

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 676 (Committee Substitute)

SHORT TITLE: Sex Offender Laws/Fed. Compliance

SPONSOR(S): Senator Odom

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

Contains Certification of Federal Requirement, cf. GS 120-36.8 YES (X) NO ()
(see pages 3-4)

FY 1997-98 FY 1998-99 FY 1999-00 FY 2000-01 FY 2001-02

GENERAL FUND

Correction

No Reliable Estimate Available

Recurring
Nonrecurring

Judicial

No Reliable Estimate Available

Recurring
Nonrecurring

Justice

Recurring	\$15,650	\$15,650	\$15,650	\$15,650	\$15,650
Nonrecurring	\$131,525				

TOTAL EXPENDITURES	<u>\$147,175</u>	<u>\$15,650</u>	<u>\$15,650</u>	<u>\$15,650</u>	<u>\$15,650</u>
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POSITIONS:

Department of Justice: One (1) position will be needed for the implementation of the statewide registry system.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Dept. of Correction; Judicial Branch; Dept. of Justice.

EFFECTIVE DATE: April 1, 1998.

BILL SUMMARY:

SEX OFFENDER LAWS/FED. COMPLIANCE. TO AMEND THE SEXUAL OFFENDER REGISTRATION PROGRAM TO COMPLY WITH FEDERAL LAW. Revises Art. 27A of GS Ch. 14 regarding registration of persons convicted of sexually violent crimes to extend law's application to persons who commit offenses of kidnapping of minor child, abduction of minor child, felonious restraint of minor child, or false imprisonment of minor child, to revise registration procedures and requirements, and to impose more stringent registration requirements on highly dangerous sex offenders who are determined by court and experts to be sexually violent predators.

Criminal registration program. Procedures and requirements specified in current law (GS 14-208.7 through 14-208.13) apply to criminal registration program, which applies to persons, other than sexually violent predators, convicted of sexually violent offenses and to persons convicted of specified offenses against minors, with the following changes: (1) requires sheriff to send registration information to Div'n of Criminal Statistics *immediately* upon registration or notice of change of offender's address (now, within three days of registration or notice); (2) adds provisions requiring verification of registration information in county registry; (3) rewrites GS 14-208.10 to provide that name, sex, address, physical description, picture, conviction date, offense for which registration was required, sentence imposed, and registration status of offenders in county registry is a public record and is available for public inspection; (4) authorizes sheriff to release additional information necessary to protect public from specific offender but prohibits release of identity of victim of offense; (5) amends GS 14-208.11 to make failure to register, failure to provide notice of change of address, or other violations of statute a class F felony (now, failure to register is a class 3 misdemeanor or class I felony); (6) requires law enforcement officers to immediately seek order for arrest of persons who violate requirements of statute; (7) repeals GS 14-208.12 (exemptions from registration); (8) adds new GS 14-208.12A to terminate registration requirement 10 years after date of initial registration if offender has not been convicted of subsequent offense requiring registration; (9) adds new GS 14-208.14 requiring Div'n of Criminal Statistics to compile central statewide sex offender registry; and (10) adds new GS 14-208.15 regarding public access to information in statewide sex offender registry.

Sexually violent predator registration program. Adds new GS 14-208.20 through 14-208.25 imposing more stringent registration requirements on sexually violent predators. Defines "sexually violent predator" as a person who has been convicted of sexually violent offense (as specified in act) and who suffers from a mental abnormality or personality disorder (as defined by act) that makes the person likely to engage in predatory sexually violent offenses. Defines "predatory" as an act directed at a stranger or at a person with whom a relationship has been established or promoted for primary purpose of victimization. Requires district attorney, in cases involving sexually violent offenses, to give notice of intent to seek classification of defendant as sexually violent predator. Before sentencing person as sexually violent predator, court must order presentence investigation including study of whether defendant is, in opinion of board of experts selected by Dep't of Correction (at least two of whom are experts in field of behavior and treatment of sexual offenders), a sexually violent predator, and make written findings as to whether defendant should be classified as sexually violent predator. Procedures and provisions for registration of sexually violent predators are the same as those specified for criminal registration program except as otherwise specified. Requires that additional information (identifying features, anticipated future residence, offense history, and documentation of treatment for mental abnormality or personality disorder) be obtained from sexually violent predators. Registration requirement for sexually violent predators continues beyond 10 years until court determines that person no longer suffers from mental abnormality or personality disorder that would make person likely to engage in predatory sexually violent offense.

Effective Dec. 1, 1997.¹

MEMORANDUM

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill: Vol. 1997, No. 37.

