2005-2006

HOUSE CHILDREN, YOUTH & FAMILIES

COMMITTEE MINUTES

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES

2005 – 2006 Legislative Session

Committee Chair, Representative Mary
McAllister
and
Committee Assistant, Johnna Smith

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005 – 2006 SESSION



Representative McAllister Chair



Rep. Goodwin Vice Chair



Representative Weiss Vice Chair



Representative Alexander



Representative Dockham



Representative Dollar



Representative Farmer-Butterfield



Representative Fisher



Representative Folwell



Representative Holloway



Representative Hunter



Representative Walend



Rep. Culpepper Ex-officio



Rep. Cunningham Ex-officio



Rep. Eddins Ex-officio



Rep. Hackney Ex-officio

HOUSE COMMITTEE ON CHILDREN YOUTH & FAMILIES 2005- 2006 SESSION

| <u>MEMBER</u> | <u>ASSISTANT</u> | PHONE | OFFICE | SEAT |
|-----------------------------|-------------------|--------------|---------------|-------------|
| Mary McAllister, CHAIR | Johnna Smith | 733-5959 | 638 LOB | 58 |
| Melanie Goodwin, VICE CHAIR | Jane McMillan | 733-5823 | 1305 LB | 91 |
| Jennifer Weiss, VICE CHAIR | Susan Doty | 733-5781 | 2221 LB | 31 |
| Martha Alexander | Ann Faust | 733-5807 | 2208 LB | 32 |
| Jerry Dockham | Regina Irwin | 715-2526 | 1424 LB | 106 |
| Nelson Dollar | Candace Slate | 715-0795 | 1421 LB | 119 |
| Jean Farmer-Butterfield | Barbara Hocutt | 733-5898 | 614 LOB | 53 |
| Susan Fisher | Meredith Woodlief | 715-2013 | 420 LOB | 30 |
| Dale Folwell | Mary Marchman | 733-5787 | 302C LOB | 104 |
| Bryan Holloway | Chad Hinton | 733-5609 | 1409 LB | 98 |
| Howard Hunter | Barbara Phillips | 733-2962 | 613 LOB | 68 |
| Trudi Walend | Ken Walend | 715-4466 | 602 LOB | 115 |

RESEARCH DIVISION STAFF: (919)733-2578

Shirley Iorio Ben Popkin Wendy Graf Ray

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005-2006 LEGISLATIVE SESSION

INDEX OF BILLS

- House Bill 222 Coordination of Children's Services/Study, Bill Sponsor: Representative Verla Insko
- House Bill 707 Amend Star-Rated Licensure/Child Care Facilities AB, Bill Sponsor: Representative Martha Alexander
- House Bill 1517 Clarify Definition of Child Care, Bill Sponsor: Representative Becky Carney
- Senate Bill 189 All-Terrain Vehicle Regulation, Bill Sponsor: Senator William Purcell.

HOUSE COMMITTEE MEETING ON CHILDREN, YOUTH & FAMILIES MEETING WEDNESDAY MARCH 30, 2005

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2005-2006 SESSION

You are hereby notified that the Committee on Children, Youth & Families will meet as follows:

| d5 10110 W5. | |
|---|---|
| DAY & DATE: | Wednesday March 30, 2005 |
| TIME: | 12:00 Noon |
| LOCATION: | 605 LOB |
| This will be an orga | unizational meeting only. |
| | Respectfully, |
| | Representative Mary McAllister Chairman |
| I hereby certify this 2:00 on March 28, | notice was filed by the committee assistant at the following offices at 2005. |
| Principal Reading | Clerk Clerk - House Chamber |
| Johnna Smith (Com | mittee Assistant) . |
| | |

COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Representative Mary E. McAllister, Chairman

Meeting Agenda – Wednesday March 30, 2005, 12 Noon, 605 LOB

CALL TO ORDER:

Representative Mary McAllister, Chair

NO BILLS HEARD, ORGANIZATIONAL MEETING ONLY

REMARKS & ADJOURNMENT

ATTENDANCE

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005-06

| DATES | 3/30/05 | | | | | - | | | | |
|--------------------------------------|---------|---|---|---|--|---|------|------|------|--|
| McALLISTER, Mary, CHAIR | X | | | | | | | | | |
| GOODWIN, Melanie, VICE CHAIR | X | • | | | | | | | | |
| WEISS, Jennifer, VICE CHAIR | X | | | | | | | | | |
| ALEXANDER, Martha | X | | | | | | | | | |
| DOCKHAM, Jerry | | | | | | | | | | |
| DOLLAR, Nelson | X | | | | | | | | | |
| FARMER-BUTTERFIELD, Jean | X | | | | | | | | | |
| FISHER, Susan | X | | | | | | | | | |
| FOLWELL, Dale | X | | | | | | | | | |
| HOLLOWAY, Bryan | X | | | | | | | | | |
| HUNTER, Howard | X | | | | | | | | | |
| WALEND, Trudi | X | | - | | | | | | | |
| Ex-Officios: | | | | - | | | | | | |
| CULPEPPER, Bill | | | | | | | | | | |
| CUNNINGHAM, Pete | | | | | | | · | | | |
| EDDINS, Rick | | | | | | | | | | |
| HACKNEY, Joe | | | | | | | | | | |
| | | | | | | | | | | |
| Staff Members: | | | | | | | | | | |
| WENDY GRAF RAY | X | | | | | | | | | |
| SHIRLEY IORIO | X | | | | | | | | | |
| BEN POPKIN | X | | | | | | | | | |
| | | | | | | | | | | |
| JOHNNA SMITH, COMMITTEE ASSISTANT | X | | | | | | | | | |

House Pages

| Name Of Committee: Date: 3 30 05 | |
|--------------------------------------|--|
| • | |
| 1. Name: Katy Hill | |
| County: Builfird | |
| Sponsor: Lama Wiley | |
| 2. Name: Acy Watson | |
| County: John stan | |
| Sponsor: Langdon (Rep.) | |
| 3. Name: | |
| County: | |
| Sponsor: | |
| 4. Name: | |
| County: | |
| Sponsor: | |
| 5. Name: | |
| County: | |
| Sponsor: | |
| Sgt-At-Arms | |
| Name: MARTHA PARRISH | |
| 2. Name: JAMES WORTH | |
| Name: | |
| . Name: | |
| . Name: | |

VISITOR REGISTRATION SHEET VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT FIRM OR AGENCY NAME

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES MEETING MINUTES

WEDNESDAY MARCH 30, 2005 ROOM 605 LOB, 12 NOON

Committee Chair – Representative Mary McAllister, Presiding

The House Committee on Children, Youth & Families met on Wednesday March 30, 2005 at 12 noon in Room 605 of the Legislative Office Building.

Committee Chair, Representative Mary McAllister called the meeting to order at 12 Noon. The visitors were welcomed. The committee members and staff introduced themselves. The Sergeant-At-Arms staff was also acknowledged and thanked for their assistance. The Visitors, House Pages and Sergeant-at-Arms are noted on the attachments. The Committee Chair also recognized her Legislative Committee Assistant, Johnna Smith.

Members present: Vice Chairs: Representatives Melanie Goodwin and Jennifer Weiss; Committee Members: Representatives Martha Alexander, Nelson Dollar, Jean Farmer-Butterfield, Susan Fisher, Dale Folwell, Bryan Holloway, Howard Hunter and Trudi Walend.

Staff Members present: Wendy Graf Ray, Shirley Iorio and Ben Popkin.

The Chair adjourned the committee meeting at 12:25 pm.

Respectfully submitted by,

Representative Mary McAllister

Committee Chair

Johnna C. Smith

Committee Assistant

HOUSE COMMITTEE MEETING ON CHILDREN, YOUTH & FAMILIES MEETING WEDNESDAY APRIL 6, 2005

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2005-2006 SESSION

You are hereby notified that the Committee on CHILDREN, YOUTH & FAMILIES will meet as follows:

| DAY & DATE: | Wednesday April 6, 2005 |
|---|---|
| TIME: | 12:00 Noon |
| LOCATION: | 605 LOB |
| The following bills HB 222 COORDI | will be considered (Bill # & Short Title & Bill Sponsor): NATION OF CHILDREN'S SERVICES/STUDY (Rep. Insko) |
| HB 707 AMEND (Alexander) | STAR RATED LICENSURE/CHILD CARE VAC. AB (Rep. |
| | Respectfully, |
| | Representative Mary McAllister Chairman |
| I hereby certify this 2:00 pm on Friday | notice was filed by the committee assistant at the following offices at April 1, 2005. |
| Principa Reading | l Clerk Clerk - House Chamber |
| Johnna Smith (Com | mittee Assistant) |
| | |

COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Representative Mary E. McAllister, Chairman

Meeting Agenda – Wednesday April 6 2005, 12 Noon, 605 LOB

CALL TO ORDER:

Representative Mary McAllister, Chair

BILLS:

HB 707 – Amend Star-Rated Licensure/Child Care Vac. AB (Rep. Alexander

REMARKS & ADJOURNMENT

February 15, 2005

H 222. COORDINATION OF CHILDREN'S SERVICES/STUDY. TO IMPROVE THE COORDINATION OF SERVICES TO CHILDREN, YOUTH, AND FAMILIES BY CREATING CHILDREN'S SERVICES WORK GROUPS, BY ESTABLISHING AN INDEPENDENT STUDY COMMISSION TO MAKE RECOMMENDATIONS ON HOW TO ELIMINATE BARRIERS TO COLLABORATION BETWEEN AND AMONG CHILD-SERVING AGENCIES. AND TO MAKE AN APPROPRIATION AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES. Enacts new GS Ch. 143C stating General Assembly's intent regarding coordination of children's services. Establishes executive/judicial branch children's services work group appointed by Secretary of Health and Human Services, Secretary of Juvenile Justice and Delinguency Prevention, Chair of State Board of Education, Superintendent of Public Instruction, and Chief Justice of NC Supreme Court. Work group to study and make recommendations for cooperation and information-sharing among state and local child-serving agencies. Requires work group to submit final report by April 15, 2006, and then terminate. Directs legislative staff to monitor and report on efforts of work group. Creates 18-member legislative Coordination of Children's Services Study Comm'n, appointed by Speaker and President Pro Tem., to study and recommend changes to improve collaboration and coordination between agencies that provide services to children, youth, and families with multiple service needs. Requires Comm'n to submit final report to 2007 Regular Session and then terminate. Effective July 1, 2005, appropriates \$110,000 for 2005-06 from General Fund to Dep't of Administration to carry out provisions of act. Intro. by Insko.

Ref. to Children. Youth & Families

GS 143C, STUDY, APPROP

April 7, 2005

H 222. COORDINATION OF CHILDREN'S SERVICES/STUDY. Intro. 2/15/05. House committee substitute makes the following changes to 1st edition. Makes technical changes only.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

H 2

HOUSE BILL 222* Committee Substitute Favorable 4/7/05

| Short Title: | (Public) | |
|--------------|-------------------|--|
| Sponsors: | | |
| Referred to: | | |
| | February 15, 2005 | |

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE COORDINATION OF SERVICES TO CHILDREN, YOUTH, AND FAMILIES BY CREATING CHILDREN'S SERVICES WORK GROUPS, BY ESTABLISHING AN INDEPENDENT STUDY COMMISSION TO MAKE RECOMMENDATIONS ON HOW TO ELIMINATE BARRIERS TO COLLABORATION BETWEEN AND AMONG CHILD-SERVING AGENCIES, AND TO MAKE AN APPROPRIATION AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 143C. "Coordination of Children's Services.

"§ 143C-1. Intent; purpose.

It is the intent of the General Assembly to (i) improve the safety and well-being of North Carolina's children, youth, and families; (ii) support collaboration among State, regional, and local agencies that deliver services to children, youth, and families; (iii) make more effective use of existing federal, State, and local resources and programs for children, youth, and families; and (iv) streamline service delivery, fill service gaps, and eliminate duplication of services for children, youth, and families.

The Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, the Administrative Office of the Courts, and other affected State agencies share responsibility and accountability to assure effective collaboration among State and local agencies to improve outcomes for children and their families leading to full participation in their communities and schools."

SECTION 2.(a) The General Assembly recognizes that services to children, youth, and families are most effective when they are child- and family-centered,

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multidisciplinary approaches, use community-based, strengths-based, evidence-based practices when appropriate, and recognize and respect cultural differences. These practices can be successfully implemented only where there is significant and ongoing collaboration and coordination among multiple public agencies. The General Assembly also recognizes that while agencies are making significant progress towards implementing these practices, there is also a need to focus State-level policy in order to provide support, remove barriers, and more fully implement these goals.

SECTION 2.(b) There is established a children's services work group. It shall be located in the Department of Administration for budgetary and staffing purposes only. The Secretary of the Department of Health and Human Services, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Chair of the State Board of Education, the Superintendent of Public Instruction, and the Chief Justice of the North Carolina Supreme Court shall each designate at least one representative to serve on the work group from among the programs, divisions, or departments under that administrator's control that provide services to children and vouths. Each administrator named in the preceding sentence shall also appoint to serve on the work group at least one parent of a child or youth who has or is at risk for behavioral, social, health, or safety problems or academic failure, at least one member of a local collaborative body, and at least one private sector service provider. The Chair of the State Board of Education and the Superintendent of Public Instruction may make joint appointments.

SECTION 2.(c) The work group shall meet at least monthly. The first meeting of the work group shall occur not less than 30 days after the effective date of this section. The Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and the Administrative Office of the Courts shall, in this order and on a rotating basis, host the monthly meetings of the work group. The Department of Administration shall provide staff and clerical support to the work group.

