

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** HB 113

**SHORT TITLE:** Criminal Justice Records Access

**SPONSOR(S):** Representative Daughtry  
: December 1, 1995

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

**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:** "AN ACT TO REGULATE PUBLIC ACCESS TO AND USE OF CRIMINAL JUSTICE RECORDS." Amends G.S. Ch. 132 (Public Records) by adding a new G.S. 132-1.5, to prohibit the use of criminal justice records for the purpose of soliciting business. Requires that custodians of records deny access to such records unless a requesting person signs a statement under oath or affirmation that records will not be used for the solicitation of business. Exempts from the section officials and individuals who need access to criminal justice records to conduct official court business or law enforcement activities. Exempted persons include the judge, prosecutor, defendant, defendant's attorney-of-record or representative, and law enforcement officers. Defines criminal justice records to include records from arrest; court procedures before, during, and after trial; custody release information; corrections records; and a catch-all category: "all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, which are made, maintained or kept by a public law enforcement agency as defined by G.S. 132-1.4." Makes conforming amendments in other sections of G.S. Ch. 132. Requires that the AOC and Department of Justice adopt rules to implement the act.

**EFFECTIVE 25-May-1995:** December 1, 1995

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

**FISCAL IMPACT - JUDICIAL BRANCH**

	<u>FY</u> 95-96	<u>FY</u> 96-97	<u>FY</u> 97-98	<u>FY</u> 98-99	<u>FY</u>
99-00					
<b>TOTAL EXPENDITURES</b>	\$121,140 \$184,210	\$184,210	\$184,210	\$184,210	
<b>RECURRING</b>	\$115,640 \$184,210	\$184,210	\$184,210	\$184,210	
<b>NONRECURRING</b>	\$5,500	\$0	\$0	\$0	\$0

**POSITIONS:** Ten 3/4-time deputy clerks - Position costs in 1995-96 are \$11,564 (effective date 12/1/95) and \$18,421 for ensuing years.

**ASSUMPTIONS AND METHODOLOGY:** Judicial Branch

\* 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 conclusions.

The Administrative Office of the Courts (AOC) anticipates that this legislation would have a significant fiscal impact on the Judicial Branch due to increased workloads within the clerks' offices, particularly in the largest counties.

Currently, criminal justice records are kept in several different forms: flat files, microfilm, index cards, on-line computer records, and reports generated from computer records. They are all public records, and the clerks' offices provide various means of access to the public. In many counties, microfilmed records, index cards, on-line computer records, and some generated reports may be accessed without any contact with the clerk personnel. Members of the public can immediately pull up information from the computer record. In addition, copies of computer-generated reports, such as the week's calendar, are placed on the clerks' counters for members of the public to pick up.

**This bill does not specifically state whether a signed statement would be required only once from a particular person, or whether it would be required each time a person came to review criminal justice records. For purposes of this fiscal note, the AOC assumes that it would be required only once for a particular person.** Based on this interpretation, the AOC believes that clerks' offices in the smallest counties would experience only an initial increased workload and could absorb these additional responsibilities within existing resources.

The AOC believes, however, that these assumptions would not hold true in the largest counties. They anticipate that an indexing and filing system would have to be set up due to the large number of people wanting criminal records access. This system would allow the clerks to check whether the individuals had previously signed a statement. In addition, the AOC assumes deputy clerks would have to be stationed near all public access areas in order to obtain needed signatures (or check papers), or public access areas would have to be secured in some manner so that they could not be accessed until a person had checked in with the clerk and received clearance to do so.

As a result of this large volume of access requests and the placement of clerks' data outlining the number of individuals wanting access to these records in the clerks' offices throughout the State. This makes it extremely difficult to precisely anticipate the number of counties which would need clerk positions. Based on the great number of individuals accessing terminals in the ten largest counties, the AOC's Court Services Division estimates that these counties would need 3/4 time positions to deal with the increased workload. (The Fiscal Research Division has contacted clerks' offices in some of the largest counties and estimates that approximately 100 individuals access each terminal, usually two or more, every day.)

The AOC forms committee would develop and print the necessary signature forms. They estimate that an initial printing of 500,000 forms would be required, at a cost of \$5,000. Shipping the pads to the counties by courier would cost approximately \$500. Position costs for each of the ten 3/4-time clerks would be \$11,564 in 1995-96 (with an effective date of December 1, 1995) and \$18,421 for 1996-97. The total costs for the ten clerks would be \$115,640 in 95-96, and \$184,210 in 96-97 (this figure does not include any projected pay increase).

**ASSUMPTIONS AND METHODOLOGY:** Department of Justice

According to representatives from the Department of Justice, State Bureau of Investigation (SBI), the proposed legislation would not have any additional fiscal impact on them. This legislation still does not allow access to certain confidential criminal justice records information located in the SBI's Division of Criminal Information network as outlined in GS 132.1. As a result, no fiscal impact is anticipated for the Department of Justice at this time.

**SOURCES OF DATA:** Clerk's Office, AOC Court Services Division; Administrative Office of the Courts; State Bureau of Investigation

**TECHNICAL CONSIDERATIONS:** Under proposed section 132-1.5(a), it is not clear that probation officers are included in the list of officials to whom the section does not apply. Probation officers need frequent access to criminal justice records and probably should be specifically included in the list.

**FISCAL RESEARCH DIVISION**  
**733-4910**

**PREPARED BY:** Charles E. Perusse

**APPROVED BY:** Tom Covington **TomC**

**DATE:** May 24, 1995

**FISCAL RESEARCH DIVISION**  
**DATE**

**FISCAL NOTE TRANSMITTAL FORM**

The attached fiscal note on the bill(s) named above is being transmitted to:

Chief Sponsor, House **Rep. Daughtry**  
Chief Sponsor, Senate  
Fiscal Note Requested By **Rep. Daughtry**

Chairman of the House Committee on  
Chairman of the House Subcommittee on  
Committee Counsel \_\_\_\_\_

Chairman of the Senate Committee on  
Chairman of the Senate Subcommittee on  
Committee Counsel \_\_\_\_\_

Speaker of the House, Harold Brubaker  
President Pro Tempore, Marc Basnight

Chairmen of the House Appropriations Committee  
Representative Billy Creech  
Representative Theresa Esposito  
Representative George Holmes

Chairmen of the Senate Appropriations Committee  
Senator Fountain Odom  
Senator Beverly Perdue  
Senator Aaron Plyler

Chairman of the Senate Ways and Means Committee  
Senator C.R. Edwards

Chairmen of the House Finance Committee  
Representative Gene Arnold  
Representative Connie Wilson  
Representative Lyons Gray

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Senator John Kerr  
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