TO: Senator Odom

FROM: Tom L. Covington, Director, Fiscal Research Division
Andy Willis, Fiscal Analyst

DATE: May 15, 1997

RE: Certificate for Senate Bill 676 "Sex Offender Laws/Federal Compliance"

North Carolina General Statute 120-36.8 requires that each bill that proposes a change in law that is thought to be required to implement a federal law, or is needed to bring the State into compliance with federal law, or is needed in order to qualify for receipt of federal funds, must have attached to it a certificate prepared by the Fiscal Research Division that identifies the federal law in question. Senate Bill 676 "Sex Offender Laws/Federal Compliance" is a bill attempting to bring the state in compliance with federal law and to qualify for receipt of federal funds. The following explanations identifies the federal laws in question and explains why the federal laws makes Senate Bill 676 necessary. This memorandum will serve as the certificate required as identified in North Carolina General Statute 120-36.8.

In 1994, President Clinton signed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. A 1996 amendment to the Wetterling Act, "Megan's Law", requires states to establish public sex offender registries that provide information to the public on violent sex offenders released or paroled from prison.

The Wetterling act calls for a two-tiered registration system. Offenders who have been convicted of (i) a criminal offense against a victim who is a minor or (ii) a sexually violent offense, are to register yearly until 10 years have elapsed from their release from prison, or release on parole or probation. The second tier is reserved for those offenders classified as "sexually violent predators" or offenders who suffer from a personality disorder or mental abnormality that would predispose them to commit violent sexual offenses. Offenders in this category are required to report address information to the appropriate state law enforcement agency every 90 days. They must do so until they no longer suffer from the disorder or abnormality as determined by a state board of experts.

Megan's law stipulates that the registries and the information provided to them be public. Some questions remain about requirements for public notification. Proposed guidelines issued by the U.S. Department of Justice ask states to submit descriptions of their existing or proposed sex offender registration systems to the Bureau of Justice Administration. The submission will be reviewed to determine the status of state compliance and suggestions will be made on how to achieve compliance before the state loses funding. Submissions must be made by July 13, 1997.

The penalty for failure to comply with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act and Megan's Law is a ten percent loss in the amount of Byrne Grant funds received by the State. Presently, the State receives a total of \$12,797,000 in Byrne Grant funds. \$1,279,700 equals ten percent of this total.

It is the opinion of the Fiscal Research Division that Senate Bill 676 will bring the State into compliance with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act and Megan's Law.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Judicial Branch believes this bill may have a fiscal impact on the court system in three areas. The bill may (1) increase the number of offenders who are subject to registration requirements, and who may be prosecuted for violations; (2) increase the punishment level for the criminal offense relating to failure to register, and expand the conduct that would constitute a violation; and (3) establish stricter registration requirements for certain "predatory" offenders, for which longer and/or additional court hearings may be required. Although these three areas may result in an increase in the number of offenses and violations, the Judicial Branch cannot reliably estimate the fiscal impact on the court system. Specifics on each of these three areas are outlined below.

1) Additional types of cases added to registration requirements: Under current law, a person who has a "reportable conviction" must register with the sheriff of the county in which the person resides. This bill would expand the definition of a "reportable conviction" to include an "offense against a minor," which the bill defines as kidnapping (G.S. 14-39), abduction of children (G.S. 14-41), felonious restraint (G.S. 14-43.3), and common law false imprisonment – when committed against a minor and the defendant is not the minor's parent or legal custodian. In calendar year 1996, there were 1,300 defendants charged and 350 defendants convicted of these offenses. However, no estimate is available regarding how many of these offenses were committed against minors (with the exception of 16 charges and two convictions for abduction of children). For the cases that may be affected, the requirement to register may cause some defendants to increase their efforts to contest the charges, thus increasing the time and complexity of the criminal cases. In addition, by increasing the number of offenders who must register, there would be a larger pool of persons who may violate and be prosecuted for violation of the registration requirements.

2) Violation of the registration requirements: Under present law, G.S. 14-208.11, a knowing failure to register is a Class 3 misdemeanor for a first conviction and a Class I felony for subsequent convictions. Under this bill, all violations first and subsequent, would be Class F felonies. In addition, this bill would expand the conduct that would be subject to prosecution under G.S. 14-208.11 to include, in addition to failure to register, failure to notify the Division of Criminal Statistics of a change in address, failure to return a verification notice, and submission of false information. This bill would also add a new subsection to G.S. 14-208.11, which directs probation, parole, and law enforcement officers who know of a violation to immediately seek an order for the person's arrest. The bill would delete G.S. 14-208.12, which gives the court discretion to grant an exemption from the registration requirements.

An expanded pool of offenders may face prosecution of a broader range of conduct, at a punishment level enhanced from misdemeanor or Class I felony levels, to a Class F felony. Law enforcement is directed to seek immediate arrest of all violators. This may cause an increase in the number of prosecutions and trials. The Judicial Branch was unable to determine the extent of these increases.

In 1996, 15 defendants were charged and four were convicted for the misdemeanor offense of failure to register; there were no charges or convictions for the felony offense. However, the Judicial Branch believes these data offer inadequate insight into the impact of either the existing or amended statute. The registration law went into effect on January 1, 1996, and applied to persons convicted or released from penal institutions on or after that

date. As the years progress and more convicted offenders will be released from prison, the total pool of persons who must register may increase. The number of offenders who fail to register may also increase.