SECTION 2.(d) The work group shall:

- Identify common outcome measures for child-serving agencies that (1) can be used for monitoring the safety, health, and well-being of North Carolina's children, youth, and families, including preventative measures.
- Identify strategies for funding flexibility between State and local **(2)** agencies, including shared funding streams and the removal of financial and bureaucratic barriers.
- Develop a common service terminology to be used across (3) child-serving agencies that is appropriate and assists collaboration and coordination.
- Make recommendations regarding the creation of a shared database to (4) track population and program outcomes information while protecting individual confidentiality.

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- Develop mechanisms that would allow agencies to share information (5) about individual children receiving multiple recommendations must take into account confidentiality requirements. be voluntary on the part of the party receiving services, and be time-limited. The mechanisms may address intake, assessment, and release procedures.
- Examine State and local training needs for implementing increased (6) coordination and collaboration.
- Study other issues the work group determines would improve (7) coordination and collaboration between child-serving agencies.

SECTION 2.(e) A majority of the work group shall constitute a quorum for the transaction of business.

SECTION 2.(f) Members of the work group shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5 or G.S. 138-6 as appropriate.

SECTION 2.(g) Upon the approval of the Secretary of the Department of Health and Human Services, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Chair of the State Board of Education, the Superintendent of Public Instruction, and the Chief Justice of the North Carolina Supreme Court, the work group shall submit its findings and recommendations to the Coordination of Children's Services Study Commission created under Section 4 of this act. The work group shall submit an interim report no later than December 15, 2005, and a final report no later than April 15, 2006. The reports shall specify those recommendations that may be implemented without statutory changes and those that would require statutory authorization.

If the General Assembly has not adjourned by those dates, or if the membership of the Study Commission has not been appointed, the work group shall submit its reports to the Joint Legislative Education Oversight Committee, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Joint Legislative Health Care Oversight Committee, and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

The work group shall expire upon the filing of the final report.

The Directors of the Bill Drafting, Research, and Fiscal SECTION 3. Research Divisions of the General Assembly shall establish a children's services work group comprised of the legislative staff assigned to subject areas or agencies involving the child-serving programs administered by the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and the Department of Public Instruction.

The work group shall: (i) monitor the proceedings of the children's services work group created under Section 2 of this act; (ii) provide information to legislators and legislative bodies regarding the recommendations of the work group and methods by which the General Assembly may implement those recommendations; and (iii)

provide a mechanism to improve coordination, collaboration, and education regarding children's services across State and local agencies among legislative staff.

This section shall expire upon the convening of the 2009 General Assembly. However, this shall in no way limit the Division Directors' authority to direct legislative staff to continue to implement the purposes of this section.

SECTION 4.(a) There is created the Coordination of Children's Services Study Commission ("Commission"). The Commission shall consist of 18 members appointed as follows:

- (1) Nine members appointed by the Speaker of the House of Representatives as follows:
 - a. Five members of the House of Representatives, of whom at least one shall also serve on the House of Representatives Health and Human Services Appropriations Subcommittee, at least one shall also serve on the House of Representatives Education Committee, at least one shall also serve on the House of Representatives Health Committee, and at least one shall also serve on a House of Representatives Judiciary Committee; and
 - b. Four members of the public, including a district court judge, a member of a local collaborative body, a private sector service provider, and a parent of a child who has or is at risk for behavioral, social, health, or safety problems or academic failure.
- (2) Nine members appointed by the President Pro Tempore of the Senate as follows:
 - a. Five members of the Senate, of whom at least one shall also serve on the Senate Health and Human Services Appropriations Subcommittee, at least one shall also serve on the Senate Education Committee, at least one shall also serve on the Senate Health Committee, and at least one shall also serve on a Senate Judiciary Committee; and
 - b. Four members of the public, including a parent of a child who has or is at risk for behavioral, social, health, or safety problems or academic failure, a child who has or is at risk for behavioral, social, health, or safety problems or academic failure, a member of a local board of education, and a member of a board of county commissioners.

The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 4.(b) The purpose of the Commission is to study and recommend changes to improve collaboration and coordination among agencies that provide services to children, youth, and families with multiple service needs. The Commission's

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recommendations shall include mechanisms for establishing clear State leadership, consistent policy direction, and increased accountability at the State and local levels. As part of its work, the Commission shall:

- Identify existing State, regional, and local collaborative bodies (1) (including their charges, scopes of authority, and accountability requirements) that have been created by legislation, administrative rule, or agency policy and that are charged with serving, protecting, or improving the well-being of North Carolina's children, youth, and families. Once it has identified the collaborative bodies, the Commission shall consider how they could be consolidated. reorganized, or eliminated in order to improve their effectiveness and accountability, increase the likelihood that key players will actively participate, and reduce unnecessary duplication of effort. The Commission shall also consider the creation of a mechanism for coordination and communication among the State and local collaborative bodies, incentives for collaboration, clarification of roles among agencies, and ways to monitor the extent to which groups are collaborating.
- (2) Study the practices of agencies currently implementing a system of care platform of practices and make recommendations regarding whether to adopt those practices statewide and across child-serving agencies as the preferred mechanism for providing services to children, youth, and families. In examining this issue, the Commission shall identify those State and local agencies that are currently implementing practices that are consistent with a system of care, those states that have implemented a system of care as a statewide policy initiative, and the extent to which a system of care is cost-effective.
- (3) The Commission shall also examine the following principles that are associated with a system of care and determine whether to recommend the adoption of a State policy that reflects these principles:
 - a. Services for children should promote success, safety, and permanence.
 - b. Services should be child- and family-centered, giving priority to keeping children with their families, in their home, school, and community.
 - c. Services should actively promote early identification and intervention.
 - d. Services should be designed to protect the rights of children.
 - e. Services shall be integrated and comprehensive, addressing the child's physical, educational, social, and emotional needs through a single child and family team.
 - f. Services shall be outcomes-accountable and tied to a unified child and family plan.
 - g. Agency resources and services shall be shared and coordinated.

- h. Services shall be provided as close to home as appropriate in the least restrictive setting consistent with what is known to be effective.
- i. Services shall be culturally competent.
- j. Services shall address the unique strengths, needs, and potential of each child and family, and shall be sufficiently flexible to meet highly individualized child and family needs.
- k. Management of the child-serving system is a responsibility shared among all public and private child-serving agencies that should be held collectively accountable for outcomes.
- (4) In reviewing principles relating to a system of care, the Commission shall determine whether they articulate goals that are measurable and if not, determine whether they could be modified to reflect measurable goals.
- (5) Receive and study the recommendations contained in the reports submitted by the work group created in Section 2 of this act and determine whether to recommend any of the statutory proposals.
- (6) Study any other issues the Commission determines would improve coordination and collaboration among child-serving agencies.

SECTION 4.(c) Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The members of the Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6 as appropriate.

SECTION 4.(d) The Commission shall submit an interim report to the 2006 Regular Session of the 2005 General Assembly that contains its recommendations and legislative proposals. It shall submit a final report to the 2007 Regular Session of the 2007 General Assembly. Upon the earlier of the filing of its final report or the convening of the 2007 General Assembly, the Commission shall terminate.

SECTION 5. There is appropriated from the General Fund to the Department of Administration the sum of one hundred ten thousand dollars (\$110,000) for the 2005-2006 fiscal year to carry out the provisions of this act.

SECTION 6. Section 5 of this act becomes effective July 1, 2005. The remainder of this act is effective when it becomes law.

March 17, 2005

H 707. AMEND STAR-RATED LICENSURE/CHILD CARE FAC. AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD DEVELOPMENT, TO STRENGTHEN THE LAWS REGULATING STAR-RATED LICENSURE FOR CHILD CARE FACILITIES. Amends GS 110-90 to require that by January 1, 2008, the rating of a child care facility currently holding a license of two to five stars will be based on program standards and education levels, and that new licenses issued before January 1, 2006, to facilities with a two to five star rating will be based on same criteria. Effective January 1, 2006, requires that a child care facility must maintain a compliance history of at least 75% before any new license or Notice of Compliance is issued. Requires that by January 1, 2008, all facilities must have a compliance history of at least 75% in order to maintain a license or Notice of Compliance. Provides for the issuance of a provisional license if facility fails to meet 75% compliance standard for the prior 18 months or during the time facility has operated, whichever is less. Effective January 1, 2006.

Intro. by Alexander, McLawhorn.

Ref. to Children, Youth & Families

GS 110

May 18, 2005

SL 2005-36 (H 707). AMEND STAR-RATED LICENSURE/CHILD CARE FACILITIES. AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD DEVELOPMENT, TO STRENGTHEN THE LAWS REGULATING STAR-RATED LICENSURE FOR CHILD CARE FACILITIES. Summarized in Daily Bulletin 3/17/05. Enacted May 12, 2005. Effective January 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA **SESSION 2005**

SESSION LAW 2005-36 **HOUSE BILL 707**

AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD DEVELOPMENT, TO STRENGTHEN THE LAWS RÉGULATING STAR-RATED LICENSURE FOR CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-90 reads as rewritten:

"§ 110-90. Powers and duties of Secretary of Health and Human Services.

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

To administer the licensing program for child care facilities.

To establish a fee for the licensing of child care centers. The fee does not apply to a religious-sponsored child care center operated pursuant (1a)to a letter of compliance. The amount of the fee may not exceed the amount listed in this subdivision.

| Capacity of Center | Maximum Fee |
|----------------------|-------------|
| 12 or fewer children | \$ 35.00 |
| 13-50 children | \$125.00 |
| 51-100 children | \$250.00 |
| 101 or more children | \$400.00 |

To obtain and coordinate the necessary services from other State **(2)** departments and units of local government which are necessary to implement the provisions of this Article.

To employ the administrative personnel and staff as may be necessary (3) to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local

To issue a rated license to any child care facility which meets the (4) standards established by this Article. The rating shall be based on the following:

Before January 1, 2008, for any child care facility currently holding a license of two to five stars, the rating shall be based a. on program standards, education levels of staff, and compliance history of the child care facility facility. By January 1, 2008, the rating shall be based on program standards and education levels

Effective January 1, 2006, for any new license issued to a child <u>b.</u> care facility with a rating of two to five stars, the rating shall be based on program standards and education levels of staff.

By January 1, 2008, for any child care facility to maintain a license or Notice of Compliance, the child care facility shall have a compliance history of at least seventy-five percent <u>c.</u> (75%), as assessed by the Department. When a child care facility fails to maintain a compliance history of at least seventy-five percent (75%) for the past 18 months or during the

length of time the facility has operated, whichever is less, as assessed by the Department, the Department may issue a

provisional license or Notice of Compliance. Effective January 1, 2006, for any new license or Notice of d. Compliance issued to a child care facility, the facility shall maintain a compliance history of at least seventy-five percent (75%), as assessed by the Department. When a child care facility fails to maintain a compliance history of at least seventy-five percent (75%) for the past 18 months or during the length of time the facility has operated, whichever is less, as assessed by the Department, the Department may issue a provisional license or Notice of Compliance.

The Department shall provide additional opportunities for child e. care providers to earn points for program standards and

education levels of staff.

- To revoke the license of any child care facility that ceases to meet the (5) standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.
- (6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.
- To promote and coordinate educational programs and materials for (7) operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.

Repealed by Session Laws 1997-506, s. 5.

To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(10)To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a

license or the levying of a civil or administrative penalty.

(11)To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

Session Law 2005-36 SL2005-0036 Page 2

SECTION 2. This act becomes effective January 1, 2006. In the General Assembly read three times and ratified this the 2nd day of May,

s/ Marc Basnight President Pro Tempore of the Senate

s/ Richard T. Morgan Speaker Pro Tempore of the House of Representatives

s/ Michael F. Easley Governor

Approved 10:27 a.m. this 12th day of May, 2005

2005.

