

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1716

SHORT TITLE: Restit./Victim Impact Statements

SPONSOR(S): Representative Michaux

FISCAL IMPACT: **Expenditures:** **Increase (X)** **Decrease ()**
 Revenues: **Increase ()** **Decrease ()**
 No Impact ()
 No Estimate Available ()

FUNDS AFFECTED: **General Fund (X)** **Highway Fund ()** **Local Fund ()**
 Other Fund ()

BILL SUMMARY: "TO IMPLEMENT RECOMMENDATIONS OF NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION TO PROVIDE IMPACT STATEMENTS FOR PRESENTATION TO THE COURT, TO ORDER RESTITUTION TO VICTIMS WHERE APPROPRIATE, TO MAKE RESTITUTION A FIRST PRIORITY, AND TO EXTEND PROBATION FOR THE PAYMENT OF RESTITUTION."

EFFECTIVE DATE: Upon ratification and applies to offenses on or after that date.

PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED: Judicial Branch;
 Department of Correction

SUMMARY OF FISCAL IMPACT - JUDICIAL BRANCH

	<u>FY</u> 94-95	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u>
98-99					
<u>Maximum Fiscal Impact</u>					
18 VWA Positions	\$646,262	\$548,370	\$548,370	\$548,370	
	\$548,370				
Decrease in revenues distributed to local government/schools		(\$6,467,406)	for a collection period of 1 year		
<u>Probable Fiscal Impact</u>					
3 VWA Positions	\$109,377	\$91,395	\$91,395	\$91,395	
	\$91,395				
Decrease in revenues distributed to local government/schools		(\$6,600,000-\$10,000,000) over period of 3 1/2 years			

ASSUMPTIONS AND METHODOLOGY: JUDICIAL BRANCH

Victim Impact Statements

* The Administrative Office of the Courts (AOC) has provided the following information regarding the fiscal impact of this legislation on the Judicial Branch. The Fiscal Research Division has reviewed this information and is in agreement with their findings and recommendations.

Probable Potential Impact

"HB 1716 specifies that Victim and Witness Assistants are responsible for providing assistance to victims completing victim impact statements. Based on data provided in the February 1, 1994, report entitled "The Implementation and Effectiveness of the Fair Treatment for Victims and Witness Act," VWAs distributed an estimated 35,368 victim impact statements during 1993. Thus, if we were to interpret the proposed legislation as requiring VWAs to assist with preparation of victim impact statements on behalf of only those victims to whom VWAs are already distributing victim impact statements, we assume that additional assistance by VWAs for the approximately 35,368 victims would require about 10 additional minutes per case. This would result in an additional 5,895 hours of work by VWAs, or assuming a 2,000-hour work year, approximately three new VWA positions. At a first-year position cost of \$36,459 (not taking into account any salary increase or modification of fringe benefits that may be enacted by the General Assembly), the approximate cost would be \$109,377."

Maximum Potential Impact

"However, if the intent of HB 1716 is for district attorneys' offices to more vigorously seek victim impact statements on behalf of all "victims of crime" as defined by the Fair Treatment for Victims and Witnesses Act, we would anticipate a much greater need for VWA resources. We project that such assistance would be required for approximately 151,328 victims. This is based on an assumption of one victim per case. This estimate includes the following types of cases: felonies in superior court, excluding controlled substance cases; district court criminal motor vehicle cases that involve the offenses of death by vehicle and hit/run; 15% of district court criminal non-motor vehicle cases; and felony-level juvenile offenses.

For the estimated 35,368 victims currently receiving victim impact statements, we assume that, on average, an additional 10 minutes of VWA time per victim will be required, yielding the estimate shown above, of 5,895 additional VWA hours. In addition, we assume that 15 minutes of VWA time will be expended for each of the estimated remaining 115,960 victims (151,328 minus 35,368) for the distribution of and provision of assistance in completing victim impact statements, or 28,990 VWA hours. Thus, we would estimate a total of 34,885 hours of VWA time to implement the intent of HB 1716, or approximately 18 new VWAs. At an estimated first-year position cost of \$36,459 (not taking into account any salary increase or modification of fringe benefits that may be enacted by the General Assembly), the personnel costs would total \$656,262."