3) Predator registration: This bill would establish more stringent registration requirements for a “sexually violent predator”. In 1996, 3,500 defendants were charged and some 1,200 were convicted for “sexually violent offenses”. However, the Judicial Branch has no way to estimate the number of offenders that may fit the definition of and be made subject to the provisions for “sexually violent predators”. For such offenders, there may be additional workloads for district attorneys, superior court judges, defense counsel, and deputy clerks. Since the number of “sexually violent predators” cannot be determined, an reliable estimate of workload cannot be determined.

Department of Correction

Based on the assumptions outlined by the Judicial Branch, the Sentencing and Policy Advisory Commission cannot reliably estimate the number of prisoners that may be added to the state’s prison system. The Judicial Branch cannot estimate the number of convictions that may be associated with this bill. Therefore, an accurate number of inmates that may be incarcerated cannot be determined.

Department of Justice

The Division of Criminal Information (DCI) of the State Bureau of Investigation (SBI) will have to develop various changes to the current Sex Offender Registration Program and associated files due to this bill. In assessing how to carry out the directives of the bill, the DCI researched several options in providing statewide public access to the Sex Offender Registry. The DCI believes the most cost effective means of providing the registry to the public is to provide it on the Internet. There are three sets of costs associated with providing the registry to the public via the Internet. They are as follows:

- 1) The DCI will have to contract with consultants to write and develop program applications for the changes in the current Sex Offender Registration Program. This will involve hiring one project manager for 150 hours at a cost of **\$7,500** (150 hours at \$50 per hour), and one senior applications analyst at a cost of **\$20,250** (450 hours at \$45 per hour). These consultant costs are one time costs. The DCI does not employ anyone that can write and develop the programs and database needed to implement the statewide registry.
- 2) As stated, the DCI notes the easiest and most cost effective way of providing public access to the statewide registry in accordance with this bill is to provide the sex offender registry on the Internet. In order to provide this information on the Internet, a file server (hardware) at a cost of \$30,000 will need to be purchased. Also an ODBC/Relational Server (software) at a cost of \$40,000 is needed. This relational server will query the main sex offender database in the main file server. This ODBC/Relational Server will also handle a large number of requests received through the Internet. Currently, the DCI does not have file servers that have the capability to perform these additional tasks. Software costs are \$2,500. Web/Java (software) is the software that would operate on the file servers and is an Internet specific software. Finally, one time programming and consulting costs in the amount of \$20,000 will be needed to implement the system. Including hardware, software, and consulting costs, one time costs in this area will be **\$92,500**.

Fiscal Research staff researched the possibility of providing this information on an Internet homepage. It was felt this could provide a less costly option. However, due to the amount and type of queries expected, this would not be a viable option. A simple homepage would not be able to store and distribute the amount of information that will be placed on the sex offender registry. Also the use of a single dual pentium server was examined. Instead of entering data into a new server, the DCI has proposed using their existing Unix based

mainframe to store all of the sex offender data. They need a server and software that will interface with this mainframe. By using the Unix based server, information received online from county sheriffs can be readily placed on the Sex Offender Registry on the Internet. The registry will include the following fields of information: name, address, date of release from prison, county of residence, last time address was verified, type of conviction, and when convicted. A person requesting information can query in any of these fields to ascertain the information they are searching for. Due to the complexity of this registry and the potential for a large number of requests, DCI will have to utilize file servers and software like the ones mentioned above.

- 3) In order to maintain the Sex Offender Registry, Fiscal Research staff believes the DCI would hire one, half-time clerical support employee. The bill requires the DCI to assist county sheriffs in mailing out address verification forms to prior convicted sex offenders on a yearly basis, and every 90 days for someone determined to be a sexually violent predator. This clerical support employee would be responsible for assisting all of the county sheriffs in the administration of this task. There are approximately 1,250 persons on the statewide registry. Address verifications occur on the anniversary of the initial registration of the individual. These address verifications will be tracked on a yearly basis for all sex offenders and every 90 days for sexually violent predators. This employee would also be responsible for maintenance of the Sex Offender Registry information on the Internet, processing of new registration forms, answering public requests, and monthly mailings to law enforcement agencies. In addition to these tasks, the individual would also be the national contact for all of North Carolina sex offender registry information. They would answer requests from other states and the Federal Government. This person would also be responsible for quality assurance in keeping accurate information on all of the registrants. Receiving information from 100 county sheriffs should be validated once it is received. One time costs would be \$11,275. Recurring costs, including salary, benefits, and supplies would be \$15,650.

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

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Andy Willis

APPROVED BY: Tom L. Covington

DATE: May 20, 1997.



Signed Copy Located in the NCGA Principal Clerk's Offices