

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 813, 4th Edition
SHORT TITLE: Prohibit Cyberstalking/Treat Domestic Violence
SPONSOR(S): Rep. Hensley original Bill /Sen. Clodfelter Senate Committee Substitute

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>
REVENUES					NONE
EXPENDITURES	May be minor impact on County Jails (No estimate available) May be minor impact on DOC expenditures for misdemeanants held in county jails (Can be absorbed) May be impact on Judicial Branch workload (Can be absorbed)				
POSITIONS:					NONE
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Judicial Branch, Department of Correction, County Jails				
EFFECTIVE DATE:	December 1, 2000 applies to offenses on or after that date				

BILL SUMMARY: Section 1 makes cyberstalking a Class 2 misdemeanor by adding to GS 14-196 (telephone harassment). Cyberstalking is defined as using electronic mail or communication to threaten bodily harm, for extortion, for the purpose of abusing, annoying, threatening, terrifying, harassing or embarrassing, or to communicate false statement. It is also a violation to permit an electronic device to be used for prohibited purposes. Sections 3-5 clarify that GS 14-453—455 and GS 14-458 which make damage, trespass or unauthorized access to computer systems a Class G felony (if over \$1,000)/Class 1 Misdemeanor, apply to unlawful access or damage to computer programs and by electronic mail (e.g. computer viruses). Section 6 extends GS 14-456, which prohibits denying access to computer systems by authorized users, to computer programs. Sections 2 and 7 make conforming changes in existing statutes. Section 8 adds to the list of special conditions of probation the option of ordering an offender guilty of domestic violence to attend an approved abuser treatment program. Section 9 removes the

requirement that a program ordered under GS 50B be available within reasonable distance of the party's residence as criteria for ordering an offender to participate.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction/County Jails

Section 1 follows the language in the existing telephone harassment statute to define cyberstalking. This language has been interpreted narrowly by the courts. In 1998-9, there were 754 convictions under the telephone harassment laws with 60 active sentences averaging 36 days. The maximum active sentence for a Class 2 Misdemeanor is 60 days.

Because this is a new offense, the Sentencing Commission does not have any data on which to estimate the impact on the prison population. However, Class 2 Misdemeanants would be confined in county jails. For sentences 30 days or less, the county bears the cost. For longer sentences, the Department of Correction will reimburse counties \$18/day. If the data on telephone harassment are an indicator, we would expect some active sentences to be served in county jails. We are unable to assign a dollar estimate to this impact and anticipate these addition offenders can be absorbed in county jail populations. DOC spends over \$10 Million per year to reimburse counties for misdemeanants and this would be a minor impact on the total. They are authorized to use lapsed salaries to cover any expenses beyond the budgeted amount.

Sections 3-6 broaden the language of existing computer crime statutes and are not anticipated to have a significant effect on the number of convictions. The change in scope is not large and there are only a handful of convictions under the existing laws.

Section 8 adds to the list of special conditions of probation ordering an offender to complete a treatment program for abusers. The existing special conditions already allow an offender to be required to complete evaluation/treatment in general. However, given the large number (56,000 charges per year---estimated 22,400 sentenced to some form of probation) of misdemeanor domestic violence cases, this may result in more offenders being required to complete abuser treatment. This could result in more probation violations and revocation. However, there is no data to project the frequency of this effect.

Judicial Branch.

The Judicial Branch believes there may be a significant number of new misdemeanor cases as a result of this legislation, primarily because Section 1 broadens the type of media to which existing harassment statutes apply. While there may already be some defendants charged with these offenses under existing statutes, the broader language may result in an increase in charges filed. However, the AOC does not have data to project a specific impact. If there were 2,400 new cases each taking 45 minutes in court that would be equivalent to a fulltime Judge, Assistant DA and Deputy Clerk. Since there is no data to indicate this level of activity is likely, the Fiscal Research Division believes any impact of this bill can be absorbed within existing resources.

Sections 3-7 specifies that existing statutes on damaging computer systems also apply to computer programs. This appears to be a clarification and since there are few charges under the existing statute (25 charges in 1999), the AOC does not anticipate a substantial fiscal impact.

Because Section 8 adds a new special condition or probation, the AOC predicts some increase in revocation hearings for defendants who may violate the new conditions. However, there is no data to predict a specific impact. Because probationers can already be ordered to treatment and because probation is not always revoked when a condition is not fulfilled, Fiscal Research believes any increase in workload can be absorbed by the Judicial Branch.

This fiscal note measures the impact on the court system from this individual bill standing alone. While the impact on the courts from this individual bill is not substantial, it is AOC's position that the court system cannot absorb the cumulative impact from all such bills likely to be passed in a given session.

Department of Administration/Domestic Violence Programs

Section 8 parallels the requirements of GS 50B-3(12) which allows the court to order treatment in civil domestic violence cases. Since the treatment programs do not receive state funds and are generally supported by fees charged to the offender, this legislation is not expected to have a fiscal impact on the programs nor on the Department of Administration.

TECHNICAL CONSIDERATIONS: None

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