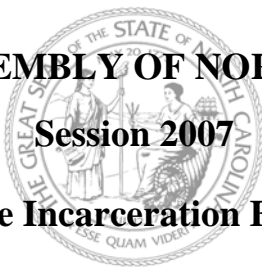


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 1736 (Third Edition)
SHORT TITLE: Sex Offender/Register E-Mail Address.-AB
SPONSOR(S): Senator Purcell

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>
REVENUES					
DOJ	Some revenue anticipated for database information released to entities, however amount will not be significant.				
EXPENDITURES					
Judicial	\$334,500				
DOJ	\$580,800	\$268,624	\$276,682	\$284,982	\$293,531
CCPS	\$250,000				
DOC	\$1,008,000	\$460,874	\$474,701	\$488,942	\$503,610
Total Expenditures	\$2,173,300	\$729,498	\$751,383	\$773,924	\$797,141
PRISON BEDS:					
(cumulative)*	N/A	6	16	16	16
POSITIONS					
(cumulative)*					
DOC		3	6	6	6
DOJ	3	3	3	3	3
POSITIONS (cumulative):	3	9	9	9	9
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction, Department of Justice (DOJ), Department of Crime Control and Public Safety (CCPS) and the Judicial Branch.					
EFFECTIVE DATE: May 1, 2009 (Except as otherwise noted) and applies to persons who are required to be registered under Article 27A on or after that date.					

SUMMARY: Senate Bill 1736 adds felony child abuse to the list of sex offender registry offenses when the offense involves prostitution of a juvenile or the commission of a sexual act upon a juvenile. The bill requires a sex offender to register his or her e-mail address or other online identifier in the statewide sex offender registry and allows limited release of that information to certain entities that provide internet services. The bill directs the Administrative Office of the Courts (AOC) to develop procedures to ensure timely notification of the Division of Criminal Information and sheriffs of persons required to register who are not sentenced to active time. Additionally, the bill authorizes funds for the Governor's Crime Commission to use to award as matching grants to eligible sheriffs' offices to enhance and support their efforts to enhance the State's sex offender laws.

BILL ANALYSIS:

Section 1 of the Bill adds several new definitions to the sex offender registry statutes as follows:

- **"Electronic mail"** – the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.
- **"Entity"** – a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service or electronic instant message or chat services whether the business or organization is within or outside the State.
- **"Instant Message"** – a form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.
- **"Internet"** – the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.
- **"Online identifier"** – electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.

Section 1 amends adds certain felony child abuse offenses to the list offenses requiring registration as a sex offender. Specifically, it adds violation of G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile) and G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian) to the list of offenses requiring registration.

Section 2 amends the list of information required to be provided to the sheriff by a sex offender required to register. The list is amended to add the requirement that the sex offender provide any online identifier that the person uses or intends to use. Additionally, the changes specify that the photograph and fingerprints will be taken by the sheriff without charge.

Section 3 makes a conforming change to add the online identifier information to the list of information the Department of Corrections is required to obtain from a person required to register as a sex offender who is being released from an active sentence.

Sections 4 and 5 requires a sex offender who changes an online identifier, or obtains a new online identifier, to report in person to the sheriff within 10 days to provide the new or changed information.

Section 6 amends the information on the address verification form for registered sex offenders to include indication of whether the person still uses or intends to use any online identifiers last reported to the sheriff and to require any new or different online identifiers be provided to the sheriff.

Section 7 creates a Class F felony for failure to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use.

Section 8 charges the Division of Criminal Statistics with the responsibility to maintain a system allowing an entity to access a list of online identifiers of person in the central sex offender registry.

Section 9 authorizes the Division of Criminal Statistics to release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity. An entity may apply to the Division for access to the information and may be granted access to the information upon compliance with the criteria developed by the Division and payment of a fee of \$100 annually. The criteria developed by the Division shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

An entity that receives (i) a complaint that a person uses its services to solicit a minor by computer to commit an unlawful sex act; or (ii) a report that a user may be violating the statutes prohibiting sexual exploitation of a minor by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity; shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

- The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.
- A person's criminal or tortuous acts against a minor with whom the person had communicated on the entity's system.

Section 10 requires the Administrative Office of the Courts, in consultation with the NC Department of Justice, NC Department of Correction, and the NC Sheriffs' Association, to develop

a procedure to ensure timely notification to the Division of Criminal Information and to sheriffs regarding any person subject to sex offender registration who does not receive an active term of imprisonment.

Section 11 appropriates \$250,000 for fiscal year 08-09 to the Governor's Crime Commission to be used as matching grants in amounts up to \$25,000 to eligible sheriffs' offices to assist with the enforcement of the State's sex offender laws. The Commission shall establish criteria as provided in this section.

