

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 197 House Committee Substitute

SHORT TITLE: Safe Families Act

SPONSOR(S): Sen. Cooper

FISCAL IMPACT

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

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

REVENUES:

EXPENDITURES:

Division of Criminal Information *
Nonrecurring: \$285,200

Judicial Branch

Recurring:

Nonrecurring:

No estimate available. Please refer to section on Assumptions and Methodology.

TOTAL:

POSITIONS:

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:**

State Bureau of Investigation (Division of Criminal Information), Judicial Branch, Local Law Enforcement

EFFECTIVE DATE: December 1, 1999, except for sections 1 and 2 dealing with the National Crime Information Center registry are effective February 1, 2000 and section 2.1 dealing with entering the registered order into the registry is effective February 1, 2000 only if funds are not received by federal grant to implement sections 1 and 2.

***If the DCI receives the grant requested through the Governor's Crime Commission, they would not need the funding through the legislature.**

BILL SUMMARY:

March 1, 1999

S 197. SAFE FAMILIES ACT. TO MODIFY THE GENERAL STATUTES TO IMPLEMENT CERTAIN RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DOMESTIC VIOLENCE. Amends various provisions of Chapter 50B, Domestic Violence, as follows: (1) Requires the sheriff to enter domestic violence orders into the NCIC registry rather than the DCI network so that the orders can be accessed by law enforcement agencies in other states; (2) deletes provision requiring law enforcement officers to arrest and take a person into custody for purposes of contempt hearing if the person violates a protective order; (3) makes violation of a valid protective order entered by the courts of another state or an Indian tribe, as well as those entered by NC courts, a Class A1 misdemeanor. (4) Provides that out-of-state protective orders are to be treated as NC orders whether or not the order has been registered and provides that, in determining validity of out-of-state order, law enforcement officer may rely upon copy of order provided and on statement of person protected by order that the order remains in effect. Allows, but does not require, registration of out-of-state orders by the filing with the clerk of superior court a copy of the out-of-state order along with an affidavit by the person protected by the order that the order is presently in effect as written. No notice of registration is given to the defendant. (5) Deletes provision allowing law enforcement agency not to respond to multiple complaints within a 48 hour period from the same complainant of domestic violence.

Amends GS 15A-401(b) to add following to crimes for which law enforcement officer may make warrantless arrests: (1) violating a domestic violence protective order; (2) assault by pointing a gun when the defendant and victim have a "familial relationship" (term no longer in the statutes), (3) to expand coverage to simple assault, assault inflicting serious injury and assault on a female when the defendant and victim have a "familial" relationship, (current law, requires the narrower relationship of current or former spouses or person who are living or have lived together as if married).

Changes regarding violation of an out-of-state order being a crime and regarding warrantless arrests take effect December 1, 1999; remainder takes effect October 1, 1999.

March 9, 1999

S 197. SAFE FAMILIES ACT. Intro. 3/1/99. Senate committee substitute makes the following changes to 1st edition. Adds GS 50B-4.1(b) to provide that a law enforcement officer who has probable cause to believe that a person has violated a valid protective order excluding the person from the domestic violence victim's residence shall arrest and take that person into custody without a warrant or other process.

March 10, 1999

S 197. SAFE FAMILIES ACT. Intro. 3/1/99. Senate amendment makes the following changes to 1st edition. Provides that section 1 (entry of order into National Crime Information Center registry) and section 2 (amendment to GS 50B-4) become effective only if funds are appropriated or received by federal grant to implement those sections on or before Dec. 1, 1999. Effective only if funds are not appropriated or received by federal grant to implement sections 1

and 2 by Dec. 1, 1999, amends GS 50B-4 in the same manner as provided in the committee substitute, except that entry of registration of the order is made in the Division of Criminal Information Network instead of the National Crime Information Center registry.

March 22, 1999

S 197. SAFE FAMILIES ACT. Intro. 3/1/99. House committee substitute makes the following changes to 3rd edition. (1) Adds new GS 50B-4.2, making it a Class 2 misdemeanor to knowingly give a false statement to a law enforcement agency or officer that a protective order entered under GS Ch. 50B (“Domestic Violence”), or under the laws of another state or Indian tribe, remains in effect. (2) Adds amendments to GS 50B-3 providing that copies of protective orders entered pursuant to the statute are to be issued promptly (this word added) and retained by the police or sheriff.

March 25, 1999

S 197. SAFE FAMILIES ACT. Intro. 3/25/99. House amendment changes 4th edition by providing that a law enforcement officer must arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person has knowingly violated a valid protective order designed to protect a victim of domestic violence (italicized word added).

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

ASSUMPTIONS AND METHODOLOGY:

Division of Criminal Information (DCI)

DCI has submitted a grant through the Governor’s Crime Commission to supply contractual services and equipment that would be used to fulfill DCI’s activities under the bill. Should the grant be approved, there would be no fiscal impact to the state of DCI’s actions.

