

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 142  
Committee Substitute Favorable 2/21/23  
PROPOSED COMMITTEE SUBSTITUTE H142-PCS30186-SHp-8

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 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, AND TO DEFINE CONDUCT DIRECTLY RELATED TO THE OFFICE OR EMPLOYMENT AS IT PERTAINS TO THE FORFEITURE OF RETIREMENT BENEFITS, 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 ~~I~~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



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1 in a school for the purpose of promoting and maintaining safe and orderly schools. following  
 2 definitions apply:

- 3 (1) School. – As defined in G.S. 14-202.4(d)(2).  
 4 (2) School personnel. – As defined in G.S. 14-202.4(d)(3).  
 5 (3) School safety officer. – A school resource officer or any other person who is  
 6 regularly present in a school for the purpose of promoting and maintaining  
 7 safe and orderly schools.  
 8 (4) Student. – A person enrolled in kindergarten, or in grade one through grade  
 9 12 in any school within six months of any violation of this section."

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

11 **"§ 14-202.4. Taking indecent liberties with a student.**

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

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

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

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

- 25 (1) ~~"Indecent liberties" means:~~ Indecent liberties. – Means any of the following:  
 26 a. Willfully taking or attempting to take any immoral, improper, or  
 27 indecent liberties with a student for the purpose of arousing or  
 28 gratifying sexual ~~desire;~~ or desire.  
 29 b. Willfully committing or attempting to commit any lewd or lascivious  
 30 act upon or with the body or any part or member of the body of a  
 31 student.

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

- 34 (1a) ~~"Same school" means a~~ Same school. – A school at which (i) the student is  
 35 enrolled or is present for a school-sponsored or school-related activity and (ii)  
 36 the school personnel is employed, volunteers, or is present for a  
 37 school-sponsored or school-related activity.  
 38 (2) ~~"School" means any~~ School. – Any public school, charter school, or nonpublic  
 39 school under Parts 1 and 2 of Article 39 of Chapter 115C of the General  
 40 Statutes.  
 41 (3) ~~"School personnel" means any~~ School personnel. – Any person included in  
 42 the definition contained in G.S. 115C-332(a)(2), including those employed by  
 43 a nonpublic, charter, or regional school, and any person who volunteers at a  
 44 school or a school-sponsored activity.  
 45 (3a) ~~"School safety officer" means any~~ School safety officer. – Any other person  
 46 who is regularly present in a school for the purpose of promoting and  
 47 maintaining safe and orderly schools and includes a school resource officer.  
 48 (3b) Sexual act. – As defined in G.S. 14-27.20.  
 49 (4) ~~"Student" means a~~ Student. – A person enrolled in kindergarten, or in grade  
 50 one through grade 12 in any ~~school.~~ school within six months of any violation  
 51 of this section."

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

3  
4 **PART II. INCREASE PENALTIES FOR FAILING TO REPORT MISCONDUCT**  
5 **TOWARD CHILDREN**

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

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

9 **"§ 115C-326.20. Reporting misconduct of licensed school employees.**

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

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

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

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

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

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

27  
28 **PART III. PRODUCE AND DISTRIBUTE CFSS TRAINING VIDEO**

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

31           "(2a) Develop and produce age-appropriate videos to be shown to students in grades  
32 six through 12 that include at least the information listed in G.S. 115C-12(47).  
33 The videos shall be distributed to all public school units and may be provided  
34 to nonpublic schools at the request of the nonpublic school."

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

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

49           ...."

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

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

3  
4 **PART IIIA. DEFINE CONDUCT DIRECTLY RELATED TO THE OFFICE OR**  
5 **EMPLOYMENT AS IT PERTAINS TO THE FORFEITURE OF RETIREMENT**  
6 **BENEFITS**

7           **SECTION 3A.(a)** G.S. 128-21 reads as rewritten:

8 **"§ 128-21. Definitions.**

9           The following words and phrases as used in this Article, unless a different meaning is plainly  
10 required by the context, shall have the following meanings:

11           ...

12           (7c) "Conduct directly related to the office or employment" shall mean conduct by  
13 the member resulting in a felony conviction that:

14           a. Is an offense identified in G.S. 115C-270.35(b), and the commission  
15 of the offense occurred while the member was employed in a public  
16 school or working in a public school subject to a memorandum of  
17 understanding.

18           b. Is an offense which required the revocation of the member's licensure  
19 or certification required for the member's employment or office at the  
20 time of the commission of the offense.

21           c. Is conduct that was directly related to the member's employment or  
22 office as determined by the Board of Trustees.

23           (7e)(7d) "Consumer Price Index" shall mean the Consumer Price Index for All  
24 Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally  
25 adjusted, standard reference base, as published by the Bureau of Labor  
26 Statistics of the U.S. Department of Labor.

27           ...."

28           **SECTION 3A.(b)** G.S. 135-1 reads as rewritten:

29 **"§ 135-1. Definitions.**

30           The following words and phrases as used in this Chapter, unless a different meaning is plainly  
31 required by the context, shall have the following meanings:

32           ...

33           (7c) "Conduct directly related to the office or employment" shall mean conduct by  
34 the member resulting in a felony conviction that:

35           a. Is an offense identified in G.S. 115C-270.35(b), and the commission  
36 of the offense occurred while the member was employed in a public  
37 school or working in a public school subject to a memorandum of  
38 understanding.

39           b. Is an offense which required the revocation of the member's licensure  
40 or certification required for the member's employment or office at the  
41 time of the commission of the offense.

42           c. Is conduct that was directly related to the member's employment or  
43 office as determined by the Board of Trustees.

44           (7e)(7d) "Consumer Price Index" shall mean the Consumer Price Index for All  
45 Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally  
46 adjusted, standard reference base, as published by the Bureau of Labor  
47 Statistics of the U.S. Department of Labor.

48           ...."

49           **SECTION 3A.(c)** This section becomes effective July 1, 2023, and applies to  
50 offenses committed on or after that date.

1 **PART IV. EFFECTIVE DATE**

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