EFFECTIVE DATE: Sections 10 and 12 of this act are effective when they become law. Section 11 of this act becomes effective July 1, 2008. The remainder of this act becomes effective May 1, 2009, and applies to persons who are required to be registered under Article 27A of Chapter 14 of the General Statutes on or after that date. The requirements related to online identifiers apply to persons whose initial registration under Article 27A of Chapter 14 of the General Statutes occurs on or after May 1, 2009, and to persons who are registered under Article 27 of Chapter 14 of the General Statutes prior to May 1, 2009 and continue to be registered on May 1, 2009. However, any person registered under Article 27 of Chapter 14 of the General Statutes prior to May 1, 2009 and continuing to be registered on May 1, 2009, shall not be in violation of the online identifier requirements if they provide the required information at the first verification of information that occurs on or after May 1, 2009.

ASSUMPTIONS AND METHODOLOGY:

General

The 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

The chart below depicts the projected inmate population relative to available prison bed capacity system-wide. Capacity projections assume operation at Expanded Operating Capacity,¹ and represent the total number of beds in operation, or authorized for construction or operation as of January 2008.

Based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon or beyond.* Therefore, the number of *additional beds needed* (row five) is *always equal to* the projected number of *additional inmates* resulting from a bill (row four). Rows four and five in the chart demonstrate the impact of S1736. As shown, the Sentencing Commission estimates that this specific legislation will add 16 inmates to the prison system by the end of FY 2012-13.

¹ Expanded Operating Capacity (EOC) is: 1) the number of single cells housing one inmate, 2) the number of single cells housing two inmates, and 3) the number of beds in dormitories, allowing between 35 (130% of SOC) and 50 (SOC) square feet per inmate.

	June 30 2009	June 30 2010	June 30 2011	June 30 2012	June 30 2013
1. Projected No. of Inmates Under Current Structured Sentencing Act ²	40,402	41,073	41,698	42,698	42,518
2. Projected No. of Available Prison Beds (DOC Expanded Capacity)	39,908	39,908	40,664	40,664	40,664
3. Projected No. of Beds Over/Under Inmate Population	-494	-1,165	-1,034	-1,854	-2,759
4. <i>Projected No. of Additional Inmates <u>Due to this Bill</u></i> ³	N/A	6	16	16	16
5. <i>No. of Additional Beds Needed Each Fiscal Year Due to this Bill</i>	N/A	6	16	16	16

(Prison bed projections can only be projected through 2011 due to the fact that the Sentencing Commission's prison bed projection model can only predict the impact over 2 years due to a lack of historical data.)

POSITIONS: It is anticipated that by FY 2012-13, approximately 6 positions would be needed to supervise the additional inmates housed under this bill. This position total includes security, program, and administrative personnel at a ratio of approximately 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 examine a bill's impact over a five-year horizon, through FY 2012-13. However, when information is available, Fiscal Research also attempts to quantify longer-term impacts. Accordingly, the chart below illustrates the projected number of available beds given current conditions; the projected number of additional inmates due to S1736; and, the estimated number of new beds required each year through FY 2016-17.

	June 30 2014	June 30 2015	June 30 2016	June 30 2017
1. Available Beds (Over/Under) Under Current Structured Sentencing	-3,593	-4,423	-5,261	-6,137
2. <i>Projected No. of Additional Inmates Resulting From S1736</i>			<i>Cannot be determined</i>	
3. <i>Estimated No. of New Beds Required Under S1736</i>			<i>Cannot be determined</i>	

CONSTRUCTION: Construction costs for new prison beds, listed in the following chart, are derived from Department of Correction cost range estimates (FY 2006-07) for each custody level, and assume Expanded Operating Capacity (EOC). Figures represent the midpoints of each range.

As shown, there are two primary options for prison bed construction: 1) a “stand alone,” or entirely new institution;⁴ or, 2) an addition within or adjacent to the perimeter of an existing institution, termed an “add-

² The Sentencing and Policy Advisory Commission prepares inmate population projections annually. These projections are derived from: historical information on incarceration and release rates under Structured Sentencing; crime rate forecasts by a technical advisory group; probation and offender revocation rates; and the decline (parole and max-outs) of the stock prison population sentenced under prior sentencing acts. Projections were updated in February 2008.

³ Criminal penalty bills effective December 1, 2008, should not affect prison population and bed needs until FY 2009-10 due to the lag time between offense charge and sentencing - 6 months on average. No delayed effect is presumed for the Court System.

on.”⁵ Cost estimates for “add-on” beds are based upon a prototypical design, and assume that program/core support from the base institution will support 500 additional close or medium custody inmates, or 250 additional minimum custody inmates. “Add-on” costs are lower, relative to “stand-alone,” due partly to the usage of existing sites and infrastructure.

