

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 813 3rd Edition

SHORT TITLE: Prohibit Cyberstalking

SPONSOR(S): Rep. Hensley

FISCAL IMPACT

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

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

REVENUES

EXPENDITURES

May be a significant fiscal impact on the courts.
No estimate available.

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch, Department of Correction.

EFFECTIVE DATE: December 1, 1999 and applies to offenses committed on or after that date.

BILL SUMMARY:

PROHIBIT CYBERSTALKING. TO MAKE CYBERSTALKING A CRIMINAL OFFENSE.

Criminalizes (1) the use of electronic mail or other electronic communications with the intent to harass, threaten, annoy, terrify, defame or embarrass anyone, and (2) the introduction of any computer virus into electronic mail or electronic communication. Makes offense (1) above a Class 1 misdemeanor, or Class A1 misdemeanor for recidivists or persons under court order to refrain from contact with the victim. Makes offense (2) a Class H felony. Establishes locus of the crime as where the electronic mail or communication was originally sent, received, or first viewed by any person. Excludes peaceable, nonviolent or nonthreatening activity intended to express political views, to provide lawful information to others, or that is otherwise constitutionally protected. Permits providers of electronic mail and communications services to give information or conduct surveillance with a court order.

Source: Institute of Government, Daily Bulletin, April 1, 1999.

PROHIBIT CYBERSTALKING. Intro. 4/1/99. House committee substitute makes the following changes to 1st edition. Redefines virus as a program or set of instructions including a virus, Trojan horse, boot sector, macro, logic bomb, worm, or hoax, the purpose of which is to replicate

itself and to destroy, damage, or infect software or hardware designed to transmit or receive electronic mail or electronic communication.

Source: Institute of Government, Daily Bulletin, April 19, 1999.

ASSUMPTIONS AND METHODOLOGY:

The bill would make it unlawful for anyone to use e-mail or other electronic device with the intent to harass or annoy a person. A first offense would be a Class 1 misdemeanor unless there is a court order in effect that prohibits the defendant from contacting the victim in which case it would be a Class A1 misdemeanor. Defendants charged with a second or subsequent violation also would be charged as a Class A1 misdemeanor. Defendants charged with intentionally introducing a damaging computer virus would be charged with a Class H felony.

Judicial Branch

According to the Administrative Office of the Courts (AOC), a substantial impact is anticipated from the potentially high number of misdemeanor cases. Electronic communication with the intent to harass, threaten, annoy, terrify, defame, or embarrass any person could be quite prevalent. While the AOC has no means of estimating the frequency with which these offenses would be charged, it is conceivable that the misdemeanor offenses could be charged with great frequency. Other than some threats or violations of court orders that are charged under current law, these offenses would represent new cases to the court system and would have a significant cost. The felony charges are anticipated to be infrequent and therefore not expected to have a significant fiscal impact. The Fiscal Research Division agrees that there is the potential for numerous misdemeanor cases and therefore the likelihood of a significant fiscal impact on the courts.

Department of Correction

Because the misdemeanor offenses for harassing a person using e-mail would be a new offense, there is no information available on the number of offenders that would be charged and convicted. However, under G. S. 14-196 Harassing and Threatening Phone Calls, there were 759 convictions in fiscal 1997-98. If there were 400 offenders convicted of Class 1 Cyberstalking, there would be approximately 29 active prison sentences per year which would produce 10 full time equivalent inmates the first year and a total of 13 the second year from both direct admissions and probation revocations. Statewide, there would also be approximately 141 active jail sentences per year which would require an additional 12 jail beds the first year and 16 total in the second year.

If there were 30 additional convictions per year for the Class A1 misdemeanor for additional violations or when there is a court order, approximately three offenders would receive an active prison sentence of 4.6 months. There would be an additional need for one full time inmate equivalent in the first year and seven total in the second year.

It is unknown how many convictions would result from the new offense of intentionally introducing a computer virus through e-mail. However, under G.S. 14-454 Accessing Computers under (c) it is unlawful to access a computer and includes "introducing, directly or

indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer system, or computer network.” Under this code, there were six convictions. If there are 10 convictions for the new offense, there would be approximately three offenders who would receive an active prison sentence of 8.3 months. This would create two additional full time equivalent inmates the first year and a total of four by the second year including probation revocations.

Since there is no reliable estimate available on the additional number of convictions under the new offenses, the Fiscal Research Division is unable to provide an estimate of the fiscal impact. However, there is no direct fiscal impact resulting from the passage of this bill because any additional beds of this magnitude and their associated costs can be absorbed within the DOC’s existing resources.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910

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DATE: Monday, April 26, 1999



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