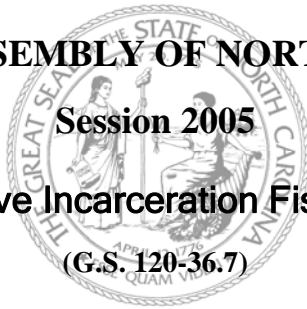


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1204 (Second Edition)

SHORT TITLE: Jessica's Law/Strengthen Sex Offender Laws.

SPONSOR(S): Senator Allran

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
GENERAL FUND					
Correction					
Prisons - Operating	\$333,216	\$858,031	\$1,590,789	\$2,548,798	\$3,673,661
Prisons - Capital (NR)	\$7,484,400	\$3,464,208			
Comm. Corr. (R)	\$1,626,448	\$2,326,347	\$2,952,771	\$3,580,323	\$4,245,394
Comm. Corr. (NR)	\$80,770				
Judicial Branch	\$38,196		Cannot be determined.		
Local Law Enforcement	Local costs will increase for handling new registration requirements and enforcing criminal penalties, but the amount cannot be determined.				
Justice (Registry)					
Recurring	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
Non-recurring	\$93,600				
REVENUES (GPS Fee)	\$13,500	\$6,885	\$6,885	\$6,885	\$6,885
TOTAL EXPENDITURES	\$9,681,630	\$6,673,586	\$4,568,560	\$6,154,121	\$7,944,055
POSITIONS: (cumulative)	(5-DCC; 5 prisons)	(5 DCC; 12 prisons)	(5 DCC; 21 prisons)	(5 DCC; 33 prisons)	(5 DCC; 48 prisons)
NEW PRISON BEDS	12	30	54	84	120
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction: Division of Prisons and Community Corrections; Judicial Branch; Justice; Local Govt.					
<i>NOTE: Costs to Correction are for Sect. 13 of bill – GPS monitoring by DCC and prison beds for Class C penalty of tampering with GPS system. Could require additional beds due to other penalties in this bill, particularly a new Class F penalty for altering regular electronic monitoring equipment in Section 11 of S.B. 1204 (see page 9) but the number and cost of these new beds cannot be determined.</i>					
EFFECTIVE DATE: Unless otherwise stated, December 1, 2006, or when the act becomes law. See bill summary pp. 2-4.					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY: Amends the Sex Offender and Public Protection Registration Programs, and appropriates funds to implement an active and passive electronic monitoring system to assist with the supervision of certain sex offenders, as recommended by the Child Fatality Task Force.

Sections 1 & 2: Rewrites G.S. 14-208.6A and 14-208.6B to require that any person who is a sexually violent predator, a recidivist, or who was convicted of an aggravated offense register in person. Any adult or juvenile convicted of an offense against a minor or of a sexually violent offense must also register in person.

Section 3: Amends G.S. 14-208.7 to require that registrations be maintained for a period of at least ten years. Also amends current statute to require registering offenders to report in person to the appropriate sheriff's office to comply with the registration requirements delineated in the section.

Section 4: Amends G.S. 14-208.9 to require a registered offender to report in person and provide written notice to the sheriff of last registry within ten days after a change of address. Creates similar notification requirements for intent to reside in another state, and for a change of that intent (notice of intent ten days prior to leaving the state). Provides that the sheriff take a photograph of the offender if the current photograph of record does not provide an accurate likeness. Also requires a registered offender to report in person to the sheriff of registry and provide written notice of a change in academic status or employment at an institution of higher education.

Section 5: Amends G.S. 14-208.9A to require semiannual verification (currently annual) of each registered offender's information, upon the anniversary of initial registration and six months thereafter. Requires registrants to return the verification form to the sheriff in person, and requires the sheriff to take a photograph of the offender to include with the verification form, if the photo of record does not provide an accurate likeness. Provides that if an offender fails to return the form in person within 10 days upon receipt, the offender is subject to the penalties of G.S. 14-208.11; the sheriff must also make a reasonable attempt to verify the offender's residence at the registered address.