Estimated Construction Cost per Custody Level, FY 2006-07

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>
Cost Per Bed: EOC “Stand Alone”	\$55,000	\$63,000	\$114,000
Cost Per Bed: EOC “Add-On”	\$52,000	\$39,000	\$73,500

Construction costs are shown as *non-recurring costs in the “Fiscal Impact” table* (p.1). An annual inflation rate of eight percent (8.0%) is applied to these base costs.⁶ As illustrated (p.1), these costs also assume that funds to construct beds at a “stand alone” facility should be budgeted four years in advance, since building a prison typically requires four years for site selection, planning, design, construction, and occupancy. The overall duration for facility addition (“add-on”) is shorter, requiring that funds be budgeted three years in advance.

Accordingly, given an increase of 16 inmates, bed provision through construction of a “stand alone” facility could cost approximately \$1,008,000 by FY 2012-13; provision through “add-on” could cost approximately \$624,000.

OPERATING: Operating costs are based on actual FY 2006-07 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 three percent (3.0%) annual inflation rate is applied to these base costs, as shown in the *recurring costs estimate in the “Fiscal Impact” table* (p.1).

Daily Inmate Operating Cost per Custody Level, FY 2006-07

<u>Custody Level</u>	<u>Minimum</u>	<u>Medium</u>	<u>Close</u>	<u>Daily Average</u>
Daily Cost Per Inmate	\$57.48	\$74.71	\$88.93	\$71.52

Methodology for Prison Bed Impact

Section 1

Section 1 of the proposed bill amends G.S. 14-208.6(5), the definition of “sexually violent offense,” to include G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile) and G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). In FY 2006/07, there were no convictions under G.S. 14-318.4(a1) and ten convictions under G.S. 14-318.4(a2), both of which are Class E felonies.

⁴ New, “stand alone” institution built for Expanded Operating Capacity; single cells are assumed for close custody, and dormitories are assumed for medium and minimum custody (occupancy no greater than 130% of SOC).

⁵ Close and medium custody “add-on” facilities are built within the perimeter of an existing 1,000-cell Close Security Institution; a minimum custody “add-on” is built adjacent to an existing perimeter. Add-on facilities built for EOC employ the same custody configurations as “stand alone” (i.e. single cells for close custody, and dorms for medium and minimum custody levels).

⁶ Office of State Construction, March 24, 2006.

Adding these offenses to the definition of “sexually violent offenses” expands the group of “reportable offenses” requiring registration as a sex offender. The expanded group of reportable offenses expands the pool of potential convictions under:

- G.S. 14-208.9A(c) (sex offender failure to comply with Sheriff’s request for new photo; Class 1 misdemeanor)
- G.S. 14-208.11(a) (failure to register; Class F felony)
- G.S. 14-208.11A (fail to report non-compliance of sex offender; Class H felony)
- G.S. 14-208.16 (violation of sex offender residential restriction; Class G felony)
- G.S. 14-208.17 (registrant working or volunteering for child-involved activities, violation of limitations on residential use; Class F felony)

In FY 2006/07, there were 291 convictions for failure to register under G.S. 14-208.11(a) (which represents an increase from 234 convictions in FY 2005/06; 147 convictions in FY 2004/05; and 116 convictions in FY 2003/04). With the exception of G.S. 14-208.11(a), the listed offenses became effective on December 1, 2006. As a result, there are limited historical data available for these offenses. In FY 2006/07, there were two convictions for fail to report non-compliance of sex offender under G.S. 14-208.11A. *It is not known how many of the additional offenders under this section will fail to comply with their registration requirements.*

Adding G.S. 14-318.4(a1) and G.S. 14-318.4(a2) to the group of reportable offenses also expands the pool of persons potentially required to submit to GPS monitoring under G.S. 14-208.40(a)(2) (subject to DOC’s risk assessment), which may result in additional resource needs for DCC and may also result in impact to the prison population due to revocation. In addition, those required to submit to GPS monitoring would expand the potential pool of offenders under G.S. 14-208.44, subsections (a) (failure to enroll; Class F felony) and (b) (tampering with GPS device; Class E felony). These offenses became effective on December 1, 2006; therefore, there are limited historical data available. In FY 2006/07, there were no convictions under G.S. 14-208.44, subsections (a) and (b). *It is not known how many of the additional offenders under this section will be required to submit to GPS monitoring and may fail to enroll or tamper with the GPS device.*

Given that historical data is unavailable, FRD has used the following minimum threshold data from Sentencing Commission to determine the minimum bed impact of Senate Bill 1736. The table on the next page illustrates the prison bed impact.

