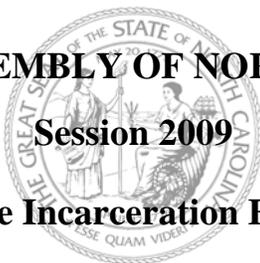


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 2005 (First Edition)
SHORT TITLE: Sex Offender Registry/Name Changes.
SPONSOR(S): Representatives Hilton, Moore, and R. Warren

FISCAL IMPACT table with columns for Yes (X), No ( ), and No Estimate Available (X) across fiscal years 2010-11 to 2014-15. Includes rows for EXPENDITURES (GENERAL FUND, Correction, Probation, Judicial) and Department of Justice (DOJ). Includes notes on assumptions and methodology.

BILL SUMMARY:

This bill amends GS 14-208.7, GS 14-208.9, GS 14-208.9A, and GS 14-208.4. The proposed legislation states that a person required to register as a sex offender must indicate on the initial registration form the name under which the person was convicted for the sex offense. In addition, the registrant must notify the appropriate sheriff of any name change and include the name change as part of the verification procedure. The proposed legislation also appropriates \$10,000 from the General Fund to the Department of Justice for FY 2011-12 to make repairs to the computer system and software in the Division of Criminal Statistics that houses and runs the statewide sex offender registry, so that a search on a registrant by a member of the public can be done using any of the

registrant's names and aliases. Sections 1 through 6 of this act become effective December 1, 2010, and apply to offenses committed on or after that date. The remainder of this act becomes effective July 1, 2010. House Bill 2005 is identical to Senate Bill 1422.

*Source: Bill Digest H.B. 2005 (05/25/2010).*

## **ASSUMPTIONS AND METHODOLOGY:**

### **General**

The North Carolina Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

### **Department of Correction- Division of Prisons**

An analysis of selected sections of H2005 affecting the Department of Correction follows:

#### **Section 1.**

This Section amends G.S. 14-208.7(b) to add (1a), expanding the scope of the existing offense, to include as a Class F felony, failure to indicate on the sex offender registration form the person's name at the time of the conviction for the offense that requires registration; what alias, if any, the person was using at the time of the conviction of that offense; and the name of the person as it appears on the judgment imposing the sentence on the person for the conviction of the offense. In FY 2008-09, there were 316 convictions for failure to register under G.S. 14-208.11(a).

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2008-09, 55% of Class F convictions resulted in active sentences, with an average estimated time served of 19 months. If, for example, there were two additional Class F convictions per year as a result of the proposed broadening of the current statute, the combination of active sentences and probation revocations would result in the need for two additional prison beds the first year and three additional prison beds the second year.

#### **Section 3.**

This Section amends G.S. 14-208.9, by adding subsection (f), expanding the scope of the existing Class F felony, to include failure to report a name change by a person required to register as a sex offender, within 10 days, to the sheriff of the county with whom the person is registered. In FY 2008-09, there were 316 convictions for failure to register under G.S. 14-208.11(a).

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2008-09, 55% of Class F convictions resulted in active sentences, with an average estimated time served of 19 months. If, for example, there were two additional Class F convictions per year as a result of the proposed broadening of the current statute, the combination

of active sentences and probation revocations would result in the need for two additional prison beds the first year and three additional prison beds the second year.

#### **Section 4.**

This section amends G.S. 14-208.9A(a) by adding subsection (3)c, expanding the scope of the existing Class F felony to include failure by a person who is required to register as a sex offender to indicate on his or her verification form whether he or she still uses or intends to use the name under which the person is registered and was last reported to the sheriff or whether he or she has changed his or her name. In FY 2008-09, there were 316 convictions for failure to register under G.S. 14-208.11(a).

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2008-09, 55% of Class F convictions resulted in active sentences, with an average estimated time served of 19 months. If, for example, there were two additional Class F convictions per year as a result of the proposed broadening of the current statute, the combination of active sentences and probation revocations would result in the need for two additional prison beds the first year and three additional prison beds the second year.

#### **Judicial Branch**

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Current law (G.S. 101-6(c)) prohibits a registered sex offender from changing his or her name under Chapter 101 of the General Statutes. This statute was enacted in 2008 (S.L. 2008-218) and effective December 1, 2008 for offenses committed on or after that date. Therefore, there may be a subset of current and future sex offender registrants who are not banned from changing their names under G.S. 101-6(c).

For the purposes of projecting impact on court resources, AOC states that a potential issue could be the number of sex offenders who would fail to provide all names/aliases for registration and would be charged with the Class F felony. AOC cannot project the number of sex offenders who would otherwise register, but who would fail to register by failing to provide this new information.

In FY 2008-09, there were 633 defendants charged with the Class F offense of failing to register as a sex offender under G.S. 14-208.11(a). Of these, 316 (316/633) were convicted of a Class F offense of failing to register as a sex offender under G.S. 14-208.11(a). For every new Class F charge generated by this legislation, the cost would range from \$1,144 to \$11,303 for court personnel, depending on mode of disposition of the case (plea, trial, etc.). Costs for indigent defense services would average \$885 per indigent defendant. Costs are based on 2008 trial, plea, and indigency rates for defendants convicted of the same offense class. Indigent defense costs are based on a 2005 report by the Office of Indigent Defense Services using a 2004-05 sample of

Superior Court fee applications. In FY 2007 08, a typical felony case took approximately 203 days to dispose in Superior Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

**Department of Justice**

After reviewing the proposed legislation, the Department of Justice (DOJ) estimates that any system changes could be managed with existing resources. Therefore, this act will not have a fiscal impact on DOJ.

**SOURCES OF DATA:** NC Sentencing and Policy Advisory Commission; Judicial Branch; Department of Justice

**TECHNICAL CONSIDERATIONS:** G.S. 14 208.11 lists the actions by registered sex offenders that constitute Class F felonies, such as failing to register, failing to verify address, and failing to update online identifiers. This bill does not amend G.S. 14 208.11 to include failure to notify of any name changes.

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**DATE:** June 7, 2010



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