Section 6: Amends G.S. 14-208.11(a) to make failure to report in person to the sheriff's office as required by G.S. 14-208.7, 14-208.9, and 14-208.9A a Class F felony. Also makes failure to report a change in intent to reside in another state or jurisdiction as required by G.S. 14-208.9 a Class F felony.

Section 7: Enacts new GS 14-208.11A to make it a Class H felony for any person who believes an offender is not complying with registration requirements, and who intends to assist the offender in eluding arrest to: fail to notify, knowingly provide false information to, or withhold information from a law enforcement agency regarding an offender's noncompliance or the offender's whereabouts, if known; harbor or attempt to harbor an offender, or assist another person in either; and, conceal or attempt to conceal an offender, or assist another person in either. Penalties do not apply if the offender is incarcerated or in the custody of a correctional facility.

Section 8: Rewrites G.S. 14-208.12A to eliminate the automatic termination of the registration requirement 10 years from initial registration and without subsequent offense during that period. Permits the superior court to terminate the registration requirement upon an offender's petition and notice to the district attorney, at any time 10 years after the date of initial registration (automatic now). The court may grant or deny relief if: the petitioner demonstrates no subsequent conviction requiring registration; the requested relief complies with the provisions of the federal Jacob Wetterling Act and any other applicable federal standards; and, the court is satisfied that the petitioner is not a current or potential threat to public safety. If denied, the petitioner may petition again one year after the date of denial. If granted, the clerk of court shall forward a copy to the Division of Criminal Statistics. If however, there is a subsequent conviction, registration records must be retained until the requirement is terminated under the provisions of this statute.

Section 9: Rewrites G.S. 14-208.28 to require the semiannual verification of registration information for juvenile registrants.

Section 10: Enacts new G.S. 14-208.24A to make it a Class F felony for a sexually violent predator, recidivist, or person convicted of an aggravated offense to work or volunteer for any person or place where the employer conducts any activity where minors are present and the person's responsibilities include the instruction, supervision, or care of a minor or minors.

Section 11: Enacts new G.S. 14-259A to make it a Class F felony to alter, tamper with, damage, or destroy any electronic monitoring equipment used to monitor a person who has been placed on probation, house arrest, post-release supervision, parole, study release, or work release.

Section 12: Enacts new GS 15A-1341(d) to require probation officers to search the sex offender registration database maintained by the Division of Criminal Statistics when a defendant is placed on probation.

Section 13: Enacts new G.S. 14-208.33 to require the Department of Correction to establish a continuous, satellite-based sex offender monitoring program and to create guidelines to govern the program. The program must monitor two tiers of offenders: 1) any sexually violent predator, recidivist, or person convicted of an aggravated offense that is ordered to submit to such monitoring for life, unless the requirement is terminated under G.S. 14-208.36; and, 2) any person convicted of a reportable conviction that requires registration, who committed an offense against a minor, and who is deemed as a high risk offender under the DOC assessment program (monitoring period determined by court). Also specifies requirements of the monitoring system, DOC guidelines, and other procedures.

Enacts new G.S. 14-208.34, which requires tier 1 offenders to enroll in the monitoring program with the Division of Community Corrections office in the county in which the person resides, remaining in the program for the person's natural life unless the requirement is terminated under G.S. 14-208.36. Also requires persons identified in tier 2 to enroll in the monitoring program with DCC in the county of residence, remaining in the program for the period of time ordered.

Enacts new G.S. 14-208.35 to require the court to place tier 1 offenders on unsupervised probation and order the offenders, upon completion of sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation, to continue enrollment in the monitoring program for life unless the requirement is terminated under G.S. 14-208.36.

Enacts new G.S. 14-208.36, which allows an offender to request that the Post-Release Supervision and Parole Commission terminate the monitoring requirement and accompanying requirement of unsupervised probation, upon completion of sentence and completion of any subsequent period of probation, parole, or post-release supervision. The Commission must conduct a review, including fingerprint-based state and federal background checks. Termination may be granted if the Commission finds no additional reportable convictions and determines that the offender is not a threat to others' safety.

Enacts new G.S. 14-208.37, which makes failure to enroll in a satellite-based monitoring program a Class E felony for any person who is required to enroll. Also makes it a Class C felony for any person to intentionally tamper with, remove, or vandalize a device issued to an offender enrolled in a satellite-based monitoring program.

