

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

D

HOUSE BILL 142
Committee Substitute Favorable 2/21/23
Committee Substitute #2 Favorable 3/21/23
PROPOSED COMMITTEE SUBSTITUTE H142-PCS10251-BE-14

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 ~~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



* H 1 4 2 - P C S 1 0 2 5 1 - B E - 1 4 *

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)** The State Board of Education has authority to adopt temporary rules
26 to (i) implement the requirements of this section, (ii) address disciplinary actions against
27 professional educator licenses, and (iii) modify 16 NCAC 06C .0602 (Standards of Professional
28 Conduct). The State Board shall adopt permanent rules no later than July 1, 2024.

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

31
32 **PART III. PRODUCE AND DISTRIBUTE CFSS TRAINING VIDEO**

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

35 "(2a) Develop and produce age-appropriate videos to be shown to students in grades
36 six through 12 that include at least the information listed in G.S. 115C-12(47).
37 The videos shall be distributed to all public school units and may be provided
38 to nonpublic schools at the request of the nonpublic school."

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

40 "(47) Duty Regarding Child Abuse and Neglect. – The State Board of Education, in
41 consultation with the Superintendent of Public Instruction, shall adopt a rule
42 requiring information on child abuse and neglect, including age-appropriate
43 information on sexual abuse, to be provided by public school units to students
44 in grades six through 12. This rule shall also apply to high schools under the
45 control of The University of North Carolina. Information shall be provided in
46 the form of (i) a document provided to all students at the beginning of each
47 school year and year, (ii) a display posted in visible, high-traffic areas
48 throughout each public secondary school-school, and (iii) a video, produced
49 in accordance with G.S. 115C-105.57(c)(2a), shown to all students no more
50 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. DEFINE CONDUCT DIRECTLY RELATED TO THE OFFICE OR EMPLOYMENT AS IT PERTAINS TO THE FORFEITURE OF RETIREMENT BENEFITS

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

§ 128-21. Definitions.

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

...

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

- a. Is an offense identified in G.S. 115C-270.35(b), and the commission of the offense occurred while the member was employed in a public school or working in a public school subject to a memorandum of understanding.
- b. Is an offense which required the revocation of the member's licensure or certification required for the member's employment or office at the time of the commission of the offense.
- c. Is conduct that was directly related to the member's employment or office as determined by the Board of Trustees.

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

...."

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

§ 135-1. Definitions.

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

...

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

- a. Is an offense identified in G.S. 115C-270.35(b), and the commission of the offense occurred while the member was employed in a public school or working in a public school subject to a memorandum of understanding.
- b. Is an offense which required the revocation of the member's licensure or certification required for the member's employment or office at the time of the commission of the offense.
- c. Is conduct that was directly related to the member's employment or office as determined by the Board of Trustees.

(7e)(7d) "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally

1 adjusted, standard reference base, as published by the Bureau of Labor
2 Statistics of the U.S. Department of Labor.

3 "

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

6

7 **PART IV. EFFECTIVE DATE**

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