SL2005-0036 Session Law 2005-36 Page 3

ATTENDANCE

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005-06

| DATES | 04/06/05 | | | | | | | | | | | | |
|--------------------------------------|----------|---|--------|---|----------|---------|--------------|-------------|---|----------|----------|---|------|
| McALLISTER, Mary, CHAIR | X | | | | | | | | | | | | |
| GOODWIN, Melanie, VICE CHAIR | X | | | | | | | | | | | | |
| WEISS, Jennifer, VICE CHAIR | X | | | ļ | | <u></u> | | | | | | | |
| ALEXANDER, Martha | X | | | | ļ | ļ | | | | | | | |
| DOCKHAM, Jerry | X | | | | | | | | | | | | |
| DOLLAR, Nelson | X | | | | | | | | | | | | |
| FARMER-BUTTERFIELD, Jean | X | | | | | ļ | | | | | | | |
| FISHER, Susan | X | | | | | | | | | | | | |
| FOLWELL, Dale | X | | | | | | | | | | | | |
| HOLLOWAY, Bryan | | | | | | | | | | | | | |
| HUNTER, Howard | | | | | | | | | | | | | |
| WALEND, Trudi | X | | · - | | | | | | | | | | |
| Ex-Officios: | | | | | | | ļ | | | | | | |
| CULPEPPER, Bill | | | | | | | | | | | | - | |
| CUNNINGHAM, Pete | | | | | | | | | | | | | |
| EDDINS, Rick | | | | | | | | | | | | | |
| HACKNEY, Joe | | | | | | | | | | | | | |
| Staff Members: | | | | | ļ | | | | | | | | |
| WENDY GRAF RAY | | , | | | <u> </u> | | | | ļ | | | | |
| SHIRLEY IORIO | X | | | | | | | | ļ | | | | |
| BEN POPKIN | X | | | | | | | | | <u> </u> | <u> </u> | | |
| DEL TOTALL | 1 | | | | | | | | | | | | |
| JOHNNA SMITH, COMMITTEE ASSISTANT | X | | | | | | | | | | | | |

House Pages

| Name Of Committee: Youth + Da.e: 4/06/05 | |
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| Danilies | |
| 1. Name: Amalia Fettens | |
| County: Johnston | |
| Sponsor: 106 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 | |
| County: | |
| Sponsor: | |
| 3. Name: A Samura of 5005 | |
| Sponsor: Reno Bresson | |
| 4. Name: | |
| County: | |
| Sponsor: | |
| 5. Name: | |
| County: Sponsor: | |
| | |
| 1. Name: Tom Wilder 2. Name: Linda Fuller | |
| 2. Name: Linda Fuller | |
| 3. Name: | |
| 4. Name: | |
| 5. Name: | |

VISITOR REGISTRATION SHEET

| Children Youth Jami | lies 4/6/05 |
|--------------------------------|----------------------------------|
| Name of Committee | Date |
| VISITORS: PLEASE SIGN BELOW AN | ND RETURN TO COMMITTEE ASSISTANT |
| NAME | FIRM OR AGENCY |
| Donn HARGROVE | DIIDP |
| Judy Stephens |)(|
| CATHERINE ANDERSON | 1 |
| Doom Ball | DRH Q-000° |
| Jano J Sahamazan bach | NC Council |
| Wincent STEPHENS | CMS |
| Roz Savit | ne child care coalition |
| AL DEITCH | CIAYAOD |
| ue La Den | DCD-DHHZ |
| Stala Mikenny | NC DHHS |
| Bob lanne | NC DHMS |
| Marianne Carrin | Education |
| Dian Train | DPI |
| Greer Beaty | NC Partnership far Children |
| Jun Ange | SBE/DPI |
| Sanen Fonde | nc Sartmership |
| Joseph May | NCFPC V |
| Claire Kandenlle | Polk County Partnership |
| - Ram Com | WCACDSE |
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2005 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented: By Representative McAllister (Chair) for the Committee on CHILDREN, YOUTH & FAMILIES. Committee Substitute for A BILL TO BE ENTITLED AN ACT AUTHORIZING THE DEPARTMENT OF H.B. 707 HEALTH AND HUMAN SERVICES, DIVISION OF CHILD DEVELOPMENT, TO STRENGTHEN THE LAWS REGULATING STAR-RATED LICENSURE FOR CHILD CARE FACILITIES. With a favorable report. With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance With a favorable report, as amended. With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance), which changes the With a favorable report as to the committee substitute bill (# title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)), which changes With a favorable report as to House committee substitute bill (# the title, unfavorable as to Senate committee substitute bill. With an unfavorable report. With recommendation that the House concur. With recommendation that the House do not concur. With recommendation that the House do not concur; request conferees. With recommendation that the House concur; committee believes bill to be material. With an unfavorable report, with a Minority Report attached. Without prejudice. With an indefinite postponement report. With an indefinite postponement report, with a Minority Report attached. With recommendation that it be adopted. (HOUSE RESOLUTION ONLY) 03/19/03

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES MEETING MINUTES

WEDNESDAY APRIL 6, 2005 ROOM 605 LOB, 12 NOON

Committee Chair – Representative Mary McAllister, Presiding

The House Committee on Children, Youth & Families met on Wednesday April 6, 2005 at 12 noon in Room 605 of the Legislative Office Building.

Committee Chair, Representative McAllister called the meeting to order at 12:03 pm. The visitors were welcomed. The homeschoolers group was recognized. The Sergeant-At-Arms staff was acknowledged and thanked for their assistance. The Visitors, House pages and Sergeant-at-Arms are noted on the attachments.

Members present: Vice Chairs: Representatives Melanie Goodwin and Jennifer Weiss; Members: Representatives Alexander, Jerry Dockham, Nelson Dollar, Jean Farmer-Butterfield, Susan Fisher, Dale Folwell, and Trudi Walend.

Staff Members present: Shirley Iorio and Ben Popkin.

The following bills were considered: HB222 and HB707. These bills were addressed as noted below.

HB222 - COORDINATION OF CHILDREN'S SERVICES/STUDY, AN ACT TO IMPROVE THE COORDINATION OF SERVICES TO CHILDREN, YOUTH AND FAMILIES BY CREATING CHILDREN'S SERVICES WORK GROUPS. BY ESTABLISHING AN INDEPENDENT STUDY COMMISSION TO MAKE RECOMMENDATIONS ON HOW TO ELIMINATE BARRIERS TO COLLABORATION BETWEEN AND AMONG CHILD-SERVING AGENCIES, AND TO **MAKE RECOMMENDED** BYTHE **JOINT** APPROPRIATION AS LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH,

PAGE 2 CHILDREN, YOUTH & FAMILIES COMMITTEE MEETING APRIL 6, 2005

DEVELOPMENT DISABILITIES AND SUBSTANCE ABUSE SERVICES.

Representative Verla Insko, bill co-sponsor, was recognized to explain the bill. Vice Chair Jennifer Weiss made the motion to adopt the proposed committee substitute for the bill.

The Committee voted a FAVORABLE report for the proposed committee substitute and an UNFAVORABLE report for the original bill and referred to the Committee on Rules, Calendar and Operations of the House.

HB707 - AMEND STAR-RATED LICENSURE/CHILD CARE FACILITIES AB, AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD DEVELOPMENT, TO STRENGTHEN THE LAWS REGULATING STAR-RATED LICENSURE FOR CHILD CARE FACILITIES.

Representative Martha Alexander, one of the bill sponsors, was recognized to explain the bill. Peggy Ball, Division of Child Development was recognized to further discuss the purpose of the bill.

Vice Chair Jennifer Weiss made the motion for the vote. The Committee voted and gave the bill a FAVORABLE report.

The Chair adjourned the meeting.

Respectfully submitted by,

Representative Mary McAllister

Committee Chair

Johnna C. Smith Committee Assistant

HOUSE COMMITTEE MEETING ON CHILDREN, YOUTH & FAMILIES MEETING WEDNESDAY JUNE 1, 2005

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2005-2006 SESSION

You are hereby notified that the Committee on **CHILDREN**, **YOUTH & FAMILIES** will meet as follows:

| DAY & DATE: | WEDNESDAY JUNE 1, 2005 |
|---|---|
| TIME: | 12:00 NOON |
| LOCATION: | 605 LOB |
| • | will be considered (Bill # & Short Title & Bill Sponsor): Y DEFINITION OF CHILD CARE (REP. CARNEY) |
| | Respectfully, |
| | Representative Mary McAllister Chairman |
| I hereby certify this 2:00 pm on Thursd | notice was filed by the committee assistant at the following offices at lay May 26, 2005. |
| Principal Reading | Clerk Clerk - House Chamber |
| Johnna Smith (Com | mittee Assistant) |
| | |

COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Representative Mary E. McAllister, Chairman

Meeting Agenda - Wednesday June 1, 2005, 12 Noon, 605 LOB

CALL TO ORDER:

Representative Mary McAllister, Chair

BILLS:

HB 1517 – Clarify Definition of Child Care – Rep. Carney

REMARKS & ADJOURNMENT

April 21, 2005

H 1517. CLARIFY DEFINITION OF CHILD CARE. TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. As title indicates, amends GS 110-86(2)d. to state that care provided to children of part-time employees working less than two and one-half hours per day is exempt from the requirements of GS Chapter 110, Article 7.

Intro. by Carney, Vinson.

Ref. to Children, Youth & Families

GS 110

June 1, 2005

H 1517. CLARIFY DEFINITION OF CHILD CARE. Intro. 4/21/05. House committee substitute makes the following changes to 1st edition. Deletes amendment to GS 110-86(2)(d). Excludes certain drop-in or short-term care provided by an employer for its part-time employees from the definition of the term "child care" in GS 110-86(2). Requires study and reporting by the Director of the Division of Child Development on drop-in and short-term care.

August 10, 2005

H 1517. CLARIFY DEFINITION OF CHILD CARE. Intro. 4/21/05. Senate committee substitute makes the following changes to 2nd edition. Previous version required certain employer-based drop-in or short-term child care to register with the Division of Child Development. Committee substitute retains the registration requirement but moves it from GS 110-86 to GS 110-99(b). Makes technical changes.

August 11, 2005

H 1517. CLARIFY DEFINITION OF CHILD CARE. Intro. 4/21/05. Senate amendments make the following changes to 3rd edition. Amendment # 1 makes technical changes. Amendment # 2, effective for offenses committed on or after December 1, 2005, adds new GS 14-321.1 making it a Class 1 misdemeanor for a first offense and Class H felony for any subsequent offense for a registered sex offender to provide or offer baby sitting services.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

SESSION LAW 2005-416 HOUSE BILL 1517

AN ACT TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES AND TO MAKE IT A CRIMINAL OFFENSE FOR A BABY SITTING SERVICE TO BE OFFERED OR PROVIDED BY A SEX OFFENDER OR TO BE LOCATED IN THE HOME OF A SEX OFFENDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-86(2) reads as rewritten: "8 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no

more than two additional children are in care;

b. Recreational programs operated for less than four consecutive

months in a year;

c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;

d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling

alleys, shopping malls, resort hotels, or churches;

d1. Drop-in or short-term care provided by an employer for its part-time employees where (i) the child is provided care not to exceed two and one-half hours during that day, (ii) the parents are on the premises, and (iii) there are no more than 25 children in any one group in any one room;

e. Public schools;

f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site:

g. Bible schools conducted during vacation periods;

h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes:

i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and

j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.

SECTION 2. G.S. 110-99(b) reads as rewritten:

"(b) A person who provides only drop-in or short-term child care as described in G.S. 110-86(2)(d)-G.S. 110-86(2)d. and G.S. 110-86(2)d1., excluding drop-in or short-term child care provided in churches, shall notify register with the Department that the person is providing only drop-in or short-term child care. Any person providing only drop-in or short-term child care as described in G.S. 110-86(2)(d)-G.S. 110-86(2)d. and G.S. 110-86(2)d1., excluding drop-in or short-term child care provided in churches, shall display in a prominent place at all times a notice that the child care arrangement is not required to be licensed and regulated by the Department."

ŠECTION 3. The Director of the Division of Child Development shall report to the General Assembly no later than May 1, 2006, the number of drop-in and short-term facilities that have registered under G.S. 110-99(b), as enacted by this act.

SECTION 3.1. The Director of the Division of Child Development, in coordination with other child care stakeholder organizations and advocates, shall study current policies, practices, and laws related to drop-in and short-term care and baby sitting services and shall make recommendations to ensure the health and safety of children who utilize this type of care. The Division shall report its findings and recommendations to the General Assembly by April 30, 2006.

SECTION 4. Article 39 of Chapter 14 is amended by adding a new section to read:

"§ 14-321.1. Prohibit baby sitting service by sex offender or in the home of a sex offender.

(a) For purposes of this section the term "baby sitting service" means providing, for profit, supervision or care for a child under the age of 13 years who is unrelated to the provider by blood, marriage, or adoption, for more than two hours per day while the child's parents or guardian are not on the premises.

(b) Notwithstanding any other provision of law, no person who is an adult may provide or offer to provide a baby sitting service in any of the following circumstances:

- (1) The baby sitting service is offered in a home and a resident of the home is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.
- A provider of care for the baby sitting service is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.
- (c) A violation of this section that is a first offense is a Class 1 misdemeanor. A violation of this section that is a second or subsequent offense is a Class H felony."

SECTION 5. Section 4 of this act becomes effective December 1, 2005, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

- s/ Beverly E. Perdue President of the Senate
- s/ James B. Black Speaker of the House of Representatives
- s/ Michael F. Easley Governor

Approved 1:46 p.m. this 22nd day of September, 2005

SL2005-0416 Session Law 2005-416 Page 3

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER:

House Bill 1517 (Fourth Edition)

SHORT TITLE:

Clarify Definition of Child Care.

SPONSOR(S):

Representatives Carney and Vinson

FISCAL IMPACT

Yes ()

No ()

No Estimate Available ()

FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09 FY 2009-10

GENERAL FUND

Correction

Exact amount cannot be determined - see p. 4

Judicial

Exact amount cannot be determined - see p. 4

DHHS

No fiscal impact – see p. 5

ADDITIONAL

PRISON BEDS*

Exact amount cannot be determined

POSITIONS:

(cumulative)

Exact amount cannot be determined

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch, Department of Health & Human Services.

EFFECTIVE DATE: Section 4 becomes effective December 1, 2005, and applies to offenses committed on or after that date. The remainder is effective when it becomes law

*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.

BILL SUMMARY:

The bill excludes certain drop-in or short-term care provided by an employer for its part-time employees from the definition of the term "child care" in GS 110-86(2) and requires study and reporting by the Director of the Division of Child Development on drop-in and short-term care.

The third edition moved the requirement for certain employer-based drop-in or short-term child care to register with the Division of Child Development from GS 110-86 to GS 110-99(b) and made technical changes.

The fourth edition includes technical changes and makes it a Class 1 misdemeanor for a first offense and Class H felony for any subsequent offense for a registered sex offender to provide or offer baby sitting services effective for offenses committed on or after December 1, 2005.

ASSUMPTIONS AND METHODOLOGY:

Criminal Penalties - General

As this bill creates a new Class 1 misdemeanor and Class H felony, it would be expected to result in some additional charges and convictions and would consequently incur a fiscal impact. Because the offenses are new, there is no historical data from which to estimate the numbers of charges and convictions that would occur under the bill.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five-year fiscal note horizon and beyond.

Because this bill would create new criminal offenses, the Sentencing Commission has no historical data from which to estimate how the legislation would impact prison population. It is not known how many offenders might be sentenced for these offenses. It is also not known how many offenders may be repeat offenders under the proposed statute.