Enacts new G.S. 14-208.38 to assess a ninety dollar (\$90), one-time fee to each person required to enroll in the monitoring program. The fee is intended to offset only the costs associated with the time-correlated tracking of subjects' geographic locations. It is payable to the Clerk of Court, and is to be remitted to the Department quarterly.

Amends G.S. 15A-1343(b2) and G.S. 15A-1343.2 to make conforming changes. Amends G.S. 15A-1344 to require the court to order satellite-based monitoring for a tier 1 offender, if that offender violates probation and the court extends the probation as a result. Amends G.S. 15A-1368.2 and G.S. 15A-1368.4(b1) to make conforming changes. Amends G.S. 15A-1374 to mandate satellite-based monitoring for tier 1 offenders as a condition of parole; the Post-Release Supervision and Parole Commission may

require such monitoring as a condition of parole for tier 2 offenders. Amends G.S. 143B-266 to make conforming changes.

Requires the Department of Correction to enact the monitoring program by January 1, 2007. The section is effective when it becomes law and applies to offenses committed on or after that date. It also applies to any person sentenced to intermediate punishment, any person who completes a sentence, and any person released from prison by parole or post-release supervision on or after that date. The requirement to enroll in a satellite-based program is not mandatory until January 1, 2007.

Section 14: Requires the Department of Correction to issue a Request for Proposal (RFP) for electronic monitoring equipment and services; also specifies procedures for the issuance of these RFPs. The RFPs must be issued by August 1, 2006, for contract terms to begin January 1, 2007. Requires DOC to report to the House and Senate Appropriations Chairs and to the House and Senate Appropriations Subcommittees on Justice and Public Safety concerning responses to the RFPs.

Section 15: Requires DOC to develop by January 1, 2007, a graduated risk assessment program that identifies, assesses, and closely monitors high-risk sex offenders who require extraordinary supervision and may be placed on probation, parole, or post-release supervision only on the conditions specified in GS 15A-1343(b2) or GS 15A-1368.4(b1) but are not sexually violent predators, recidivists, or persons convicted of an aggravated offense.

Section 16: Effective July 1, 2006, appropriates \$1,707,218 for FY 2006-07 from the General Fund to DOC to implement the active and passive electronic monitoring systems required under the act.

Section 17: Provides that Section 13 of the act is effective as provided therein, and that Sections 12, 14, and 15 are effective when the act becomes law. Section 16 of the act becomes effective July 1, 2006. The remainder of the act becomes effective December 1, 2006 and applies to offenses committed on or after that date.

Source: Adapted from Bill Digest S.B. 1204 (05/09/0200)

GENERAL

This Fiscal Note is organized in three sections, corresponding to the three major areas of the bill with potential fiscal impact: Section I: Global Positioning System Monitoring of Sex Offenders (Section 13 of S.B. 1204); Section II: Other Criminal Penalties (various Sections of the S.B. 1204); and Section III. Sex Offender Registration and Enforcement.

I. ASSUMPTIONS AND METHODOLOGY: GPS MONITORING OF SEX OFFENDERS (Section 13)

Department of Correction – Division of Prisons

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

The chart below compares the projected inmate population to available prison bed capacity system-wide and shows any population increases caused by a specific bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond*. That means the number of beds needed (row five) is always equal to the projected additional inmates due to a bill (row four).

Rows four and five in the chart show the impact of this specific bill. As shown in bold in the chart below, the Sentencing Commission estimates that this specific legislation will add 120 inmates to the prison system by the end of FY 2010-2011. *This estimate pertains solely to the Class C penalty for tampering with a GPS*

monitoring device (G.S. 14-208.37). The impact of other criminal penalties is assessed in Section II of this fiscal note.