Restitution

"The bill's proposed hierarchy for disbursing funds under G.S. 7A-304(d) places restitution as the first priority, ahead of costs due the county or city, or fines to the county school fund. This modification would simultaneously increase restitution payments to victims and decrease funds distributed to counties, cities, and county schools. The following analyses, while tentative, attempt to estimate the amounts likely to be affected. We estimate figures relating to costs due the county and fines for the county school fund. We do not anticipate any change in the collection of costs due the state, since restitution carries a higher priority than state costs under both the current state and under the provisions of this bill."

Maximum Potential Impact

"Analyzing data from the first 13 counties placed on the AOC's Financial Management System, we can estimate the maximum reduction in court costs and fines distributed to the counties. Extrapolating from one month's billing and five months' collections during FY 93-94 for only those cases involving partial payment plans within these 13 counties, we estimate that \$321,547 in county court fees and \$1,341,053 in fines to be used by public schools would be collected in these counties during a one-year period. Further, we estimate that \$24,192,751 in restitution would be ordered during that period, of which approximately \$2,026,647 would be paid under the current hierarchy of fund disbursement. Using these aggregate figures and assuming that restitution were the first priority, re-allocation of all court-collected county funds to payment of restitution would still be insufficient to fully cover the restitution amounts ordered. Assuming that all county court costs and fines were applied instead to restitution, we can compare this maximum reduction to the total amount collected in all types of cases for these 13 counties during FY 92-93. Such a comparison yields a maximum percentage reduction in collections for each cost category. For county court costs, this analysis suggests a maximum reduction of 9.0% (\$321,547 reduction in collections distributed to these 13 counties for facility fees, officer fees, and jail fees from partial payment accounts divided by \$3,589,152 total collections distributed to these 13 counties for facility fees, officer fees, and jail fees from all case types). For fines and forfeiture amounts due the county schools, this analysis suggests a maximum reduction of 15.3% (\$1,341,053 reduction in collections distributed to these 13 counties for fines and forfeitures from partial payment accounts divided by \$8,790,978 total collections distributed to these 13 counties for fines and forfeitures from all case types). Applying these percentages to statewide collections across all case types during FY 92-93 results in an estimated reduction in funds distributed to the counties for facility fees, officer fees, and jail fees of \$1,236,105 (9.0% of \$13,734,497), and an estimated reduction in fine and forfeiture amounts appropriated for public schools of \$5,231,301 (15.3% of \$34,191,509). The total statewide maximum estimate of the reduction in costs and fines distributed to counties would be \$6,467,406 for the first year following an order of restitution."

Probable Potential Impact

"The following analysis presents an alternative approach to estimating what the decrease in county court costs and fines collected might be following implementation of HB 1716, by looking at the level of individual offenders

and assuming a longer period of time for payment of funds. The Sentencing Commission analyzed restitution ordered for a sample of offenders sentenced during the first quarter of 1990, and paid through the third quarter of 1993 (a follow-up period of three and one-half years). According to that study, the average restitution ordered in felony cases was \$1,261, and the average amount paid was \$292 (23.2%). For misdemeanors, the average amount ordered was \$472, and the average amount collected was \$234 (49.6%).