- G.S. 14-208.9A(c): In FY 2006/07, 21% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 30 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.
- G.S. 14-208.11(a) and G.S. 14-208.17: In FY 2006/07, 51% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two Class F convictions under this proposed bill 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.
- G.S. 14-208.11A: In FY 2006/07, 35% of Class H convictions resulted in active sentences, with an average estimated time served of 10 months. If, for example, there were three Class H convictions under this proposed bill 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 prison beds the second year.
- G.S. 14-208.16: In FY 2006/07, 41% of Class G convictions resulted in active sentences, with an average estimated time served of 16 months. If, for example, there were two Class G convictions

under this proposed bill 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 prison beds the second year.

- G.S. 14-208.44(b): In FY 2006/07, 53% of Class E convictions resulted in active sentences, with an average estimated time served of 29 months. If, for example, there were two Class E convictions under this proposed bill 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. In addition, since a period of Post-Release Supervision follows release from prison for offenders convicted of Class B1-E felonies, there will be some impact on Post-Release Supervision caseloads and prison beds due to revocations.

Prison Bed Impact Table

<u>Offense</u>	<u>Current Penalty</u>	<u>Potential Convictions</u>	<u>Bed Impact</u>				
			<u>FY 08/09</u>	<u>FY 09/10</u>	<u>FY 10/11</u>	<u>FY 11/12</u>	<u>FY 12/13</u>
GS 14-208.9A(c)	Class 1 Misd	NA	NA	Impact on local jails, not prisons			
GS 14-208.11A	Class H	3		1	2	2	2
GS 14-208.16	Class G	2		1	2	2	2
GS 14-208.11(a) & GS 14-208.17	Class F	2		1	3	3	3
New							
GS 14-208.11(a)(10)	Class F	2		1	3	3	3
GS 14-208.44(a)	Class F	2		1	3	3	3
GS 14-208.44(b)	Class E	2		1	3	3	3
TOTAL		13		6	16	16	16

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.⁷

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.09 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.52 to \$16.53, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.53 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General

⁷ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

Department of Justice

DOJ currently operates the sex offender registry database. S1736 requires that the Department expand on the database to collect Internet identification information. DOJ estimates that it will cost \$735,718 in 2008-09 and \$380,233 in 2009-10 to implement this bill. The additional costs are associated with database development/maintenance, software/equipment purchases and additional staff positions to support the database’s expanded purpose. These estimates have been adjusted based on information received from the agency to more accurately reflect the anticipated cost of implementing this bill. More specifically, the following adjustments were made:

Fiscal Research Division Adjustments

		DOJ Estimate	FRD Estimate
		Recurring	Recurring
Total Requirements		\$ 735,718	\$ 580,800
2	Benefits/Medical	\$ 63,020	\$ 39,000
3	Office Lease	\$ 23,625	\$ 0
4	Operating Expenses	\$ 17,660	\$ 11,500
Total Recurring		\$ 380,233	\$ 260,800
		Nonrecurring	Nonrecurring
5	IT Contractors	\$ 254,139	\$ 254,000
6	Furniture	\$ 16,000	\$ 10,600
7	Auto/Accessories	\$ 23,800	\$ 23,200
8	Computers	\$ 46,897	\$ 21,000
9	Training, Equipment and Software	\$ 14,649	\$ 11,200
Total Nonrecurring		\$ 355,485	\$ 320,000

Position cost reduction. The agency estimate included funding for 5 staff positions to support the database’s expanded purpose. Two IT positions for database development and maintenance, a Computer Crimes Agent to investigate/apprehend violators and two Information Processing Technicians to support database operations and ensure data input accuracy. The two Information Processing Technician positions were taken out of the agency’s estimate. The agency already has staff doing information monitoring/database support functions for the sex offender registry. This bill does not create a new process. It adds an additional function to the information monitoring process. This bill will not increase agency’s workload enough to require two additional staff positions. **-\$89,648**

Offices Lease cost reduction The agency indicated that they will need an additional 1,500 square feet of work space to accommodate the staff positions requested at a total cost of \$23,625. As part of their FY 2008-09 agency budget request, the agency requested 45 staff positions to support the agency’s operations with no request for additional office space to accommodate the new staff positions. It is very unlikely that the agency will be receiving one-fourth of these positions in the

budget. The agency should have space to accommodate the three staff positions needed to implement this bill. The agency estimate was reduced to eliminate the costs built in for lease space. *-\$23,625*