Table I. Projected Impact on Prison Population/Beds (GPS)

	<u>June 30</u> <u>2007</u>	<u>June 30</u> <u>2008</u>	<u>June 30</u> <u>2009</u>	<u>June 30</u> <u>2010</u>	<u>June 30</u> <u>2011</u>
1. Projected No. Of Inmates Under Current Structured Sentencing Act ¹	38,616	39,114	39,674	40,444	41,276
2. Projected No. of Prison Beds (DOC Expanded Capacity) ²	37,973	38,869	38,869	38,869	38,869
3. No. of Beds Over/Under Current Structured Sentencing Act	-643	-245	-805	-1,575	-2,407
4. No. of Projected Additional Inmates <u>Due to this Bill</u>	12	30	54	84	120
5. No. of Additional Beds Needed Each Fiscal Year Due to this Bill	12	30	54	84	120

G.S. 14-208.37 Tampering with GPS device – Class C felony

Under Structured Sentencing, with the exception of extraordinary mitigation, all Class C offenders are required to receive an active sentence. In 2004/05, the average estimated time served for a convicted Class C offender was 97 months. It is not known how many offenders might be sentenced as a result of this proposed penalty. *If, however, one conviction occurred for this offense per year, it would result in the need for one additional prison bed the first year and two additional prison beds the second year.*

While an official projection cannot be made by the Commission, Fiscal Research asked the Commission to provide prison population estimates based on DCC data on the current numbers of sex offenders who abscond from probation, parole, or post release supervision. This number is between 3 and 5% of the total cases.

Using this approach, of the projected 300 sex offenders required to enroll in GPS under SB 1204, DOC estimates that 3-5% may be charged with intentionally tampering with, removing, or vandalizing GPS monitoring equipment. The Sentencing Commission, using DCC numbers, indicated that if there were 9 (or 3% of 300) Class C convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for 9 additional prison bed the first year and 23 additional prison beds the second year. Alternatively, if there were 12 (or 4% of 300 offenders) Class C convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for 12 additional prison beds the first year and 30 additional prison beds the second year.

Fiscal Research used the middle range for estimating prison beds and cost - a 4% “tampering” rate, which could potentially result in the need for 12 prison beds the first year, 30 the second year, and 120 by year five.

Estimates by DCC in the growth of offenders under GPS were used for projecting growth in prison population and in the implementation and use of a GPS system in DCC:

¹ The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2006 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

² Projected number of prison beds is based on beds completed, under construction, or authorized for construction as of December 19, 2005. The number of beds is based on DOC operating at Expanded Operating Capacity (EOC).

Table II. Department of Community Corrections Offender Projections for GPS

<u>FY 06-07</u>	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>	<u>FY 10-11</u>
300	453	606	759	912

Positions: It is anticipated that approximately 48 prison positions would be needed to supervise the additional inmates housed under this bill by 2010-11. This position total includes security, program, and administrative personnel at a ratio of one employee for every 2.5 inmates. This ratio is the combined average of the last seven prisons opened by DOC. Two of the prisons were medium custody and five were close custody.

Fiscal Impact Beyond Five Years: Fiscal notes for the 2006-Session look at the impact of a bill through FY 2011. However, if there is information available on the impact of this bill in later years, it will be provided. *The fiscal impact beyond the five year window cannot be determined by the Sentencing Commission since there is no data that allows for estimates beyond the first five years.*

Table III. Impact Beyond Five Years

	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
Inmates Due to This Bill	Cannot be determined			
Available Beds (over/under)	Cannot be determined			
New Beds Needed	Cannot be determined			

Construction: Construction costs for new prison beds, as listed in the following chart, are based on estimated 2005-06 costs for each custody level as provided by the Department of Correction. The cost figures are the midpoint of the estimated cost range. An inflation rate of 8% per year is applied to future years (*Office of State Construction, March 24, 2006*). Assumptions used for cost figures include: (1) stand-alone facilities built for expanded operating capacity; (2) single cells for close custody prisons; and, (3) dormitories for medium and minimum custody. Also it is assumed that it takes three years from the time funding is authorized to completion of construction, so funding is estimated three years prior to when beds are needed.

Construction cost is estimated at \$89,100 per bed for 06/07 based on 05/06 average costs of a medium and close bed combined, plus 8% inflation. It is assumed that 84 beds needed by 2009-10 would be funded in 2006-07 order to have beds on line within three years. Cost is estimated at \$7,484,400 for 06/07. The remaining 36 beds, for a total of 120 by 2010-11, would need to be funded in 2007-08 at a cost of \$3,464,208.