Thus, if we were to assume that implementation of HB 1716 would achieve an average 33% increase in restitution collected per case, we would estimate that an additional \$96 per felony and an additional \$77 per misdemeanor would be collected for restitution. Assuming no increase in the total amount collected from offenders, but only that the allocation of the monies collected would change, we estimate an increase of \$594,336 for restitution in felony cases (\$96 per case shifted to restitution x 6,191 sentencing episodes), and \$5,989,554 for misdemeanor restitution (\$77 per case shifted to restitution x 77,785 sentencing episodes). This yields a total estimate of \$6,583,781 that would be distributed to victims rather than to counties from amounts ordered during a one-year period (including expected restitution payments for a period of approximately three and one-half years). Alternatively, an average 50% increase in restitution collected per case would result in an estimate additional \$146 per felony and \$117 per misdemeanor, or an increase of \$10,004,731 (\$903,886 for felony restitution and \$9,100,845 for misdemeanor restitution) in funds that would be distributed to victims rather than to counties from amounts ordered during a one-year period (including expected restitution payments for a period of approximately three and one-half years)."

Summary

"The above analyses relating to restitution should be considered as speculative, and several caveats must be noted. Most significant, they rely on extrapolations from incomplete data. The first analysis is based on estimates of aggregate amounts due and paid within a one-year period and suggests a maximum reduction in cost and fines collected by the courts and distributed to counties for a collection period of one year. The second approach uses independent data that were analyzed at the level of individual offenders and with a follow-up period for payment of three and one-half years. However, the underlying data for the second approach focused exclusively on restitution, with no comparable data on court costs or fees. We then make certain assumptions, the validity of which are unknown, regarding what the expected increase in funds collected for restitution would be. Finally, the restitution analyses are based on data from prior fiscal years concerning the amounts of restitution ordered and collected. Therefore, they do not address what the likely impact would be from an increase in either the number of restitution orders or the total restitution amounts ordered. The true impact is unknown, and probably falls somewhere along this continuum of estimates."

FISCAL IMPACT

Division of Probation/Parole

FY 94-95 FY 95-96 FY 96-97 FY 97-98 FY

TOTAL EXPENDITURES	0	0	0	0	0
	1.8m	RECURRING	0	0	0 1.6m
NON-RECURRING	0	0	0	0	0
	.26m				

POSITIONS: 41 (33 Regular Probation/Parole Officers + 4 Unit Supervisors + 4 Clerk Typists)

ASSUMPTIONS AND METHODOLOGY: Department of Correction

Impact of Proposal Regarding Probation Extensions

Based on data compiled by the Department of Correction over the past seven years (1987-1993), 6.9% of offenders sentenced to supervised probation also received probation extension. The average length of probation extension was approximately 1.1 years.

This legislation would increase the maximum length of extension from three to five years, which represents a 167% increase. Therefore, assuming that probationers continue to receive extensions at the same rate (6.9%) and assuming the average length of extensions increase by 167% (from 1.1 years to 1.8 years, or seven-tenths of a year), this bill would increase caseloads by approximately 3,000 probationers [63,000 (expected admissions) X .069 (extension rate) X .7 (additional time served)] in future years. The Sentencing Commission anticipates that these increases would result about five years after the effective date. Thus, the Commission predicts that this legislation would require about 33 new Regular Probation/Parole Officers (using regular caseload sizes of 90), 4 Unit Supervisors, and 4 Clerk Typists (using 8:1 ratio with Regular Probation/Parole Officers) to handle this increased caseload. The estimated cost of these 41 additional positions is detailed below.

Regular Probation/Parole Officers - 33 (Grade 66)

\$43,291 X 33 = \$1,428,603
 \$38,460 X 33 = \$1,269,180 R
 \$4,831 X 33 = \$159,423 NR

Clerk/Typist III's - 4 (Grade 57)

\$48,420 X 4 = \$193,680
 \$31,623 X 4 = \$126,492 R
 \$16,797 X 4 = \$67,188 NR

Unit Supervisor III's - 4 (Grade 70)

\$53,355 X 4 = \$213,420
 \$44,636 X 4 = \$178,544 R
 \$8,719 X 4 = \$34,876 NR

Total Expansion = \$1,835,703
Total Recurring Expansion = \$1,574,216
Total Non-recurring Expansion = \$261,487

SOURCES OF DATA: Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Department of Correction

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION

733-4910

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