language added in 6/25 Comm. Sub. could slightly lower this number and cost).
3. A pamphlet or form letter will need to be developed for providing information on the appeal process; cost of pamphlet is estimated at \$200 cost (includes 960 copies and developing pamphlet in 97-98; 600 per year will be $600 \times 1.6 = 960 \times .10 = \96 in subsequent years).
4. It is estimated that there will be an average of 2 hearings requiring a notification for each hearing added to the initial notification about the appeal process (600×1.6 victims $\times 2$ notifications = 1,920 notices annually).
5. It is estimated one position - a paralegal position - will be needed to provide these new services and to handle interpersonal contact with victims likely to be generated by these new services.
6. Cost calculations:
 - A. Pamphlet - \$200 to develop and print year one; $.10$ per copy $\times 960$ subsequent years = \$96
 - B. Mailing and postage for 2 notifications (1,920 Victims) $\times .39$ (letter, envelope and .32 postage) = \$750 (\$375 in 97-98)
 - C. Position Costs - Assume Jan. 1, 1998 for a ParaLegal II position. Cost is \$21,728 in 97-98 (1-1-98 (\$33,455 recurring and \$5,000 non-recurring) and \$33,455 recurring in subsequent years.

SECTION IV - OFFICE OF THE GOVERNOR

**Summary of Fiscal Impact of HB 665
Office of the Governor**

1997-98 1998-99 1999-2000 2000-01 2001-02

No Fiscal Impact

ASSUMPTIONS AND METHODOLOGY:

G.S. 15A-2019 requires the Governor to notify a victim if the Governor is considering commutations or pardons. It also requires the Governor to allow victims to present written statements before a sentence is commuted or a defendant is pardoned.

There is no fiscal impact since the victim services in HB 665 generally reflect current practices by the Office of the Governor and DOC/Parole Commission for victims of the most serious offenses.

SECTION V - LAW ENFORCEMENT

Summary of Fiscal Impact of HB 665 Law Enforcement**					
	<u>1997-98*</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>
1. Pamphlet (all victims)	\$ 4,000	\$ 2,594	\$ 2,669	\$ 2,749	\$ 2,837
2. Materials and Postage	32,127	66,056	67,972	70,011	72,251
3. Personnel (27)	<u>405,000</u>	<u>781,704</u>	<u>808,282</u>	<u>836,572</u>	<u>866,688</u>
TOTAL	\$441,127	\$850,354	\$878,923	\$909,332	\$941,776

*1-1-98 effective date
**Includes inflation factors for each year

ASSUMPTIONS AND METHODOLOGY:

HB 665 requires victim services from law enforcement agencies at several stages (**6/25 Comm. Sub. clarified times at which information is to be provided and differentiated responsibility of investigating versus arresting agency**). (“current” requirement “if resources available; “new” indicates new requirement for law enforcement under HB 665). **Five major required steps are:**

- (1) Within 24 hours after identifying a victim, a law enforcement agency must provide a victim with information on:
 - a. Medical services available to victim (current)
 - b. Victims Compensation Fund (current)
 - c. District Attorney’s office address and phone number (new)
 - d. Address and phone number of law enforcement employee to contact if not notified of an arrest within six months (new)
 - e. Offenders opportunity for pre-trial release. (new)
 - f. Contact information where victim can get information on offenders release (new)
- (2) Within 24 hours after an arrest, the arresting law enforcement agency must notify the investigating agency of the arrest. (new)
- (3) Within 24 hours after notification by the arresting agency, the investigating agency must provide victim information to the appropriate district attorneys office.
- (4) Notify the victim of the arrest (**if requested—6/25 Comm. Sub.**) (new).
- (5) Notify the victim of releases and escapes (**if requested – 6/25 Comm. Sub.**)

Assumptions and Methodology are:

- (1) Using data from Division of Criminal Information, State Bureau of Investigation, it is estimated that there were 129,733 victims in 1996 that correlate to offenses outlined in HB 665 (This is higher number than used for 5/26 fiscal note, which was 93,014 victims. This increase is not the result of HB 665 Comm. Sub - - 6/25. **Fiscal Research reviewed original computer runs and was able to better clarify offenses likely to be covered under this bill and delete most misdemeanor offenses that were pulled in the first time**). However, this number must still be qualified since DCI counts of criminal offenses cannot be matched exactly by felony and misdemeanor.