Table IV. Construction Cost Estimates By Custody Level

Custody Level	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Construction Cost Per Bed 2005-06	\$56,500	\$60,500	\$104,500

* Construction costs, where applicable, are shown as non-recurring costs in the Fiscal Impact Table on page one of this note. These costs assume that funds to construct prison beds should be budgeted three years in advance since building a prison typically requires three years for planning, design, and construction.

NOTE: If beds were not constructed, DOC would need to pay counties \$40 a day to hold DOC prisoners until a bed becomes available. The cost is \$40 a day and would reach \$1,752,000 by 2010-11.

Operating: Operating costs are based on actual 2004-05 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical, etc.), and administrative overhead costs for the Department and the Division of Prisons. A 3% annual

inflation rate will be added each year to the base costs for FY 2004-05 shown below and included in the recurring costs estimated in the Fiscal Impact Table on page one.

It is assumed the cost per bed will be the average cost of a close and medium bed combined or \$27,768 per bed in 2006-07 (2004-05 costs in table below plus inflation). Close and medium custody beds are anticipated since these are sex offenders convicted of a high level felony – Class C. The cost for 12 beds in 2006-07 is \$333,216 and \$858,031 for 30 beds by Year 2. Total cost in Year 5, 2010-11, will be \$3,673,661. This includes the cost of 48 positions.

Table V. Daily Inmate Operating Cost 2004-05

Custody Level	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<i>Statewide Average</i>
Daily Cost Per Inmate (2004-05)	\$51.25	\$68.90	\$74.52	\$63.56

G.S. 14-208.37 Failure to enroll in GPS Program – Class E Felony

The Sentencing Commission noted that as a new offense, there is no historical data from which to estimate its impact on the prison population. In FY 2004/05, 47% of Class E convictions resulted in active sentences, with an average estimated time served of 30 months. It is not known how many new sentences might result. If, however, there were two Class E convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. [Note: The estimate for the second year is currently based on a 2% growth rate for felony convictions. The second year estimate may need to be revised upward based on DOC’s estimate of growth.]

Based on discussions with DCC, Fiscal Research believes the new Class E felony would have little or no impact on the prison system. Current practice for regular electronic monitoring is for the DCC officer to attach the device at the time of release from prison, or upon placement on probation. It is assumed the same practice would be used for GPS monitoring, so “failure to enroll” criminal penalties are unlikely.

Department of Correction – Division of Community Corrections: GPS Monitoring System

Under SB 1204 DCC must establish the sex offender GPS monitoring program by January 1, 2007 for the two tiers of sex offenders, as defined in Section 13, which will be on parole, post-release supervision, or probation supervision. This includes all offenders who fit criteria in bill and are on probation, post release, or parole after the date the bill is ratified (not just offenders after Jan 1, 07), and who continue the GPS monitoring program for the life of the offender if the offender is in the highest risk category (lifetime registrant/sexually violent predator, recidivist, or convicted of certain aggravated offense).

DCC estimates costs for 2006-07 of \$1,775,330 (\$70,770 non-recurring). For 2007-08, annualized costs are \$2,326,347. This is based on the estimated number of 300 sex offenders that would be covered under the basic program in Year 1 (06/07). The primary costs to operate this 24 hour a day program are 5 positions (4 processing assistants and one GPS manger, on-call and overtime pay for probation/parole officers, and 6 months contractual services (\$487,613) with a GPS vendor to operate the technology component of the system. *Fiscal Research believes these costs are reasonable based on DCC experience in the pilot program and earlier analysis of the cost of GPS systems.*

The costs of continuing GPS on the highest risk offenders after their term of DOC supervision will not occur until after the five year fiscal note window.

Department of Correction – Division of Community Corrections: GPS Supervision Fee

SB 1204 establishes a \$90 one time fee to be charged to each offender. These funds will be allocated to the Department of Correction. The fee is the same fee charged to offenders put on electronic monitoring.