Active Sentences: In FY 2003-04, 19% of Class 1 misdemeanor convictions resulted in active sentences. The average time served was 31.2 days. Offenders serving active sentences of 90 days or less are housed in county jails at county expense and DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per day per offender.

The following table outlines for Class H felony convictions in FY 2003-04 the active sentence rate, average active sentence length, and the number of convictions annually that would necessitate one additional prison bed in the first year. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

| Felony Offense Class | Active | Average Active Sentence Length (min – max) | |
|-------------------------|--------|--|---|
| Class H | 37% | 10 – 12 months | If, for example, there were three Class H felony convictions per year, one additional prison bed would be needed in the first year and two beds in the second year. |

Non-Active Sentences: In FY 2003-04, 50 percent of Class H felony convictions resulted in intermediate sanctions; 13 percent of Class H convictions resulted in community sanctions. Probation officers in the Division of Community Corrections (DCC) supervise offenders with intermediate sanctions at an estimated cost of \$10.94 per day for the first six months and \$1.87 per day thereafter. (This cost estimate is based on the average cost and duration of intensive probation, the most common intermediate sanction.) The estimated cost for a supervised community offender is \$1.87 per day.

Also in FY 2003-04, 81% of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the bill provides for new Class 1 misdemeanor and Class H felony offenses, AOC is unable to estimate the number of new charges that may result from this bill. For any misdemeanor or felony charge due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing superior court workload. AOC estimates the cost per charge based on offense class as shown in the table below.

| Offense Class | Set | tled via Trial | | Settled via Guilty Plea |
|---------------------|-------------------------|---------------------|---------|-------------------------|
| | Court/Attorney Costs | Indigent Defense | Total | - |
| Class 1 Misdemeanor | \$1,880 | \$1,333 | \$3,213 | \$284 |
| Class H Felony | \$4,096 | \$2,100 | \$6,196 | \$359 |

Department of Health and Human Services

Under current law, providers of drop-in or short-term child care are required to notify the Department of Health and Human Services that they are providing these services. The proposed legislation will require the providers of drop-in or short-term child care to register with the Department of Health and Human Services. The Department of Health and Human Services has determined that there will be no the fiscal impact from changing the wording of the statute from "notify" to "register with".

The proposed legislation requires the Department of Health and Human Services to study the current policies, practices, and laws related to drop-in and short-term care and baby sitting services and shall make recommendations to ensure the health and safety of children who utilize this type of care. The Department has determined that the Child Care Commission and the staff of the Division of Child Development can do this study within existing funds.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission: Department of Health and Human Services.

Official .

Fiscal Research Division

Publication

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Brenna Erford, Chloe Gossage, and L. Carol Shaw

APPROVED BY: James D. Johnson, Director

Fiscal Research Division

DATE: August 22, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

February 23, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. TO REGULATE THE SALES AND OPERATIONS OF ALL-TERRAIN VEHICLES. Enacts new Article 3 of GS Ch. 20 to regulate sellers and operators of an "all-terrain vehicle" (ATV), defined at GS 20-4.01 as a motorized offhighway vehicle designed to travel on three or four low-pressure tires and having a seat designed to be straddled by the operator and handlebars for steering control. ATV operators must be 12 years of age for ATVs with engine capacity up to and including 90 cubic centimeter displacement and 16 years of age for ATVs with engine capacity greater than 90 cubic centimeter displacement. All persons under age 16 must be supervised continuously by a person 18 years old or older while operating the vehicle, and passengers are permitted only on ATVs specifically designed to carry a passenger. Prohibits sellers from knowingly selling an ATV for use by a person less than the minimum applicable age based on engine capacity. Sets equipment standards for brakes, mufflers, spark arresters, and lights. Requires eye protection and safety helmet for operators, prohibits operation while under the influence of alcohol or drugs, prohibits careless or reckless operation, and prohibits owners of ATVs from permitting operation of an ATV in a manner contrary to the act. Prohibits operation on a public street, road, or highway except for crossing, and prohibits operation anytime on an interstate or limited access highway. Requires safety training and certification. Violation of the provisions governing age of operator, sales, and operation on public roads is a Class 2 misdemeanor. Violation of other provisions is an infraction subject to a fine of not more than \$200. Effective October 1, 2005.

Intro. by Purcell.

Ref. to Commerce

GS 20

April 27, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. Senate committee substitute makes the following changes to 1st edition. Modifies proposed GS 20-171.10 to require that all persons under age 16 must be under the continuous visual supervision (was, continuous supervision) of a person 18 years old or older while operating an all-terrain vehicle. Makes technical changes.

May 12, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. Senate amendment makes the following changes to 2nd edition. Modifies proposed Article 3 of GS Chapter 20 to require that ATV operators be at least eight years old (was, twelve years old) and to provide that only individuals eight years old and older may operate an ATV with an engine capacity of less than 70 cubic centimeter displacement. Prohibits the sale of an ATV for use by a person under eight (was, twelve years old) and the sale of a 70 cubic centimeters or greater ATV for use by a person less than 12 years old (was, prohibited sales of a 90 cc or greater ATV for use by a person less than 16 years old). Enacts new GS 20-171.17 to exempt from act's prohibitions individuals operating ATVs while engaged in farming operations or while hunting or trapping, regardless of individual's age.

July 6, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. House committee substitute makes the following changes to 3rd edition. Makes technical changes only.

July 20, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. House committee substitute makes the following changes to 4th edition. Revises proposed Part 10C of Article 3 of GS Chapter 20 to (1) rewrite age restrictions to prohibit parent or guardian from knowingly permitting an underage person to operate an all-terrain vehicle (ATV) (was, prohibited underage person from operating ATV); (2) delete exceptions for hunting and farming; and (3) provide that all violations are an infraction (was, made underage use violations, seller violations, and operating ATV on

ATTENDANCE

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005-06

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| McALLISTER, Mary, CHAIR | X | | | | · | | | | | | |
| GOODWIN, Melanie, VICE CHAIR | X | | | | | | | | | | |
| WEISS, Jennifer, VICE CHAIR | X | | | | | | | | | | |
| ALEXANDER, Martha | X | <u> </u> | ļ | | | | | | | | |
| DOCKHAM, Jerry | X | | | | ļ | | | | | | |
| DOLLAR, Nelson | X | | ļ | | | | | | | | |
| FARMER-BUTTERFIELD, Jean | X. | | | | | | | | | | |
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| FOLWELL, Dale | X | | | | <u></u> | | ļ | ļ | | | |
| HOLLOWAY, Bryan | | | | | <u> </u> | <u> </u> | | ļ | | | |
| HUNTER, Howard | X | | ļ | | | | | | | | |
| WALEND, Trudi | X | | | | | | | | | | |
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| Ex-Officios: | | | | | | ļ | | | | | |
| CULPEPPER, Bill | | _ | | | | | | | | | ļ , |
| CUNNINGHAM, Pete | | | <u> </u> | | | | | | | | |
| EDDINS, Rick | | | ļ <u>.</u> | ļ | | | | | <u> </u> | | |
| HACKNEY, Joe | X | | | | <u>.</u> | | | | | | |
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| Staff Members: | | | ļ <u>-</u> | | | | | | | | |
| WENDY GRAF RAY | X | | ļ | | <u> </u> | | | ļ | | | |
| SHIRLEY IORIO | X | | ļ | | | | <u> </u> | ļ | | | |
| BEN POPKIN | | | | | | | | | <u> </u> | | |
| | | | | | | | | | | | |
| JOHNNA SMITH, COMMITTEE ASSISTANT | X | | | | | | | | | | |

House Pages

Name Of Committee: Puth & Familie Da :: 6 - 1 - 05

| 1. Name: Jessie Ammons |
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| County: // Cille |
| Sponsor: <u>Lep. Edding</u> |
| 2. Name: Sowannah King |
| County: Wake |
| Sponsor: Rep. ROSS |
| 3. Name: |
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| 4. Name: |
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| 5. Name: |
| County: |
| Sponsor: |
| Sgt-At-Arms |
| 1. Name: Taussaint Hvent 2. Name: Martia Ladeson |
| 2. Name: Martia Ladeson |
| 3. Name: |
| 1. Name: |
| 5. Name: |

visitor registration sheet the funiture 6-1-65

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

| NAME | FIRM OR AGENCY AND ADDRESS |
|----------------------------|----------------------------|
| Ed Kizer | Charlotte YMCA NCFR |
| Jessica Sage | NCFR |
| Jessica Sage FeB Walley | HHS |
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NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

House Bill 1517

| | AMI | ENDMENT NO |
|--|---|---|
| | (to t | oe filled in by |
| H1517-ALB-63 [v.1] | Pri | ncipal Clerk) |
| | | Page 1 of 1 |
| | Date | ,2005 |
| Comm. Sub. [NO] Amends Title [NO] PCS | | |
| Representative Weiss | | |
| moves to amend the bill on page 2, lin and 35: "SECTION 2.1. The Direct coordination with other childcare staked current policies, practices, and laws remake recommendations to ensure the hof care. The Division shall report its Assembly by April 30, 2006. | ctor of the Division of eholder organizations a elated to drop-in and lealth and safety of chi | of Child Development, in and advocates, shall study short term care and shall ldren who utilize this type |
| SIGNED Jewifer W. Amendment Sponsor | () U S () | _ |
| SIGNED Committee Chair if Senate Committee | Amendment | _ |
| ADOPTED FAILE | D | TABLED |

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

H

D

HOUSE BILL 1517 PROPOSED COMMITTEE SUBSTITUTE H1517-PCS80393-LB-45

| Short Title: C | Clarify Definition of Child Care. | (Public) | | | | | |
|--|---|--|--|--|--|--|--|
| Sponsors: | | | | | | | |
| Referred to: | | | | | | | |
| | April 21, 2005 | | | | | | |
| DROP-IN CHILD CATALSO OFF FACILITY The General ASSECT SECTION TO S | Assembly of North Carolina enacts: CTION 1. G.S. 110-86(2) reads as rewritten: Efinitions. context or subject matter otherwise requires, the terms all be defined as follows: | ERTAINING TO ACILITIES MAY OYEES OF THE | | | | | |
| (2) | Child care. – A program or arrangement where three less than 13 years old, who do not reside where the receive care on a regular basis of at least once per w four hours but less than 24 hours per day from person guardians or full-time custodians, or from persons n by birth, marriage, or adoption. Child care does following: a. Arrangements operated in the home of any chif all of the children in care are related to emore than two additional children are in care; b. Recreational programs operated for less than months in a year; c. Specialized activities or instruction such as at music lessons, horseback riding, gymnastics, for children, such as Boy Scouts, Girl Scout boys and girls clubs; | e care is provided, yeek for more than ns other than their tot related to them is not include the hild receiving care each other and no in four consecutive hletics, dance, art, or organized clubs | | | | | |

Page 2

35

SECTION 3. This act is effective when it becomes law.



HOUSE BILL 1517: Clarify Definition of Child Care

BILL ANALYSIS

Committee: House Children, Youth and Families

Introduced by: Reps. Carney, Vinson

Version: PCS to First Edition

H1517-PCS80393-LB-45

Date: June 1, 2005

Summary by: Wendy Graf Ray

Committee Counsel

SUMMARY: House bill 1517 would amend the meaning of drop-in or short-term care for purposes of excepting those arrangements from the definition of child care.

CURRENT LAW: Article 7 of Chapter 110 of the General Statutes sets out requirements for the provision of child care in North Carolina. Child care facilities must meet certain minimum standards to be licensed to operate, and it is unlawful to operate a child care facility without being licensed. The definition of "child care facility" includes child care centers, family child care homes, and other child care arrangements. However, the definition of "child care" under G.S. 110-86 specifically excludes a number of arrangements, including drop-in or short-term care provided while parents participate in non-employment related activities and where the parents are on the premises or otherwise easily accessible. There is no exception that pertains to drop-in or short-term care provided by employers for their employees.

BILL ANALYSIS: House Bill 1517 would amend G.S. 110-86 to add an exception from the definition of child care for drop-in or short-term care provided by an employer for its part-time employees under the following circumstances:

- The care is provided for no more than two and a half hours a day.
- The parents are on the premises.
- There are no more than 25 children in any one group in any one room.
- The employer registers with the Division of Child Development.

The bill would also require the Director of the Division of Child Development to report to the General Assembly no later than May 1, 2006 on the number of short-term care facilities that have registered with the Division pursuant to the provisions of this act.

EFFECTIVE DATE: The bill would be effective when it becomes law.

H1517e1-SMSU-PCS80393-LB-45

2005 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

| □Committee Substitute for HB 1517 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill. (FOR JOURNAL USE ONLY) Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | The following report(s) from standing committee(s) is/are presented: | | | | |
|---|--|--|--|--|--|
| Committee Substitute for HB 1517 | | | | | |
| HB 1517 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill. (FOR JOURNAL USE ONLY) Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | FAMILIES. | | | | |
| DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill. (FOR JOURNAL USE ONLY) Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | Committee Substitute for | | | | |
| UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill. (FOR JOURNAL USE ONLY) Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | HB 1517 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE | | | | |
| UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill. (FOR JOURNAL USE ONLY) Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE | | | | |
| <pre>unfavorable as to the original bill. (FOR JOURNAL USE ONLY) Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed</pre> | UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES. | | | | |
| Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill. | | | | |
| Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | | | | | |
| Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No) is placed on the Calendar of (The original bill resolution No) is placed | (FOR JOURNAL USE ONLY) | | | | |
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| on the Unfavorable Calendar. | on the Unfavorable Calendar. | | | | |
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HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES MEETING MINUTES

WEDNESDAY June 1 2005 ROOM 605 LOB, 12 NOON

Committee Chair – Representative Mary McAllister, Presiding

The House Committee on Children, Youth & Families met on Wednesday June 1, 2005 at 12 noon in Room 605 of the Legislative Office Building.

