

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 142
Committee Substitute Favorable 2/21/23

Short Title: Protect Our Students Act.-AB

(Public)

Sponsors:

Referred to:

February 20, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY PENALTIES AND DEFINITIONS FOR CERTAIN SEX OFFENSES AGAINST STUDENTS, TO INCREASE THE PENALTIES FOR THE FAILURE OF SCHOOL ADMINISTRATORS TO REPORT CERTAIN MISCONDUCT TO THE STATE BOARD OF EDUCATION, TO CLARIFY THE FORFEITURE OF RETIREMENT BENEFITS FOR CERTAIN FELONIES, AND TO REQUIRE PUBLIC SCHOOL UNITS TO SHOW STUDENTS IN GRADES SIX THROUGH TWELVE A VIDEO PRODUCED BY THE CENTER FOR SAFER SCHOOLS CONTAINING AGE-APPROPRIATE INFORMATION ABOUT SEXUAL ABUSE, AS RECOMMENDED BY THE DEPARTMENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

PART I. MODIFY PENALTIES AND DEFINITIONS FOR CERTAIN SEX OFFENSES AGAINST STUDENTS

SECTION 1.(a) G.S. 14-27.32 reads as rewritten:

"§ 14-27.32. Sexual activity with a student.

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers.

(b) A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class ~~H~~G felony.

(c) This section shall apply unless the conduct is covered under some other provision of law providing for greater punishment.

(d) Consent is not a defense to a charge under this section.

(e) For purposes of this section, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this section, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools.following definitions apply:

(1) School. – As defined in G.S. 14-202.4(d)(2).



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(2) School personnel. – As defined in G.S. 14-202.4(d)(3).

(3) School safety officer. – A school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools.

(4) Student. – A person enrolled in kindergarten, or in grade one through grade 12 in any school within six months of any violation of this section."

SECTION 1.(b) G.S. 14-202.4 reads as rewritten:

"§ 14-202.4. Taking indecent liberties with a student.

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel and is at least four years older than the victim, takes indecent liberties with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school but before the victim ceases to be a student, the defendant is guilty of a Class ~~I-G~~ felony, unless the conduct is covered under some other provision of law providing for greater punishment. A person is not guilty of taking indecent liberties with a student if the person is lawfully married to the student.

(b) If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and who is less than four years older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the defendant is guilty of a Class ~~I-G~~ felony.

(c) Consent is not a defense to a charge under this section.

(d) For purposes of this section, the following definitions apply:

(1) ~~"Indecent liberties" means:~~Indecent liberties. – Means any of the following:

- a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual ~~desire; or~~desire.
- b. Willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student.

For purposes of this section, the term indecent liberties does not include vaginal intercourse or a sexual ~~act as defined by G.S. 14-27.20.act.~~

(1a) ~~"Same school" means a~~Same school. – A school at which (i) the student is enrolled or is present for a school-sponsored or school-related activity and (ii) the school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.

(2) ~~"School" means any~~School. – Any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.

(3) ~~"School personnel" means any~~School personnel. – Any person included in the definition contained in G.S. 115C-332(a)(2), including those employed by a nonpublic, charter, or regional school, and any person who volunteers at a school or a school-sponsored activity.

(3a) ~~"School safety officer" means any~~School safety officer. – Any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools and includes a school resource officer.

(3b) Sexual act. – As defined in G.S. 14-27.20.

(4) ~~"Student" means a~~Student. – A person enrolled in kindergarten, or in grade one through grade 12 in any school-school within six months of any violation of this section."

SECTION 1.(c) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

PART II. INCREASE PENALTIES FOR FAILING TO REPORT MISCONDUCT TOWARD CHILDREN

SECTION 2.(a) Article 22 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 3B. Reporting Misconduct of Licensed School Employees.

"§ 115C-326.20. Reporting misconduct of licensed school employees.

(a) For the purposes of this section, "misconduct" includes any of the following:

(1) Conduct that justifies automatic revocation of a license under G.S. 115C-270.35(b).

(2) The infliction of a physical injury against a child other than by accident or in self-defense.

(b) Any superintendent, assistant superintendent, associate superintendent, personnel administrator, or principal who knows, has reason to believe, or has actual notice of a complaint that an employee licensed under Article 17E of this Chapter has engaged in misconduct resulting in dismissal, disciplinary action, or resignation shall report the misconduct to the State Board of Education within five days of dismissal, determination of disciplinary action, or acceptance of resignation. If the employee resigns within 30 days of a complaint for misconduct or during an ongoing investigation of a complaint, the misconduct is presumed to have resulted in the resignation. Failure to report misconduct pursuant to this section is a Class I felony.

(c) School personnel shall not threaten, harass, or retaliate against any other person for making a report as required by this section."

SECTION 2.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

PART III. PRODUCE AND DISTRIBUTE CFSS TRAINING VIDEO

SECTION 3.(a) G.S. 115C-105.57(c) is amended by adding a new subdivision to read:

"(2a) Develop and produce age-appropriate videos to be shown to students in grades six through 12 that include at least the information listed in G.S. 115C-12(47). The videos shall be distributed to all public school units and may be provided to nonpublic schools at the request of the nonpublic school."

SECTION 3.(b) G.S. 115C-12(47) reads as rewritten:

"(47) Duty Regarding Child Abuse and Neglect. – The State Board of Education, in consultation with the Superintendent of Public Instruction, shall adopt a rule requiring information on child abuse and neglect, including age-appropriate information on sexual abuse, to be provided by public school units to students in grades six through 12. This rule shall also apply to high schools under the control of The University of North Carolina. Information shall be provided in the form of (i) a document provided to all students at the beginning of each school year and year, (ii) a display posted in visible, high-traffic areas throughout each public secondary school, and (iii) a video, produced in accordance with G.S. 115C-105.57(c)(2a), shown to all students no more than five days after the first day of the school year. The document and display document, display, and video shall include, at a minimum, the following information:
...."

SECTION 3.(c) The Center for Safer Schools shall produce and distribute the videos required by this section no later than June 30, 2024.

SECTION 3.(d) This section is effective when it becomes law and applies beginning with the 2024-2025 school year.

PART IIIA. CLARIFYING THE FORFEITURE OF RETIREMENT BENEFITS FOR CERTAIN FELONIES

SECTION 3A.(a) G.S. 128-38.4A(a) reads as rewritten:

"(a) Except as provided in G.S. 128-26(x), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

(1) The offense is committed while the member is in service.

(2) The conduct resulting in the member's conviction (i) is directly related to the member's office or ~~employment~~ employment or (ii) mandates revocation of a certification or professional license required to maintain employment in the position held by the member when the offense was committed."

SECTION 3A.(b) G.S. 135-18.10A(a) reads as rewritten:

"(a) Except as provided in G.S. 135-4(ii), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

(1) The offense is committed while the member is in service.

(2) The conduct resulting in the member's conviction (i) is directly related to the member's office or ~~employment~~ employment or (ii) mandates revocation of a certification or professional license required to maintain employment in the position held by the member when the offense was committed."

SECTION 3A.(c) This section is effective when it becomes law and applies to offenses committed on or after that date.

PART IV. EFFECTIVE DATE

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.