The maximum amount collected the first year would be \$27,000 (300 offenders times \$90) in 06/07. However, it is unlikely that the full amount will be collected. The regular electronic monitoring fee was established in FY 04/05 and collections have been low. However, it is anticipated that collection of this new fee could be at least 50%, given that HB 1902 gives offenders some opportunity to pay the fee on a payment schedule, like regular probation fees. The estimated rate of collection for regular probation fees is approximately 50%.

For purposes of this fiscal note, a 50% collection rate is assumed and detailed in the box on page 1 of this Note. For 06/07, with 300 offenders it is assumed that \$13,500 will be collected (150 of 300 offenders times \$90) and \$6,885 for the subsequent years (additional 153 offenders each year @ \$90 times 153/2).

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

To dispose of a Class C felony charge, the AOC estimates costs per single trial of \$11,181. Assuming 12 trials (convictions) at \$11,181 per trial, the cost to the judicial system would be \$134,172. This estimate includes court time, district attorney preparation, and indigent defense. The cost for pleas, instead of trials would be approximately \$517 per case, or \$6,204. Assuming 3 cases go to trial, and nine are plead down, the cost would be \$38,196 the first year.

SECTION II. ASSUMPTIONS AND METHODOLOGY – OTHER CRIMINAL PENALTIES

In accordance with the provisions of this bill, the following criminal offenses and penalties apply:

- *Section 6:* Amends G.S. 14-208.11 to make non-compliance with the registration requirements delineated in sections 1-5 a Class F felony.
- *Section 7:* Creates a new Class H felony offense for failure to report offender non-compliance with registration requirements, with the intent of assisting the offender in eluding arrest.
- *Section 10:* Creates a new Class F felony offense for any Tier 1 offender to work or volunteer at any place where the employer cares, supervises, or instructs a minor.
- *Section 11:* Creates a new Class F felony offense for a person to alter, tamper with, damage, or destroy any electronic monitoring equipment used to monitor a person placed on probation, house arrest, post-release supervision, parole, study release, or work release.

Department of Correction – Division of Prisons

G.S. 14-208.11 Failure to comply with sex offender registration requirements

In FY 2004/05, there were 147 convictions under G.S. 14-208.11 - failure to comply with sex offender registration requirements. During the same fiscal year, 47% of Class F felony convictions resulted in active sentences, with an average estimated time served of 18 months; 53% of Class F convictions resulted in intermediate sentences. It is not known how many additional offenders might fail to comply with the aforementioned registration requirements. *If, however, only two additional Class F convictions resulted per year as a result of this bill, the increase would necessitate one additional prison bed the first year and two additional beds the second year. Assuming this threshold and a medium custody level, the construction of additional prison beds could cost the State \$65,340 the first year, and \$141,134 the second year; operating costs could be \$26,680 the first year, and \$54,960 the second.*

G.S. 14-208.11A Failure to report non-compliance

Because this is a new offense, there is no historical data from which to estimate its impact on the prison population. In FY 2004/05, 35% of Class H convictions resulted in active sentences, with an average estimated time served of 10 months. It is not known how many new sentences might result. *However, if there were three Class H convictions for this proposed offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional beds the second year. The same costs for the Class F threshold apply.*

G.S. 14-208.24A Prohibited from working/volunteer for child involved activities

As a new offense, there is no historical data from which to estimate its impact on the prison population. In FY 2004/05, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. It is not known how many new sentences might result. *The same Class F threshold applies.*

G.S. 14-259A Unlawful altering/tampering/damaging of regular electronic monitoring equipment (Section 11)

As a new offense, there is no historical data from which to estimate its impact on the prison population. In FY 2004/05, 47% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. It is not known how many additional offenders might tamper with electronic monitoring equipment. *If, however, only two additional Class F convictions resulted per year as a result of this bill, the increase would necessitate one additional prison bed the first year and two additional beds the second year. Assuming this threshold and a medium custody level, the construction of additional prison beds could cost the State \$65,340 the first year, and \$141,134 the second year; operating costs could be \$26,680 the first year, and \$54,960 the second. With a potential pool of 3,000 offenders, the fiscal impact could be substantial.*

This new offense could potentially affect all offenders on electronic monitoring, not just sex offenders. In 2004-05 there were over 3,000 entries to electronic monitoring. Currently, violations of altering or tampering are handled as probation violations in most cases and many are unintentional violations. Section 11 does not have qualifying language, such as “willfully” altering, and could potentially have significant fiscal impact on the prison system and community corrections.