Committee Chair, Representative Mary McAllister called the meeting to order at 12:02 pm. The visitors were welcomed. The Sergeant-At-Arms staff and pages were recognized as noted on the minutes' attachments.

Members present: Vice Chairs: Representatives Melanie Goodwin and Jennifer Weiss; Members: Representatives Martha Alexander, Jerry Dockham, Nelson Dollar, Jean Farmer-Butterfield, Susan Fisher, Dale Folwell, Howard Hunter and Trudi Walend.

Staff Members present: Wendy Graf Ray and Shirley Iorio.

The following bill was considered: HB1517 and was addressed as noted below.

HB – 1517 CLARIFY DEFINITION OF CHILD CARE, AN ACT TO CLARIFY THE DEFINITION OF CHILD CARE AS RELATED TO DROP-IN OR SHORT-TERM CARE UNDER THE LAWS PERTAINING TO CHILD CARE FACILITIES, SO AS TO CLARIFY THAT FACILITIES MY ALSO OFFER CARE TO CHILDREN OF PART-TIME EMPLOYEES OF THE FACILITY.

Vice Chair Jennifer Weiss made the motion to adopt the proposed committee substitute for the bill. Representative Becky Carney, bill sponsor, was recognized to explain the bill.

PAGE 2 CHILDREN, YOUTH & FAMILIES MEETING JUNE 1, 2005

Vice Chair Jennifer Weiss was recognized and spoke on the bill's amendment. The Committee voted adopted the amendment. Representative Trudi Walend addressed the definition of a group. Ms. Glenn of the Charlotte YMCA stated that a group is defined as a group of twenty-five children.

Peggy Ball, Division of Child Development, clarified that group is determined by age and not more than 25 children to a group.

Rozilyn Savitt, NC Coalition for Children addressed the 2.5-hour rule for employee drop-in facility.

Representative Nelson Dollar asked to be recognized for the motion of the amended proposed committee substitute. The Chair opened the floor for the motion and recognized Representative Dollar.

The Committee voted a FAVORABLE report to the amended proposed committee substitute, changing the title and an UNFAVORABLE report to the original bill.

The Chair adjourned the meeting.

Respectfully submitted by,

Representative Mary McAllister

Committee Chair

Johnna C. Smith

Committee Assistant

HOUSE COMMITTEE MEETING ON CHILDREN, YOUTH & FAMILIES MEETING WEDNESDAY JULY 6, 2005

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2005-2006 SESSION

You are hereby notified that the Committee on CHILDREN, YOUTH & FAMILIES will meet as follows:

| DAY & DATE: | WEDNESDAY JULY 6, 2005 |
|---|--|
| TIME: | 12:00 NOON |
| LOCATION: | 605 LOB |
| _ | will be considered (Bill # & Short Title & Bill Sponsor): RRAIN VEHICLE REGULATION (SENATOR PURCELL) |
| | Respectfully, |
| | Representative Mary McAllister Chairman |
| I hereby certify this 1:00 pm on Friday | notice was filed by the committee assistant at the following offices at July 1, 2005. |
| Principal Reading | l Clerk Clerk - House Chamber |
| Johnna Smith (Com | mittee Assistant) |
| | |

COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Representative Mary E. McAllister, Chairman

Meeting Agenda - Wednesday July 6, 2005, 12 Noon, 605 LOB

CALL TO ORDER:

Representative Mary McAllister, Chair

BILLS:

SB189 - All-Terrain Vehicle Regulation (Senator Purcell)

REMARKS & ADJOURNMENT

public roads and highways a Class 2 misdemeanor). Makes title more specific. Changes effective date from October 1, 2005, to offenses committed on or after December 1, 2005.

July 27, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. House amendment makes the following changes to 5th edition. Modifies proposed GS 20-171.10 to prohibit a parent or legal guardian of a person less than 12 years old to knowingly permit that person to operate an all-terrain vehicle with an engine capacity of 70 cubic centimeter displacement or greater (was, greater than 70 cubic centimeter displacement).

July 28, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. House amendments make the following changes to 5th edition, as amended. Amendment #3 reinstates proposed 20-171.17 to exempt the use of all-terrain vehicles in farming operations or in hunting or trapping activities from act's proposed restrictions on ATV use. Amendment #4 also exempts any person who owned the ATV prior to the effective date of act.

August 4, 2005

S 189. ALL-TERRAIN VEHICLE REGULATION. Intro. 2/23/05. Conference report recommends the following changes to 6th edition to reconcile matters in controversy. Deletes GS 20-171.17(c), which exempted from act any person who owned an all-terrain vehicle prior to the effective date of act. Enacts new GS 20-171.10(e) to exempt from vehicle size restrictions applicable to persons between the ages of eight and fifteen any parent or legal guardian of a person born on or before August 15, 1997, who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005.

August 22, 2005

SL 2005-282 (S 189). ALL-TERRAIN VEHICLE REGULATION. AN ACT TO PROHIBIT THE OPERATION OF ALL-TERRAIN VEHICLES BY PERSONS LESS THAN EIGHT YEARS OLD, TO RESTRICT THE OPERATION OF ALL-TERRAIN VEHICLES BY PERSONS EIGHT TO FIFTEEN YEARS OLD BASED ON ENGINE CAPACITY, TO PROHIBIT SELLERS FROM KNOWINGLY SELLING ALL-TERRAIN VEHICLES FOR USE BY PERSONS LESS THAN EIGHT YEARS OLD OR FOR USE BY PERSONS EIGHT TO FIFTEEN YEARS OLD IN VIOLATION OF THE ENGINE CAPACITY LIMITATIONS, TO REQUIRE SAFETY TRAINING FOR ATV OPERATORS, AND TO CREATE INFRACTIONS FOR VIOLATIONS. Summarized in Daily Bulletin 2/23/05, 4/27/05, 5/12/05, 7/6/05, 7/20/05, 7/27/05, 7/28/05, and 8/4/05. Enacted August 18, 2005. Effective December 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

SESSION LAW 2005-282 SENATE BILL 189

AN ACT TO PROHIBIT THE OPERATION OF ALL-TERRAIN VEHICLES BY PERSONS LESS THAN EIGHT YEARS OLD, TO RESTRICT THE OPERATION OF ALL-TERRAIN VEHICLES BY PERSONS EIGHT TO FIFTEEN YEARS OLD BASED ON ENGINE CAPACITY, TO PROHIBIT SELLERS FROM KNOWINGLY SELLING ALL-TERRAIN VEHICLES FOR USE BY PERSONS LESS THAN EIGHT YEARS OLD OR FOR USE BY PERSONS EIGHT TO FIFTEEN YEARS OLD IN VIOLATION OF THE ENGINE CAPACITY LIMITATIONS, TO REQUIRE SAFETY TRAINING FOR ATV OPERATORS, AND TO CREATE INFRACTIONS FOR VIOLATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. Definitions.

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

(1a) Alcohol. – Any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(1b) Alcohol Concentration. – The concentration of alcohol in a person, expressed either as:

a. Gram's of alcohol per 100 milliliters of blood; or

b. Grams of alcohol per 210 liters of breath.

The results of a defendant's alcohol concentration determined by a chemical analysis of the defendant's breath or blood shall be reported to the hundredths. Any result between hundredths shall be reported to the next lower hundredth.

- (1c) All-Terrain Vehicle or ATV. A motorized off-highway vehicle designed to travel on three or four low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.
- (1e)(1d) Business District. The territory prescribed as such by ordinance of the Board of Transportation.

SECTION 2. Article 3 of Chapter 20 is amended by adding a new Part to read:

"Part 10C. Operation of All-Terrain Vehicles.

"\\$ 20-171.10. Age restrictions.

(a) It is unlawful for any parent or legal guardian of a person less than eight years of age to knowingly permit that person to operate an all-terrain vehicle.

(b) It is unlawful for any parent or legal guardian of a person less than 12 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity of 70 cubic centimeter displacement or greater.

(c) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity greater than 90 cubic centimeter displacement.

It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle unless the person is under the continuous visual supervision of a person 18 years of age or older while

operating the all-terrain vehicle.

Subsections (b) and (c) of this section do not apply to any parent or legal guardian of a person born on or before August 15, 1997, who permits that person to operate an all-terrain vehicle and who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005.

§ 20-171.11. Passengers.

No operator of an all-terrain vehicle shall carry a passenger, except on those vehicles specifically designed by the manufacturer to carry passengers in addition to the operator.

§ 20-171.12. Prohibited acts by sellers.

No person shall knowingly sell or offer to sell an all-terrain vehicle:

For use by a person under the age of eight years.

With an engine capacity of 70 cubic centimeter displacement or greater for use by a person less than 12 years of age.

With an engine capacity of greater than 90 cubic centimeter (2)

(3) displacement for use by a person less than 16 years of age.

"§ 20-171.13. Equipment requirements.

Every all-terrain vehicle sold, offered for sale, or operated in this State shall meet the following equipment standards:

It shall be equipped with a brake system maintained in good operating (1)

It shall be equipped with an effective muffler system maintained in (2) good working condition.

It shall be equipped with a United States Forest Service qualified spark (3)

arrester maintained in good working condition.

"§ 20-171.14. Prohibited acts by owners and operators.

No person shall operate an all-terrain vehicle unless the person wears eye protection and a safety helmet meeting United States Department of Transportation standards for motorcycle helmets.

No owner shall authorize an all-terrain vehicle to be operated contrary to this

Part.

No person shall operate an all-terrain vehicle while under the influence of alcohol, any controlled substance, or a prescription or nonprescription drug that impairs vision or motor coordination.

No person shall operate an all-terrain vehicle in a careless or reckless manner

so as to endanger or cause injury or damage to any person or property.

Except as otherwise permitted by law, no person shall operate an all-terrain vehicle on any public street, road, or highway except for purposes of crossing that street, road, or highway.

Except as otherwise permitted by law, no person shall operate an all-terrain

vehicle at anytime on an interstate or limited-access highway.

No person shall operate an all-terrain vehicle during the hours of darkness, from one-half hour after sunset to one-half hour before sunrise and at anytime when visibility is reduced due to insufficient light or atmospheric conditions, without displaying a lighted headlamp and taillamp, unless the use of lights is prohibited by other applicable laws.

§ 20-171.15. Safety training and certificate.

Effective October 1, 2006, every all-terrain vehicle operator born on or after January 1990, shall possess a safety certificate indicating successful completion of an all-terrain vehicle safety course sponsored or approved by the All-Terrain Vehicle Safety Institute.

§ 20-171.16. Penalties.

Any person violating any of the provisions of this Part shall be responsible for an infraction and may be subject to a fine of not more than two hundred dollars (\$200.00).

§ 20-171.17. Exceptions.

The provisions of this Part do not apply to any owner, operator, lessor, or (a) renter of a farm or ranch, or that person's employees or immediate family or household members, when operating an all-terrain vehicle while engaged in farming operations.

(b) The provisions of this Part do not apply to any person using an all-terrain vehicle for hunting or trapping purposes if the person is otherwise lawfully engaged in

those activities."

SECTION 3. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 9th day of August, 2005.

- s/ Beverly E. Perdue President of the Senate
- s/ James B. Black Speaker of the House of Representatives
- s/ Michael F. Easley Governor

Approved 7:31 p.m. this 18th day of August, 2005

SL2005-0282 Session Law 2005-282 Page 3

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note (G.S. 120-36.7)

BILL NUMBER: Senate Bill 189 (Second Edition)

SHORT TITLE: All-Terrain Vehicle Regulation.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

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

FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09 FY 2009-10

GENERAL FUND

Correction Exact amount cannot be determined; no substantial impact anticipated.

Judicial Exact amount cannot be determined (see pg. 2 for details).

Juvenile Justice Exact amount cannot be determined; no substantial impact anticipated.

LOCAL

GOVERNMENTS

Exact amount cannot be determined (see pg. 2 for details).

ADDITIONAL

PRISON BEDS*

No additional prison beds anticipated.

POSITIONS: (cumulative)

Exact amount cannot be determined; no additional positions anticipated.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of

Correction; Judicial Branch; Local Governments

EFFECTIVE DATE: October 1, 2005

*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.

BILL SUMMARY: This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.

- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet, b) while under the influence of alcohol or drugs, c) in a careless or reckless manner, d) on a public street, road, highway, interstate, or limited-access highway, or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200. Source: Adopted from Bill Digest S.B. 189 (02/23/2005).

ASSUMPTIONS AND METHODOLOGY:

General

This bill would create several new Class 2 misdemeanors related to the operation and sale of all-terrain vehicles. The legislation would principally impact court costs, as new Class 2 misdemeanor and infraction charges as well as juvenile petitions would be expected. Because Class 2 misdemeanants are housed in county jails, no additional prison beds would be anticipated due to this bill, and the fiscal impact to the Department of Correction would not be expected to be substantial. However, there would be an impact on local governments, which would incur the costs of incarcerating Class 2 misdemeanants.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five-year fiscal note horizon and beyond.

Because this bill would create new offenses, the Sentencing Commission has no historical data from which to estimate the impact on prison population. As Class 2 misdemeanants are housed in county jails rather than state prison, the costs of incarceration resulting from this bill would be principally incurred by local governments. However, it is not known how many additional Class 2 misdemeanor convictions would occur due to this legislation, and the resulting impact to local governments cannot be determined.

