

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 763 2nd Edition

SHORT TITLE: Teacher/Student/No Sex Acts

SPONSOR(S): Rep. Mitchell

FISCAL IMPACT

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

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

REVENUES

EXPENDITURES

A minimal impact could be absorbed within existing resources.

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:

TEACHER/STUDENT/NO SEX ACTS. TO MAKE IT UNLAWFUL FOR A SCHOOL TEACHER OR ADMINISTRATOR TO ENGAGE IN SEXUAL ACTS WITH A STUDENT. Adds GS 14-202.4 to make it a Class I felony for a teacher or administrator to take indecent liberties with a student who is enrolled at the school to which the teacher or administrator is assigned by (a) willfully taking immoral, improper or indecent liberties with student who is 16, 17, or 18 years old for purpose of arousing or gratifying sexual desire, or (2) commit lewd or lascivious act with or upon such student. Does not apply if conduct is covered under some other law providing for greater punishment. Provides that consent is not a defense. Does not include vaginal intercourse or other specified sex acts [that invoke other statutes with greater punishment].

Amends GS 14-27.7 (vaginal intercourse or sexual act with minor by one in loco parentis) to make such acts a Class G felony if defendant is employed as teacher or administrator in school of victim who is 16, 17, or 18 years old unless act is covered by another law providing greater punishment. Provides that consent is not a defense.

Effective Dec. 1, 1999; applies to offenses committee on or after that date.
Source: Institute of Government, Daily Bulletin, March 31, 1999.

TEACHER/STUDENT/NO SEX ACTS. Intro. 3/31/1999. House committee substitute expands 1st edition's prohibition of indecent liberties and sexual acts as follows. (1) Offender may be any present or former school personnel as defined by GS 115C-332(a)(2) (formerly limited to teacher or administrator). (2) Forbidden sexual conduct may occur when victim (student or former student) is of any age (formerly, occurred only if victim was age 16-18 at time of sexual misconduct). (3) The forbidden sexual conduct may occur during or after the time when victim is present in the same school with the school personnel (the offender). Makes exception for sexual activity if personnel and student are married at the time.

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

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Fiscal Research Division believes the bill would have a minimal impact on the judicial system because of the anticipated low number of offenses charged. The Administrative Office of the Courts (AOC) does not have an estimate of the possible number of cases. In the cases where there is not consent, it would be covered under a more serious crime so there would be no impact to the judicial system.

However, there may be additional cases of consensual sex that would create new charges under this bill but the Fiscal Research Division would expect the number of cases to be minimal. As a result, the Fiscal Research Division believes any additional cases could be absorbed within existing resources.

Department of Correction

Because of the expectation of only a few cases, the Fiscal Research Division believes that the impact on the Department of Correction would be minimal. 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 budget.

FISCAL RESEARCH DIVISION 733-4910

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DATE: Wednesday, April 21, 1999



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