If DCI does not receive funding through the grant, about \$285,200 might be needed in nonrecurring funds in order for DCI to implement the bill. Under the bill the DCI would need to:

- (1) move the existing NC records from the DCI statewide database into the National Crime Information Center’s (NCIC) registry in the format prescribed by the FBI,
- (2) eliminate the current statewide database, and
- (3) reprogram the computer interface for local law enforcement to enter and modify NC records in the NCIC file.

DCI estimates performing the above activities would require the services of 4 contract positions (project manager at \$100/hour, senior systems analyst at \$90/hour, COBOL analyst at \$90/hour, and technical writer at \$55/hour) for 5 months at a total cost of \$268,000. Office and computer equipment for each position would cost \$900 and \$3,400, respectively, for a total of \$17,200 for 4 positions.

Judicial Branch

The Administrative Office of the Courts (AOC) estimates that the bill may have a significant impact on the court system but is unable to estimate the total impact. Providing for the registration of out-of-state or Indian tribal protective orders with the clerk of superior court would increase their workload by an unknown amount. Although a fee of \$4 for the first page and \$0.25 for each additional page of the document registered would be collected, it is unknown how much would be collected. The number of out-of-state or Indian tribal orders to be registered and their length is not known.

The bill provides a new A1 misdemeanor charge for the violation of an out-of-state or Indian tribal order and allows law enforcement to arrest the violator without a warrant for the violation whether the order is a North Carolina order or not. The AOC and Fiscal Research division do not have an estimate of the possible number of additional cases or civil contempt proceedings that would result. Additional misdemeanants would result from both the violation of the out-of-state or Indian tribal order and also from the allowance of a warrantless arrest for violations involving both in- and out-of-state orders.

The extension of a warrantless arrest for the violation of a North Carolina order would increase the number of defendants charged but the AOC and Fiscal Research division are unable to estimate the increase. The use of the term “personal” relationship would increase the number of defendants. Current law only includes “a person who is the spouse or former spouse of the alleged victim or by a person with whom the alleged victim is living or has lived as if married.” As of March 2 of this year there were 8,856 active protective orders and 1,002 active ex-parte orders listed in the SBI’s statewide database. According to AOC records, in 1998 (the first full year of data), 1,670 defendants were charged and 531 defendants were convicted of violating a North Carolina order. Of the 188 defendants convicted in the seven months of FY 1997-98 after it became an A1 misdemeanor, almost 63 percent received a community punishment, over 36 percent received an active sentence, and only one percent received an intermediate sentence. Because the AOC is unable to estimate the impact of these cases, the Sentencing Commission is unable to estimate the potential impact of active prison sentences.

Current records kept by law enforcement’s domestic violence units throughout the state suggest violations of non-North Carolina orders may be on the order of 25 to 220 per year. The lower end of the range assumes that many people with an out-of-state or Indian tribal order are already getting a North Carolina order and so the law would already apply. It also assumes a portion would be in violation of federal law for crossing state lines with the intent to violate an order.

Both allowing an officer to rely on a copy of the out-of-state or Indian tribal order and allowing for a warrantless arrest for these violations would expand the possible number of misdemeanants beyond the above range based on current law. The AOC and Fiscal Research division do not have an accurate estimate of the possible additional misdemeanants.

In addition, the bill extends the instances where an officer can arrest without a warrant to assault by pointing a gun at someone in a personal relationship. It also adds a new misdemeanor

for knowingly giving a false statement to a law enforcement officer that a protective order entered under the laws of another state or Indian tribe remains in effect. No estimate is available on the additional misdemeanants involved in either of these cases.

The removal of authorization for law enforcement to not respond to multiple domestic violence complaints within a 48 hour period may result in additional misdemeanants but the AOC and Fiscal Research division are unable to estimate the number. Fiscal Research believes that the impact may be minimal since law enforcement may already be responding to multiple requests.

Because there is no reliable information on the number of out-of-state orders that may have an impact either from being registered or enforced, there is no way to determine how many additional misdemeanants will be charged. In addition, providing for warrantless arrests may increase the number. Neither the AOC nor the Fiscal Research Division is able to provide an accurate estimate.

Local Law Enforcement

There is not anticipated to be a fiscal impact of this bill on local law enforcement. Currently law enforcement is entering and accessing the state database. The change to the national database will be handled by DCI with the only changes for local law enforcement in data entry. No additional data entry personnel are estimated.

Additional changes such as responding within 48 hours, the warrantless arrest instances, and additional misdemeanor charges are not anticipated to increase workload substantially because they already respond to these cases. On average, it may be that the reduction in time required for no longer having to obtain a warrant in these instances provided in the bill may help offset the additional time required for the additional misdemeanor charges.

TECHNICAL CONSIDERATIONS:

Clarification might be helpful on the enforcement of an order entered by another state or Indian tribe “as if it were an order issued by a North Carolina court” as described on page 2, lines 26 and 27 to avoid unexpected legal conflicts generated by other states that would render the order unenforceable in North Carolina. Other states may provide different levels of relief.

FISCAL RESEARCH DIVISION 733-4910
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DATE: Monday, March 29, 1999



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