- In FY 2003-04, 15 percent of Class 2 misdemeanors resulted in active sentences and the average active sentence lengths was 23 days.
- Offenders with active sentences of less than thirty days are housed in county jails at county expense.
- The remaining 85 and Class misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Because Class 2 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation would not impact prison population.

Department of Juvenile Justice and Delinquency Prevention

As several Class 2 misdemeanors created by this bill would apply to individuals under the age of 16, we would expect additional juveniles to be adjudicated delinquent for these offenses. However, delinquent adjudications for the proposed offenses would not be expected to have a significant impact on Youth Development Center (YDC) population, given that juveniles adjudicated delinquent for a minor offense (a Class 1 to 3 misdemeanor) can only be committed to a YDC if they have been adjudicated for four or more prior offenses.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the offenses created by this bill would be new, the Administrative Office of the Courts has no data from which to estimate the number of new charges that would arise. In addition to Class 2 misdemeanor charges, this bill would be expected to lead to new juvenile petitions and infractions to be settled by the Courts. AOC anticipates that there would be additional court and preparation time needed to process these charges, thus increasing district court workload. As the number of new charges that would result from this bill cannot be estimated, the associated fiscal impact cannot be determined.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 misdemeanor charge via trial is \$2,322. This cost includes an estimated \$1,373 in jury fees, costs of time in court, and attorney costs and an additional \$949

in indigent defense. <u>However, based on prior-year data, the majority of any new Class 2 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 per plea.</u>

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director

Fiscal Research Division

DATE: April 28, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

Fiscal Research Division

Publication

Official

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005 >

Legislative Incarceration Fiscal Note (G.S. 120-36.7)

BILL NUMBER: Senate Bill 189 (Third Edition)

All-Terrain Vehicle Regulation. SHORT TITLE:

Senator Purcell **SPONSOR(S)**:

FISCAL IMPACT

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

FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09 FY 2009-10

GENERAL FUND

Exact amount cannot be determined; no substantial impact anticipated. Correction

Exact amount cannot be determined (see pg. 2 for details). **Judicial**

Exact amount cannot be determined; no substantial impact anticipated. **Juvenile Justice**

LOCAL

Exact amount cannot be determined (see pg. 2 for details). GOVERNMENTS

ADDITIONAL

No additional prison beds anticipated. PRISON BEDS*

POSITIONS:

Exact amount cannot be determined; no additional positions anticipated. (cumulative)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of

Correction; Judicial Branch; Local Governments

EFFECTIVE DATE: October 1, 2005

*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.

BILL SUMMARY: This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.
- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet; b) while under the influence of alcohol or drugs; c) in a careless or reckless manner; d) on a public street, road, highway, interstate, or limited-access highway; or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200.

The third edition of the bill modifies the graduated age requirements for the operation and sale of ATVs with specified engine capacities (see Technical Considerations) and adds new G.S. 20-171.17 to exempt from the provisions of the bill persons engaged in farming, hunting, or trapping. Children under the age of 8 (previously age 12) would be prohibited from operating ATVs; children under the age of 12 would be prohibited from operating an ATV with an engine capacity of 70 cubic centimeter displacement or greater; and children under the age of 16 would be prohibited from operating an ATV with an engine capacity greater than 90 cubic centimeter displacement. The restrictions on the sale of ATVs based on the operator's age and specified engine capacities are modified accordingly.

ASSUMPTIONS AND METHODOLOGY:

Summary

This bill would create several new Class 2 misdemeanors related to the operation and sale of all-terrain vehicles. The legislation would principally impact court costs, as new Class 2 misdemeanor and infraction charges as well as juvenile petitions would be expected. Because Class 2 misdemeanants are housed in county jails, no additional prison beds would be anticipated due to this bill, and the fiscal impact to the Department of Correction would not be expected to be substantial. However, there would be an impact on the Division of Community Corrections for offenders given non-active sentences and local governments, which would incur the costs of incarcerating any Class 2 misdemeanants with an active sentence.

¹ Adapted from Bill Digest S.B. 189 (02/23/2005).

The modification to the graduated age requirements provided by the third edition of the bill would permit additional individuals (those between the ages of 8 and 12) to operate certain ATVs, which could affect the numbers of individuals prosecuted for an infraction or Class 2 misdemeanor under the bill. However, as these changes would *decrease* the number of individuals who could be prosecuted for underage operation of an ATV but *increase* the number of individuals who could be prosecuted for unlawful operation or an ATV (e.g. failure to wear eye protection or a safety helmet, failure to supervise operators under the age of 16, operation in a careless or reckless manner), the net impact cannot be determined.

The exception to these regulations added in the third edition for operation of ATVs while farming, hunting, or trapping would reduce the potential number of offenders under the bill. However, as the number of individuals that would operate an ATV while farming, hunting, or trapping in a manner that would otherwise be unlawful is unknown, the magnitude of any reduction in the number of infractions and Class 2 misdemeanor charges and convictions under this bill cannot be estimated.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five-year fiscal note horizon and beyond.

Because this bill would create new offenses, the Sentencing Commission has no historical data from which to estimate the potential number of convictions under the legislation. As Class 2 misdemeanants with active sentences are housed in county jails rather than state prison, local governments would principally incur any costs of incarceration resulting from this bill. However, most Class 2 misdemeanants are likely to receive non-active sentences, which would impact the Division of Community Corrections in the Department of Correction. As it is not known how many additional Class 2 misdemeanor convictions would occur due to this legislation, the specific impact to the Department of Correction and local governments cannot be determined.

- In FY 2003-04, 85 percent of Class 2 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.
- The remaining 15 percent of Class 2 misdemeanor convictions resulted in active sentences and the average active sentence lengths was 23 days.

• Offenders with active sentences of less than thirty days are housed in county jails at county expense.

Because Class 2 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation would not impact prison population.

Department of Juvenile Justice and Delinquency Prevention

As several Class 2 misdemeanors created by this bill would apply to individuals under the age of 16, additional juveniles may be adjudicated delinquent for these offenses. However, delinquent adjudications for the proposed offenses would not be expected to have a significant impact on Youth Development Center (YDC) population, given that juveniles adjudicated delinquent for a minor offense (a Class 1 to 3 misdemeanor) can only be committed to a YDC if they have previously been committed to a YDC or adjudicated delinquent for four or more prior offenses.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the offenses created by this bill would be new, the Administrative Office of the Courts has no data from which to estimate the number of new charges that would arise. In addition to Class 2 misdemeanor charges, this bill would be expected to lead to new juvenile petitions and infractions to be settled by the Courts. AOC anticipates that there would be additional court and preparation time needed to process these charges, thus increasing district court workload. As the number of new charges that would result from this bill cannot be estimated, the specific cost cannot be determined.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 misdemeanor charge via trial is \$2,322. This cost includes an estimated \$1,373 in costs of time in court and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 2 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 per plea.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS:

1) G.S. 20-171.10 subsection (c) stipulates that "[a]ll-terrain vehicles with engine capacity up to and including 90 cubic centimeter displacement shall be operated only by persons 12 years of age or older" (emphasis added). This provision precludes the authorization provided in subsection (b) for children over the age of 8 to operate an ATV with an engine capacity less than 70 cubic centimeter displacement. Although G.S. 20-171.10 ostensibly intends to authorize children

between the ages of 8 and 12 to operate ATVs, as drafted, there are no specified engine capacities that a child under the age of 12 may operate.

2) This bill would be effective October 1, 2005. Traditionally, most bills with criminal penalties become effective on December 1. This date has been used to give the criminal justice system time to change their operating systems to accommodate criminal penalty changes and to inform and train attorneys and judges of those changes. There is typically a delay of six months between charging and sentencing an offender. The NC Sentencing and Policy Advisory Commission population projections assume a December 1 effective date, and thus are based on changes in population starting the second year. The expenditures and savings calculated by Fiscal Research use these projections and, thus, assume that the legislation will not impact the prison system until the beginning of 2006-07. If the bill becomes effective prior to December 1, there will be an impact on the prison system in the 2005-06 fiscal year.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director

Fiscal Research Division

Official Fiscal Research Division Publication

DATE: June 16, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note (G.S. 120-36.7)

BILL NUMBER: Senate Bill 189 (Fourth Edition)

SHORT TITLE: All-Terrain Vehicle Regulation.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

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

FY 2007-08 FY 2008-09 FY 2009-10 FY 2005-06 FY 2006-07

GENERAL FUND

Exact amount cannot be determined; no substantial impact anticipated. Correction

Exact amount cannot be determined (see pg. 2 for details). **Judicial**

Exact amount cannot be determined; no substantial impact anticipated. **Juvenile Justice**

LOCAL

Exact amount cannot be determined (see pg. 2 for details). GOVERNMENTS

ADDITIONAL

No additional prison beds anticipated. PRISON BEDS*

POSITIONS:

Exact amount cannot be determined; no additional positions anticipated. (cumulative)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of

Correction; Judicial Branch; Local Governments

EFFECTIVE DATE: October 1, 2005

*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.

BILL SUMMARY: This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.
- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet; b) while under the influence of alcohol or drugs; c) in a careless or reckless manner; d) on a public street, road, highway, interstate, or limited-access highway; or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200.

The third edition of the bill modifies the graduated age requirements for the operation and sale of ATVs with specified engine capacities and adds new G.S. 20-171.17 to exempt from the provisions of the bill persons engaged in farming, hunting, or trapping. Children under the age of 8 (previously age 12) would be prohibited from operating ATVs; children under the age of 12 would be prohibited from operating an ATV with an engine capacity of 70 cubic centimeter displacement or greater; and children under the age of 16 would be prohibited from operating an ATV with an engine capacity greater than 90 cubic centimeter displacement. The restrictions on the sale of ATVs based on the operator's age and specified engine capacities are modified accordingly.

The fourth edition of the bill makes a technical correction only.

ASSUMPTIONS AND METHODOLOGY:

Summary

This bill would create several new Class 2 misdemeanors related to the operation and sale of all-terrain vehicles. The legislation would principally impact court costs, as new Class 2 misdemeanor and infraction charges as well as juvenile petitions would be expected. Because Class 2 misdemeanants are housed in county jails, no additional prison beds would be anticipated due to this bill, and the fiscal impact to the Department of Correction would not be expected to be substantial. However, there would be an impact on the Division of Community Corrections for

¹ Adapted from Bill Digest S.B. 189 (02/23/2005).

offenders given non-active sentences and local governments, which would incur the costs of incarcerating any Class 2 misdemeanants with an active sentence.

The modification of the graduated age requirements provided by the third and subsequent editions of the bill would permit additional individuals (those between the ages of 8 and 12) to operate certain ATVs, which could affect the numbers of individuals prosecuted for an infraction or Class 2 misdemeanor under the bill. However, as these changes would *decrease* the number of individuals who could be prosecuted for underage operation of an ATV but *increase* the number of individuals who could be prosecuted for unlawful operation of an ATV (e.g. failure to wear eye protection or a safety helmet, failure to supervise operators under the age of 16, operation in a careless or reckless manner), the net impact cannot be determined.

The exception to these regulations added in the third and subsequent editions for operation of ATVs while farming, hunting, or trapping would reduce the potential number of offenders under the bill. However, as the number of individuals that would operate an ATV while farming, hunting, or trapping in a manner that would otherwise be unlawful is unknown, the magnitude of any reduction in the number of infractions and Class 2 misdemeanor charges and convictions under this bill cannot be estimated.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five-year fiscal note horizon and beyond.

Because this bill would create new offenses, the Sentencing Commission has no historical data from which to estimate the potential number of convictions under the legislation. As Class 2 misdemeanants with active sentences are housed in county jails rather than state prison, local governments would principally incur any costs of incarceration resulting from this bill. However, most Class 2 misdemeanants are likely to receive non-active sentences, which would impact the Division of Community Corrections in the Department of Correction. As it is not known how many additional Class 2 misdemeanor convictions would occur due to this legislation, the specific impact to the Department of Correction and local governments cannot be determined.

• In FY 2003-04, 85 percent of Class 2 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to

- community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.
- The remaining 15 percent of Class 2 misdemeanor convictions resulted in active sentences and the average active sentence lengths was 23 days.
- Offenders with active sentences of less than thirty days are housed in county jails at county expense.

Because Class 2 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation would not impact prison population.

Department of Juvenile Justice and Delinquency Prevention

As several Class 2 misdemeanors created by this bill would apply to individuals under the age of 16, additional juveniles may be adjudicated delinquent for these offenses. However, delinquent adjudications for the proposed offenses would not be expected to have a significant impact on Youth Development Center (YDC) population, given that juveniles adjudicated delinquent for a minor offense (a Class 1 to 3 misdemeanor) can only be committed to a YDC if they have previously been committed to a YDC or adjudicated delinquent for four or more prior offenses.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the offenses created by this bill would be new, the Administrative Office of the Courts has no data from which to estimate the number of new charges that would arise. In addition to Class 2 misdemeanor charges, this bill would be expected to lead to new juvenile petitions and infractions to be settled by the Courts. AOC anticipates that there would be additional court and preparation time needed to process these charges, thus increasing district court workload. As the number of new charges that would result from this bill cannot be estimated, the specific cost cannot be determined.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 misdemeanor charge via trial is \$2,322. This cost includes an estimated \$1,373 in costs of time in court and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 2 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$272 per plea.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: This bill would be effective October 1, 2005. Traditionally, most bills with criminal penalties become effective on December 1. This date has been used to give the criminal justice system time to change their operating systems to

accommodate criminal penalty changes and to inform and train attorneys and judges of those changes. There is typically a delay of six months between charging and sentencing an offender. The NC Sentencing and Policy Advisory Commission population projections assume a December 1 effective date, and thus are based on changes in population starting the second year. The expenditures and savings calculated by Fiscal Research use these projections and, thus, assume that the legislation will not impact the prison system until the beginning of 2006-07. If the bill becomes effective prior to December 1, there will be an impact on the prison system in the 2005-06 fiscal year.