Furniture cost reduction The agency requested \$16,000 for furniture cost. This amount was reduced to reflect the amount of furniture needed to accommodate three staff positions recommended. *-\$5,400*

Computer cost reduction The agency estimate for computer costs was reduced base on the number of units needed to accommodate the three staff positions. Amounts requested for high-tech computers for similar functions in prior agency requests further justifies this reduction. *-\$25,897*

Training, equipment, software and operating cost reduction The amount requested for training, equipment, software other operating expenses was reduced to reflect the amount needed for three staff positions. Also, the agency mentioned that some of the software costs were already included in the computer cost estimate. *-\$10,341*

Judicial Branch

The Administrative Office of the Courts 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.

Section 1: Expansion of “sexually violent offense” definition

Section 1 of this bill expands the definition of a “sexually violent offense” to include certain child abuse offenses, thus expanding the pool of defendants who would be required to register as sex offenders if convicted of these offenses. Under current law, defendants with certain reportable convictions, including a conviction for a sexually violent offense, must register with the Sex Offender and Public Protection Registration Program or the Sexually Violent Predator Registration Program. Failure to register is punishable as a Class F felony under current GS 14-208.11. This bill expands current GS 14-208.6(5) by adding two child abuse offenses to the list of sexually violent offenses: a parent committing or permitting prostitution with or by a juvenile (GS 14-318.4(a1)) and the commission or allowing of a sexual act upon a juvenile by a parent (GS 14-318.4(a2)).

AOC data for calendar 2007 show approximately 2 defendants charged and none convicted under current GS 14-318.4(a1); there were 53 charged and 12 convicted under current GS 14-318.4(a2). **The AOC has no data from which to determine the number of defendants convicted of these child abuse offenses who would fail to register as a sex offender, or thereafter violate provisions of the Program.**

Sections 2, 5, 6, and 7: Registration and updating of online identifier

Section 2 expands the type of information collected on the sex offender registration form by requiring the registrant to provide any online identifier, as defined in new GS 14-208.6(1n), that he/she uses or intends to use. Section 5 requires a registrant who changes his/her online identifier or obtains a new one to notify the sheriff of any such change, in person, within 10 days. Section 6 expands current GS 208.9A(a)(3) by requiring a registrant who has an online identifier to indicate on his/her verification form whether he/she still uses or intends to use the online identifier last reported to the sheriff. Any new or different online identifiers must be provided to the sheriff. Section 7 expands current GS 14-208.11(a) by making it a Class F felony to fail to inform the sheriff of any new online identifiers obtained or changes to existing ones.

AOC data for calendar 2007 show 684 defendants charged under current GS 14-208.11. **The AOC has no data from which to estimate the number of sex offenders with online identifiers who would fail to register or update them as required by this bill. Thus, the number of additional felony charges that would arise cannot be determined.** Considering the prevalence of Internet communication, a substantial number of additional violations could be expected. For any new charges, there would be an increase in the workload of superior court judges, district attorneys, clerks, court reporters, and indigent defense counsel.

Section 10: AOC to notify sheriffs and DOJ of sex offenders who do not receive active sentence

Section 10 requires the AOC to develop a procedure to ensure timely notification to the sheriffs and the Department of Justice's Division of Criminal Information of those registered sex offenders who do not receive an active term of imprisonment. The AOC is currently providing this information to the sheriffs as required under this bill. This information, however, is currently not being provided to the Department of Justice. To capture and send this information electronically to the DOJ would cost the AOC an estimated \$334,500.

Under current procedure, the clerk manually fills out the notification of requirement to register as a sex offender form (AOC-CR-261) for each person who is required to register under Article 27A of Chapter 14, and who does not receive an active term of imprisonment. The clerk leaves copies of this form in the courthouse for the sheriff to pick up. The AOC will not modify this procedure as a result of this bill; the AOC will continue to give this form manually to the sheriffs, and will incur no programming costs as a result.

The AOC's Automated Criminal/Infractions System (ACIS) contains a sex offender flag that is manually triggered by the clerk when he/she enters information on the AOC-CR-261 form into ACIS. Since this flag is not automatically triggered when AOC-CR-261 information is entered, there is a possibility that the clerk would fail to trigger the flag for some sex offenders. In addition, the sex offender flag does not contain all the case information needed to comply with this new requirement. To resolve these two issues, an estimated 4,460 hours of design, programming, and implementation would be required in ACIS and CourtFlow at an estimated cost of \$334,500. These programming changes would allow for the electronic transmission to the DOJ of all pertinent data on sex offenders who receive a suspended sentence.

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

TECHNICAL CONSIDERATIONS: None

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