- (2) **This 129,733 population applies only to the first stage of the process - providing victims with information 24 hours after an incident. For stages 2-4, which apply only to arrests, we estimate a population of 28,541.** FRD reviewed SBI state wide arrest records (state and local law enforcement) for 1992 - 1996 and found that approximately 22% of Index Crime offenses are cleared, usually by arrest, thus assuming 22% of (129,733) offenses would result in 28,541 arrests for offenses in HB 665.
- (3) Given the difficulty of determining what services 600+ local entities are currently providing, this fiscal note assumes only limited services are provided to victims now by law enforcement, as resources are available, under the current Fair Treatment Act.
- (4) Cost estimates are statewide based on estimated manhours statewide. Costs include state law enforcement, but most of victims/offenses are local law enforcement (sheriffs/police).
- (5) Personnel -- assume \$30,000 per position first year (\$2,000 equipment and \$28,000 subsequent years) total includes salary and benefits. (This is a general salary estimate developed after reviewing (1) State clerical position costs and (2) salary costs for deputy sheriff I positions, in the "County Salaries 1996" document.)

COST ANALYSIS:

- (1) Stage 1 - Provide information to all victims within 24 hours of incident (129,733 victims):
 - a. **Pamphlet/Brochure** - Assume law enforcement will have to develop material giving victims basic information. FRD priced a two-fold brochure at approximately \$4,000 for 130,000 copies and assumed one general brochure would be used statewide. (1) brochure \$4,000 (one-time) to develop; (2) 129,733 victims annually x .02 per brochure in 98-99 and subsequent years = \$2,594 and (3) 64,867 victims annually x .39 = \$25,298 (assume 50% of victims can be given material at time of crime so only 50% will be mailed; .39 is letter, envelope, and postage (excludes inflation which is added to figures in table).

NOTE #1: Letter/form could be used in place of brochure to reduce cost.

NOTE #2: If all counties, cities and towns developed their own brochures, costs could exceed \$100,000 (or more) statewide for development of individual material for 100 counties and 534 towns and cities.
 - b. **Personnel Costs** - Assume average of 15 minutes to explain or collect and mail information and for likely followup by victims at initial stage. Fifteen minutes is used since law enforcement is first point of contact for victim (129,733 x 15 minutes = 32,433 manhours/1800 = 18 positions statewide (assume process not automated in most cases)
- (2) Stage 2 - Arresting agency notifies investigating agency of arrest (28,541 of total population or 22%)
 - a. Mailing /Letter Costs (letter, envelope, postage)
28,541 x .39 postage = \$11,131

(if done by phone, no mailing cost but may increase personnel costs for phone contact)
 - b. Personnel - 28,541 x 10 minutes = 4,757 hours = 3 positions statewide (10 minutes is average for mailing or phone call)

Note #1: May be additional cost for new bond form that would allow magistrate and law enforcement officer to each have copy of victims information.

(3) Stage 3 - Forward victim information to district attorney

a. Mailing/Letter Costs (letter, envelope, postage)

28,541 x .39 = \$11,131

(if done strictly by phone, no mailing cost but may increase personnel costs)

b. Personnel

28,541 victims x 10 min = 4,7571 or two positions (# 2 and 3 combined hours + 5 positions); (10 minutes is average for mailing or phone calls)

(4) Stage 4 - Forward arrest information to victim if requested by victim at stage 1 (assume 75% of victims will want notification of arrest: 28,541 x .75 = 21,406 victims)

a. Mailing/Letter Costs

21,406 x .39 = \$8,348

b. Personnel - 21,406 victims x 10 min. = 3,783 hours/1800 = 2 positions (Note: this may duplicate notices in stage 2 in some cases; if so, manhour and administrative cost would be reduced).

(5) Stage 5 - Notices to victims of releases or escapes.

a. Mailing/Letter Costs

21,206 x .39 = \$8,348

b. Personnel - 21,406 victims x 10 min. = 3,783 hours/1800 = 2 positions

TOTAL STAGES 1-5

	<u>97-98 (1-1-98)</u>
Brochure (Develop/Print)	4,000
Postage and Mailing	32,127
Personnel (27)	<u>405,000</u>
TOTAL	<u>441,127</u>

NOTE: Adjusted totals for stage 1-5 to reflect January 1, 1998 effective date in June 25 Committee Substitute.

TECHNICAL CONSIDERATIONS FOR HB 665, Crime Victims' Rights Act: None

SOURCES OF DATA: Data from the AOC Financial Management System and Court Information System; data from the Sentencing and Policy Advisory Commission; data from the Conference of District Attorneys' survey information and/or interviews with clerks, victim and witness assistants, district attorneys, and probation officers; N.C. General Statutes. SBI data from the Criminal Information System; Department of Correction, including OPUS automated system. Review of Victims Rights programs in other states with National Conference of State Legislators (NCSL); Michigan, Arizona, Utah, Maryland, Ohio, and federal Department of Justice.

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