Department of Correction – Division of Community Corrections; General Impact of New Felonies

Assuming some additional intermediate and community sentencing, additional costs for probation supervision would also be incurred. Presently, general supervision from a probation officer costs the Division of Community Corrections \$1.93 per offender, per day. Special sanctions under intermediate sentences generate higher costs. Intensive supervision probation, the most commonly utilized intermediate sanction, costs \$12.95 per offender per day and is for an average of six months; electronic house arrest costs \$6.71. Such costs are projected to begin in FY 2007-2008, due to the effective date of December 1 and the lag time between charge and conviction.

In addition, offenders supervised by DCC are required to pay a \$30 per month supervision fee. Those on electronic house arrest or electronic monitoring must also pay a one-time \$90 fee. This money is collected by the Court System and goes to the General Fund. The percentage of fees actually collected cannot be determined from the Court’s records, but survey information indicates that the compliance rate for supervised probationers is around 48%.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The various new offenses in S.B. 1204 will increase charges and court time, and thus costs. But given a lack of data, there is currently no method for determining the number of new charges that are likely to be filed, nor the resulting fiscal impact.

III. ASSUMPTIONS AND METHODOLOGY – SEX OFFENDER REGISTRATION REQUIREMENTS AND ENFORCEMENT OF SEX OFFENDER REGISTRATION LAWS

SB 1204 makes a number of modifications to sex offender registration requirements including:

- Requires offenders to handle changes in registration information and verification of information in-person. These include change of address, intent to move out of state, academic and employment status, etc. Many of these changes are currently handled by mail or phone.
- Changes annual verification of registration information to every six months.
- Adds a new reporting requirement on intent to move out of state.
- Requires offenders who are required to register for 10 years on the NC Sex Offender Registry to remain on the registry until petitioning the courts and receiving court approval to be removed from the registry.

Department of Justice

DOJ is responsible for operation and maintenance of the central N.C. Sex Offender Registry and the law enforcement sex offender database. DOJ estimates that requiring verification every 6 months will require doubling of postage charges for notices from \$25,000 to \$50,000 annually.

DOJ also estimates one-time charges for updating the sex offender registry and law enforcement data base. DOJ estimates contract costs of \$93,600, or 1,040 hours at \$90 dollars an hour. This is based on the need to make changes to the database by the bill's effective date, add new felony violations to database and upgrade systems to comply with proposed changes in 10 year registration requirements.

County Sheriffs' Departments:

This proposal could increase sheriffs' workload and cost, primarily in enforcement, by requiring in-person registration for each type of registration requirement (change of address, change in employment or academic status, etc.). SB 1204 also changes the verification of offender information requirement to every six months (now annual). *These additional requirements will increase processing time and could result in more field activity by sheriffs and potentially more arrests and convictions.*

Due to a lack of sufficient and reliable cost data, the Fiscal Research Division is unable to estimate the fiscal impact of the proposed legislation on county sheriff departments. Presently, the only statutory requirements for Sheriffs are that they: 1) photograph and take fingerprints from individuals at the time of registration; 2) immediately send the registration information to the Division of Criminal Information (DCI); and, 3) retain the original registration form and other information collection, and compile the information as a public record in a county registry. There are no statutory requirements for Sheriffs to monitor or supervise registrants living or working within their counties.

The North Carolina Sheriffs' Association provided informal survey data, collected from a select number of counties, indicating that there is considerable variation in the practices among, and costs incurred by, sheriffs' departments related to registering and monitoring offenders. Some departments do no more than register the offenders as required by current law while other departments have dedicated law enforcement officers whose sole responsibility is to actively monitor sex offenders via telephone contacts, home visits, and other activities. Of the six counties surveyed, the estimated annual registration/monitoring costs ranged from \$100 to \$456 per offender. From this data, it is not possible to determine the systemwide impact on local government.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Department of Justice, NC Sheriffs Association, and Office of State Construction.

TECHNICAL CONSIDERATIONS: None

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