

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 590 1st Edition False Impersonation/Identity Fraud

SHORT TITLE: False Impersonation/Identity Fraud

SPONSOR(S): Senators Fountain Odom; Dan Clodfelter and Virginia Foxx

FISCAL IMPACT

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

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

REVENUES

EXPENDITURES

No fiscal impact.

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch, Department of Correction

EFFECTIVE DATE: December 1, 1999 and applies to offenses committed on or after that date.

BILL SUMMARY:

FALSE IMPERSONATION/IDENTITY FRAUD. TO CREATE THE CRIMINAL OFFENSE OF FALSE IMPERSONATION AND IDENTITY FRAUD. Makes it a Class H felony to use another person's personal identifying information, including the person's name, address, social security number, credit card number, or computer password, to obtain anything of value or to harass another person. Also a Class H felony to obtain such personal identifying information about another person for the purpose of using that information to obtain something of value or to harass the person. Person convicted must be ordered to pay restitution to any victim sufficient to cover all financial loss incurred as the result of the crime. Also makes it a Class 2 misdemeanor to provide a false name or social security number to a law enforcement officer following an arrest. Applies to offenses committed on or after Dec. 1, 1999.

Source: Institute of Government, Daily Bulletin, March 29, 1999.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

Currently, under G.S. 14-100 a defendant for many of the offenses covered in SB 590 could be charged with obtaining or attempting to obtain property by false pretenses. If the value of the property is \$100,000 or more, the offense is punishable as a Class C felony, otherwise the offense is punishable as a Class H felony. During calendar year 1998, 11 defendants were charged under G.S. 14-100 with a Class C felony and 6,311 were charged with a Class H felony. The AOC believes that the vast majority of offenses under this bill would still be charged as Class H felonies, without additional costs to the court system.

There may be some additional defendants under the bill charged with unlawfully obtaining identifying information belonging to another person that would assist in accessing that person's financial resources *with the intent* to unlawfully appropriate financial resources or harrass that person even prior to the use or attempted use of the information. However, the AOC and the Fiscal Research Division do not have any reliable information on which to base an estimate of the fiscal impact of these cases.

Even if these cases are charged under the bill, it would be necessary to prove the defendant obtained the information *with intent* to unlawfully appropriate financial resources or harrass the person prior to an attempted use of the information. This may be difficult because most of the identity fraud cases are noticed when the information is used or attempted to be used to access another person's financial resources unlawfully or when the person is actually harrassed.

The bill also provides a Class 2 misdemeanor for giving a false name or social security number to law enforcement upon arrest and requires restitution upon conviction for financial loss on the part of the victim. Ordering restitution could result in an increase in probation violations for failure to pay and would be associated with higher court costs for probation violation hearings. However, in most cases failure to pay restitution is not in and of itself enough cause to revoke probation.

The Fiscal Research Division believes that the number of additional cases fitting this description would be insignificant in comparison to the current charges under G.S. 14-100 as a Class H felony. The Fiscal Research Division believes that any additional charges brought as a result of this bill beyond those currently charged under G.S. 14-100 as a Class H felony, could be handled with existing resources.

Department of Correction

According to the Sentencing Commission, during Fiscal Year 1997/98 there were 928 Class H felony convictions and 1 Class C felony conviction for obtaining or attempting to obtain property by false pretenses where this was the most serious conviction. However, there is no reliable estimate of the total number of additional charges or convictions that are expected from cases not currently covered including those for harrassment.

If there were 35 new convictions for this offense, approximately 10 offenders would receive an active sentence of 8.3 months and would result in the need for about seven additional prison beds per year. By the second year, probation revocations could result in the need for an additional eight beds per year for a total of 15 beds. This is assuming that these defendants would receive the same types of sentences as all other Class H felony offenders. The Class 2 misdemeanor could not have an impact on the prison population because the longest active sentence provides for only 60 days.

The Fiscal Research Division believes the minimal fiscal impact of this bill could be absorbed with current resources. There is no direct fiscal impact resulting from the passage of this bill because additional beds of this magnitude and their associated costs can be absorbed within the Department of Correction's existing prison bed space.

TECHNICAL CONSIDERATIONS: : House Bill 1279, Financial Identity Fraud, has passed both the House and Senate in different versions. Both versions establish a **Class H** felony penalty for obtaining identifying information on another individual for the purposes of financial or credit transactions or of avoiding legal consequences. There is some overlap between the impact of HB 1279 and SB 590, so that, in these areas, SB 590 would have no impact because a higher penalty will have already been set by HB1279.

FISCAL RESEARCH DIVISION 733-4910

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