Official

Fiscal Research Division

Publication

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson Director

Fiscal Research Division

DATE: July 11, 2005

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GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: Senate Bill 189 (Fifth Edition)

SHORT TITLE: All-Terrain Vehicle Regulation.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes (X)

No ()

No Estimate Available ()

FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09 FY 2009-10

GENERAL FUND

Judicial

Exact amount cannot be determined (see pg. 2 for details).

POSITIONS:

(cumulative)

Exact amount cannot be determined; no additional positions anticipated.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch

EFFECTIVE DATE: December 1, 2005

BILL SUMMARY: This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.
- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet; b) while under the influence of alcohol or drugs; c) in a careless or reckless manner; d) on a public street, road, highway, interstate, or limited-access highway; or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

¹ Adapted from Bill Digest S.B. 189 (02/23/2005).

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200.

The third edition of the bill modified the graduated age requirements for the operation and sale of ATVs with specified engine capacities and added new G.S. 20-171.17 to exempt from the provisions of the bill persons engaged in farming, hunting, or trapping. Children under the age of 8 (previously age 12) would be prohibited from operating ATVs; children under the age of 12 would be prohibited from operating an ATV with an engine capacity of 70 cubic centimeter displacement or greater; and children under the age of 16 would be prohibited from operating an ATV with an engine capacity greater than 90 cubic centimeter displacement. The restrictions on the sale of ATVs based on the operator's age and specified engine capacities are modified accordingly.

The fourth edition of the bill made a technical correction only.

The fifth edition 1) makes all violations of new Part 10C infractions (eliminating the Class 2 misdemeanor); 2) eliminates the exemption for farming, hunting, and trapping as proposed in the third edition; 3) makes parents or legal guardians rather than the child responsible for all violations related to age requirements; and, 4) changes the effective date from October to December 1, 2005.

ASSUMPTIONS AND METHODOLOGY:

<u>Department of Correction and Department of Juvenile Justice and Delinquency Prevention</u>
The fifth edition of the bill makes all violations infractions. Infractions are punishable with a fine only so there would be no fiscal impact on the agencies that supervise and control offenders: the Department of Correction and the Department of Juvenile Justice and Delinquency Prevention.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The fifth edition of this bill would create several new infraction offenses related to the operation and sale of all-terrain vehicles. Violations resulting in an infraction would affect court workload and costs. However, as the infraction offenses would be new, AOC has no historical data from which to estimate the number of violations that would occur and, therefore, the specific cost to the Courts cannot be determined.

Per infraction case requiring court time, AOC estimates that the cost would be roughly comparable to a Class 3 misdemeanor—approximately \$867 per trial for time in court and \$41 per guilty plea. However, AOC notes that the schedule adopted by the Conference of Chief District Court Judges is likely to make infraction offenses waiveable, which would reduce average costs. Each

infraction would be punishable by a fine of up to \$200, the proceeds of which would be remitted to local governments and allocated to the local school system.

SOURCES OF DATA: Judicial Branch

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director

Fiscal Research Division

DATE: July 27, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

Fiscal Research Division

Official

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note (G.S. 120-36.7)

BILL NUMBER: Senate Bill 189 (Sixth Edition)

SHORT TITLE: All-Terrain Vehicle Regulation.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes (X)

No ()

No Estimate Available ()

FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09 FY 2009-10

GENERAL FUND

Judicial

Exact amount cannot be determined (see pg. 2 for details).

POSITIONS:

Exact amount cannot be determined; no additional positions anticipated.

(cumulative)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch

EFFECTIVE DATE: December 1, 2005

BILL SUMMARY: This bill would amend Article 3 of Chapter 20 of the General Statutes by adding a new Part 10C regulating the sale and operation of all-terrain vehicles. The bill would:

- 1) Enact graduated age requirements for operating an ATV with specified engine capacities.
- 2) Prohibit carrying a passenger on an ATV not specifically designed to accommodate a passenger.
- 3) Require that all persons under age 16 be under continuous visual supervision by a person 18 years old or older while operating an ATV.
- 4) Prohibit the sale of an ATV for use by a person less than the minimum applicable age based on the engine capacity of the vehicle.
- 5) Require equipment standards of brakes, mufflers, and spark arresters for every ATV sold or operated in the State.
- 6) Prohibit the operation of an ATV a) without eye protection and a safety helmet; b) while under the influence of alcohol or drugs; c) in a careless or reckless manner; d) on a public street, road, highway, interstate, or limited-access highway; or e) during hours of darkness without a lighted headlamp and taillamp.
- 7) Require safety training and certification for all ATV operators.

¹ Adapted from Bill Digest S.B. 189 (02/23/2005).

A violation of the provisions regulating the age of the operator, the sale of certain ATVs to underage operators, or the operation of an ATV on public roads would be a Class 2 misdemeanor. A violation of any other provision under the new Part 10C would be an infraction subject to a fine of not more than \$200.

The third edition of the bill modified the graduated age requirements for the operation and sale of ATVs with specified engine capacities and added new G.S. 20-171.17 to exempt from the provisions of the bill persons engaged in farming, hunting, or trapping. Children under the age of 8 (previously age 12) would be prohibited from operating ATVs; children under the age of 12 would be prohibited from operating an ATV with an engine capacity of 70 cubic centimeter displacement or greater; and children under the age of 16 would be prohibited from operating an ATV with an engine capacity greater than 90 cubic centimeter displacement. The restrictions on the sale of ATVs based on the operator's age and specified engine capacities are modified accordingly.

The fourth edition of the bill made a technical correction only.

The fifth edition 1) made all violations of new Part 10C infractions (eliminating the Class 2 misdemeanor); 2) eliminated the exemption for farming, hunting, and trapping as proposed in the third edition; 3) made parents or legal guardians rather than the child responsible for all violations related to age requirements; and, 4) changed the effective date from October to December 1, 2005.

The sixth edition reinserts G.S. 20-171.17 as proposed in the third edition, providing exemptions from the provisions of the bill to persons engaged in farming, hunting, or trapping. New subsection (c) is also added, providing an exemption to anyone who owned the all-terrain vehicle prior to the effective date of the bill.

ASSUMPTIONS AND METHODOLOGY:

Department of Correction and Department of Juvenile Justice and Delinquency Prevention

Under the fifth and subsequent editions of the bill, all violations would be infractions. Infractions are punishable with a fine only, so there would be no fiscal impact on the agencies that supervise and control offenders: the Department of Correction and the Department of Juvenile Justice and Delinquency Prevention.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The fifth and subsequent editions of this bill would create several new infraction offenses related to the operation and sale of all-terrain vehicles. Violations resulting in an infraction would affect court workload and costs. However, as the infraction offenses would be new, AOC has no historical data from which to estimate the number of violations that would occur and, therefore, the specific cost to the Courts cannot be determined.

The exception to the regulations added in the sixth edition for individuals who owned the ATV prior to the bill's effective date and for operation of ATVs while farming, hunting, or trapping would reduce the potential number of infractions under the bill. However, as the number of individuals that would own the ATV prior to the bill's effective date or operate an ATV while farming, hunting, or trapping in a manner that would otherwise be unlawful is unknown, the magnitude of any reduction in the number of infractions cannot be estimated.

Per infraction case requiring court time, AOC estimates that the cost would be roughly comparable to a Class 3 misdemeanor—approximately \$867 per trial for time in court and \$41 per guilty plea. However, AOC notes that the schedule adopted by the Conference of Chief District Court Judges is likely to make infraction offenses waiveable, which would reduce average costs. Each infraction would be punishable by a fine of up to \$200, the proceeds of which would be remitted to local governments and allocated to the local school system.

SOURCES OF DATA: Judicial Branch

TECHNICAL CONSIDERATIONS: None.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director

Fiscal Research Division

DATE: August 2, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

ATTENDANCE

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005-06

| DATES | 02/06/05 | | | | | | | | | | and the state of t | | | |
|--------------------------------------|----------|------|---|---|--|----------|----------|---|----------|----------|--|----------|-------|-------------|
| McALLISTER, Mary, CHAIR | X | | | | | ļ | | | | | | | | |
| GOODWIN, Melanie, VICE CHAIR | X | | | | | | | | | | | | | |
| WEISS, Jennifer, VICE CHAIR | X | | | | <u> </u> | | | | ļ | | | | · | ļ. <u>.</u> |
| ALEXANDER, Martha | X | | ļ | | ļ | | | | | | | | | |
| DOCKHAM, Jerry | | | | | <u> </u> | | | | | | | | | |
| DOLLAR, Nelson | X | | | | | ļ | | | ļ | ļ | | | ļ | |
| FARMER-BUTTERFIELD, Jean | X | | | | | | | | | ļ | | | | |
| FISHER, Susan | X | ļ | | ļ | | | | | | | | | 1 | |
| FOLWELL, Dale | X | | | | | ļ . | | | | | | | | |
| HOLLOWAY, Bryan | X | | | | | | | | | ļ | | | | |
| HUNTER, Howard | | | ļ | ļ | | ļ | | | | | | | | |
| WALEND, Trudi | | | | | <u> </u> | ļ | | | ļ | <u></u> | | | | |
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| Ex-Officios: | | | | | <u> </u> | | | | <u> </u> | | | | | |
| CULPEPPER, Bill | | | | | | | | | | | | | | |
| CUNNINGHAM, Pete | | | | | | | | | | <u> </u> | | | | |
| EDDINS, Rick | | | | | <u> </u> | | | | | | | | | |
| HACKNEY, Joe | X | | | | ļ | | | | | ļ | | <u> </u> | | |
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| Staff Members: | | | | ļ | | ļ | | | | | | | ļ | |
| WENDY GRAF RAY | X | | į | | | | | | | | | | | |
| SHIRLEY IORIO | X | | | | <u> </u> | <u> </u> | | | | | | | | |
| BEN POPKIN | | | | | ļ | | <u> </u> | | | | | | | |
| | | | | | | | | | | | | | | |
| JOHNNA SMITH, COMMITTEE ASSISTANT | X | | | | | | | | | | | | | |

House Pages

Name Of Committee: youth + Family Da : 7/6/05

| 1. Name: AGNRY Daniels |
|-----------------------------|
| County: Wake |
| Sponsor: Rick Edding |
| 2. Name: Christma Preddy |
| County: Wale |
| Sponsor: Rick Eddins |
| 3. Name: David Epps |
| County: Wake |
| Sponsor: Speaker Murgan |
| 4. Name: Banks Summus |
| County: WOLD |
| Sponsor: Speaker Black |
| 5. Name: |
| County: |
| Sponsor: |
| Sgt-At-Arms |
| 1. Name: Walter SPE// |
| 2. Name: Martha Parrish |
| 3. Name: Toussaint L. Avent |
| 1. Name: |
| 5. Name: |

VISITOR REGISTRATION SHEET

Children youth + Family 7/6/05

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME FIRM OR AGENCY AND ADDRESS

| Chronnu Noshtz | NC Child Advucacy INStitute |
|---------------------|---|
| Becca Waltrip | NC Child Advocacy Institute |
| Kathy Colville | NCCAI |
| Selena Berrier | Child Fatality Task Force |
| Brent Myers, MD | Wake county EMS North Carolina College of Physicians |
| TONY PERRY, SHERIFF | CAMBEN CO SHERIFF'S OFFICE |
| TomV, TAGLIDAC | NCCAZ |
| BRI AN LEWIS | Covenant W/ NC'S Children |
| Jane Jenney | NC Chiefs of Police Assa. |
| Colleen Kochanek | NC College of Emergency Phyricians |
| Stephanie Nantz | Youth Advocay a Involvement Office |

VISITOR REGISTRATION SHEET

| Children, | thuth & Families | 7/6/65 | |
|--------------|------------------|--------|--|
| Name of Comp | nittee | Date | |

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

| NAME | FIRM OR AGENCY AND ADDRESS |
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| Chad Hinton | Civitas Institute |
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GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

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(Public)

SENATE BILL 189

Commerce Committee Substitute Adopted 4/27/05 Third Edition Engrossed 5/16/05 PROPOSED HOUSE COMMITTEE SUBSTITUTE S189-CSSU-24 [v.2]

6/29/2005 2:35:53 PM

Short Title: All-Terrain Vehicle Regulation.

| | | Sponsors: | |
|---|----------|----------------------|---|
| | | Referred to: | |
| | | | February 23, 2005 |
| | 1 | | A BILL TO BE ENTITLED |
| | 2 | | REGULATE THE SALES AND OPERATIONS OF ALL-TERRAIN |
| 1 | 3 | VEHICLES. | |
| , | 4 5 | | sembly of North Carolina enacts: FION 1. G.S. 20-4.01 reads as rewritten: |
| | 5 6 | "§ 20-4.01. Def | |
| | 7 | U | context requires otherwise, the following definitions apply throughout |
| | 8 | | he defined words and phrases and their cognates: |
| | 9 | (la) | |
| | 10 | | ethanol, methanol, propanol, and isopropanol. |
| | 11 | (1b) | Alcohol Concentration. – The concentration of alcohol in a person, |
| | 12 | | expressed either as: |
| | 13 | | a. Grams of alcohol per 100 milliliters of blood; or |
| | 14 | | b. Grams of alcohol per 210 liters of breath. |
| | 15 | | The results of a defendant's alcohol concentration determined by a |
| | 16 | | chemical analysis of the defendant's breath or blood shall be reported |
| | 17 18 | | to the hundredths. Any result between hundredths shall be reported to the next lower hundredth. |
| | 19 | (1c) | All-Terrain Vehicle or ATV. – A motorized off-highway vehicle |
| | 20 | (IC) | designed to travel on three or four low-pressure tires, having a seat |
| | 21 | • | designed to be straddled by the operator and handlebars for steering |
| | 22 | | control. |
| | 23 | (le) (ld) | Business District. – The territory prescribed as such by ordinance of |
|) | 24 | | the Board of Transportation. |
| , | 25 | " | |
| | | | |

| 1 | SECTION 2. Article 3 of Chapter 20 is amended by adding a new Part to |
|----|--|
| 2 | read: |
| 3 | "Part 10C. Operation of All-Terrain Vehicles. |
| 4 | " <u>§ 20-171.10. Age restrictions.</u> |
| 5 | (a) No person less than 8 years of age shall operate an all-terrain vehicle. |
| 6 | (b) All-terrain vehicles with engine capacity less than 70 cubic centimeter |
| 7 | displacement shall be operated only by persons who are 8 years of age or older. |
| 8 | (c) All-terrain vehicles with engine capacity from 70 cubic centimeter |
| 9 | displacement up to and including 90 cubic centimeter displacement shall be operated |
| 10 | only by persons 12 years of age or older. |
| 11 | (d) All-terrain vehicles with engine capacity greater than 90 cubic centimeter |
| 12 | displacement shall be operated only by persons 16 years of age or older. |
| 13 | (e) All persons under the age of 16 shall be under the continuous visual |
| 14 | supervision of a person 18 years of age or older while operating an all-terrain vehicle. |
| 15 | "§ 20-171.11. Passengers. |
| 16 | No operator of an all-terrain vehicle shall carry a passenger, except on those vehicles |
| 17 | specifically designed by the manufacturer to carry passengers in addition to the |
| 18 | operator. |
| 19 | "§ 20-171.12. Prohibited acts by sellers. |
| 20 | No person shall knowingly sell or offer to sell an all-terrain vehicle: |
| 21 | (1) For use by a person under the age of 8 years. |
| 22 | (2) With an engine capacity of 70 cubic centimeter displacement or |
| 23 | greater for use by a person less than 12 years of age. |
| 24 | (3) With an engine capacity of greater than 90 cubic centimeter |
| 25 | displacement for use by a person less than 16 years of age. |
| 26 | "§ 20-171.13. Equipment requirements. |
| 27 | Every all-terrain vehicle sold, offered for sale, or operated in this State shall meet the |
| 28 | following equipment standards: |
| 29 | (1) It shall be equipped with a brake system maintained in good operating |
| 30 | condition. |
| 31 | (2) It shall be equipped with an effective muffler system maintained in |
| 32 | good working condition. |
| 33 | (3) It shall be equipped with a United States Forest Service qualified spark |
| 34 | arrester maintained in good working condition. |
| 35 | "§ 20-171.14. Prohibited acts by owners and operators. |
| 36 | (a) No person shall operate an all-terrain vehicle unless the person wears eye |
| 37 | protection and a safety helmet meeting United States Department of Transportation |
| 38 | standards for motorcycle helmets. |
| 39 | (b) No owner shall authorize an all-terrain vehicle to be operated contrary to this |
| 40 | Part. |
| 41 | (c) No person shall operate an all-terrain vehicle while under the influence of |

alcohol, any controlled substance, or a prescription or nonprescription drug that impairs

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vision or motor coordination.

- (d) No person shall operate an all-terrain vehicle in a careless or reckless manner so as to endanger or cause injury or damage to any person or property.
- (e) Except as otherwise permitted by law, no person shall operate an all-terrain vehicle on any public street, road, or highway except for purposes of crossing that street, road, or highway.
- (f) Except as otherwise permitted by law, no person shall operate an all-terrain vehicle at anytime on an interstate or limited-access highway.
- (g) No person shall operate an all-terrain vehicle during the hours of darkness, from one-half hour after sunset to one-half hour before sunrise and at anytime when visibility is reduced due to insufficient light or atmospheric conditions, without displaying a lighted headlamp and taillamp, unless the use of lights is prohibited by other applicable laws.

"§ 20-171.15. Safety training and certificate.

Effective October 1, 2006, every all-terrain vehicle operator born on or after January 1, 1990, shall possess a safety certificate indicating successful completion of an all-terrain vehicle safety course sponsored or approved by the All-Terrain Vehicle Safety Institute.

"§ 20-171.16. Penalties.

- (a) Any person violating the provisions of G.S. 20-171.10, 20-171.12, or 20-171.14(e) or (f) shall be guilty of a Class 2 misdemeanor.
- (b) Any person violating any other provision of this Part shall be responsible for an infraction and may be subject to a fine of not more than two hundred dollars (\$200.00).

"§ 20-171.17. Exceptions.

- (a) The provisions of this Part do not apply to any owner, operator, lessor, or renter of a farm or ranch, or that person's employees or immediate family or household members, when operating an all-terrain vehicle while engaged in farming operations.
- (b) The provisions of this Part do not apply to any person using an all-terrain vehicle for hunting or trapping purposes if the person is otherwise lawfully engaged in those activities."
 - **SECTION 3.** This act becomes effective October 1, 2005.



SENATE BILL 189: All-Terrain Vehicle Regulation

BILL ANALYSIS

Committee:

House Children, Youth and Families

Introduced by: Sen. Purcell

Version:

PCS to Third Edition

S189-CSSU-24[v.2]

Date:

July 6, 2005

Summary by: Wendy Graf Ray

Committee Counsel

SUMMARY: Senate Bill 189 would provide regulations for the sale and operation of all-terrain vehicles (ATVs) in North Carolina.

CURRENT LAW: North Carolina does not currently regulate the sale and operation of all-terrain vehicles. All-terrain vehicles are not required to be registered, and operators do not have to be licensed.

BILL ANALYSIS: Senate Bill 189 would regulate all-terrain vehicles in the following ways:

Definition. The bill would define ATV as a motorized off-highway vehicle designed to travel on 3 or 4 low-pressure tires with a seat designed to be straddled and handlebars for steering.

Age restrictions.

- No one under age 8 would be permitted to operate an ATV.
- Children ages 8, 9, 10, and 11 would only be permitted to operate ATVs with engine capacity less than 70 cubic centimeter displacement and only with supervision of a person who is 18 or older.
- Children ages 12, 13, 14, and 15 would only be permitted to operate ATVs with engine capacity up to and including 90 cubic centimeter displacement and only with supervision of a person who is 18 or older.
- Only persons who are 16 or older would be permitted to operate an ATV with engine capacity greater than 90 cubic centimeter displacement.

Violation of age restrictions would be a Class 2 misdemeanor (punishable up to 60 days, fine up to \$1,000). Selling an ATV for use in violation of age restrictions would also be a Class 2 misdemeanor.

Passengers. Operators of ATVs would not be permitted to carry passengers unless the ATV was specifically designed to carry passengers.

Violation of the passenger restriction would be an infraction (fine up to \$200).

Equipment requirements. Every ATV sold or operated in the State would be required to meet the following equipment standards:

- Be equipped with a brake system.
- Be equipped with an effective muffler system.
- Be equipped with a spark arrester.

Violation of equipment requirements would be an infraction (fine up to \$200).

Prohibited acts (infractions). Owners and operators of ATVs would be prohibited from doing any of the following:

Operating an ATV without eye protection and a helmet.

Senate Bill 189

Page 2

- Authorizing use of an ATV contrary to the provisions in this bill.
- Operating an ATV while under the influence of drugs or alcohol.
- Operating an ATV in a careless and reckless manner so as to endanger persons or property.
- Operating an ATV during hours of darkness without displaying a lighted headlamp and taillamp.

Violation of these restrictions would be an infraction (fine up to \$200).

<u>Prohibited acts (misdemeanors).</u> Owners and operators of ATVs would also be prohibited from the following:

- Operating an ATV on a public street, road, or highway, except to cross.
- Operating an ATV on an interstate or limited-access highway.

Violation of these restrictions would be a Class 2 misdemeanor (punishable up to 60 days, fine up to \$1,000).

<u>Safety training.</u> All operators of ATVs who were born on or after January 1, 1990 would be required to possess a safety certificate indicating successful completion of an all-terrain vehicle safety course sponsored or approved by the All-Terrain Vehicle Safety Institute. This requirement would be effective October 1, 2006.

Violation of this requirement would be an infraction (fine up to \$200).

<u>Exceptions</u>. The bill would also provide exemptions from ATV regulations for individuals engaged is farming operations and hunting or trapping activities.

EFFECTIVE DATE: The act would become effective October 1, 2005.

S0189e3-SMSU-CSSU-24v2





July 5, 2005

Chairman McAllister and Members of the Committee on Children, Youth and Families:

Comments concerning support of SB 189 - An Act to Regulate the Sales and Operation of All-Terrain Vehicles on behalf of the members of the North Carolina Off Highway Vehicle (OHV) Association, Inc. (NOVA).

NOVA is a state-wide association representing Off-Highway Vehicle Recreationists across North Carolina. Our mission is to promote the safe and responsible use and management of OHVs which includes ATVs. NOVA strongly supports passage of ATV safety legislation. We have been following the legislation closely and have attended the Senate Committee meetings concerning this bill. We have also made a number of trips to Raleigh in anticipation of attending the House Committee meeting. I regret that I will not be able to attend the meeting on July 6th and would like to submit the following comments to the committee.

Though we support the industry standards for children age 6 to be able to ride ATVs designed for their use. We are willing to support this legislation because we feel NC needs legislation that will require people to be safety certified and will bring awareness to the proper use of ATVs. The single most important thing we can do is to get kids off adult sized ATVs and get them on smaller ATVs designed specifically for their use. Most accidents and injuries come from inappropriate use of ATVs, such as children riding adult sized machines, more than one rider, no training, no safety gear, riding on pavement and the lack of adult supervision which should begin before the children are given the keys to adult sized machines. It is clearly stated in all of the literature, the owners manual and on stickers on adult machines that they are not to be used by children under 16 and if used improperly they are dangerous and will cause death or injury. Adults allowing children to use adult sized ATVs need to be held responsible when children get hurt.

We are also concerned with the education program and the ability of the ATV Safety Institute to provide enough instructors and sights to get everyone certified. We believe that safety training is the most important tool we can use to protect the riders of North Carolina and would support a state training program.

The safety of North Carolina ATV owners and operators is of great concern to us and we are committed to promoting the safe and responsible use and management of ATVs. We believe that reducing injuries associated with ATVs requires passage of ATV legislation, safety training of those using ATVs, proper adult supervision of children using ATVs and providing legal well managed recreation areas for our citizens to use ATVs.

Currently North Carolina is one of only six states with absolutely no statutes addressing ATVs. We have 183,000 ATV owners in NC yet we only provide 120 miles of legal trails for them to use. All of these trails

Nancy Minard President P.O. Box 1274 Cullowhee, NC 28723 (828) 293-0426 John Worsley V- President P.O. Box 21812 Greensboro, NC 27420 (336) 274-2790 Johnny Shields Secretary / Treasurer 190 Stormy Cove Sylva, NC 28779 (828) 586-5679 Brian Sears

Resource Management
4501 Temple Hill Church Rd.
Granite Falls, NC 28630
(828) 396-7230

are located on US Forest Service land. We feel that the state should begin to manage OHV recreation areas where riders can count on well managed areas to safely operate their ATVs. Part of operating ATVs safely is using them on designated trails that were designed for this purpouse. As responsible users of ATVs we feel this is a great family recreation and it should be managed like any other recreation.

We would like to ask that you support SB 189 without raising the age limit to 12. There are many children that are currently riding the appropriate sized ATVs. Kids who are riding responsibly with their families. Kids who are properly trained, properly supervised and riding on youth sized ATVs. These children are learning about responsibility, eye hand coordination, about risk taking and the consequence of their actions. The ATV Safety Institute provides a complete list of criteria which parents can use to judge if their children are ready to ride an ATV. When done properly children can learn a lot about themselves, their family and the outdoors. Perhaps the question we should be asking is not when our kids begin riding but how do we keep them off adult sized machines that were never intended for use by children.

Respectfully submitted:

Nancy Minard, President
The North Carolina OHV Association, Inc.
The Smokey Mountain ORV Club, Member & Past Secretary
The ATV Association, Member
The National Off-Highway Vehicle Conservation Council, Board Member & 2004 Volunteer of the Year



June 6, 2005

Chairman McAllister and Members of the Committee:

On behalf of the member companies of the Specialty Vehicle Institute of America, I would like to offer this statement in support of SB 189 - An Act to Regulate the Sales and Operations of All-Terrain Vehicles.

The Specialty Vehicle Institute of America (SVIA) is the national not-for-profit trade association representing manufacturers and distributors of ATVs in the United States. Our member companies are AlphaSports, Arctic Cat, Bombardier, Bush Hog, Honda, John Deere, Kawasaki, Patriot, Suzuki and Yamaha. SVIA's principal goal is to promote the safe and responsible use of ATVs.

SVIA strongly supports passage of ATV safety legislation. If enacted, we believe SB 189 will be effective in reducing ATV-related injuries and deaths in North Carolina.

There has been a great deal of discussion regarding the minimum operator age provisions. While age-appropriate ATVs are sold for children age 6 and over and our nationwide training program offers training to children age 6 and over, we believe that the other safety provisions of this bill are so important that we will not oppose the 8-year age limit in this bill so as to not risk having no safety legislation enacted.

The safety of our customers is of paramount importance to the ATV Industry and we are committed to continuing to take appropriate actions to ensure that our products are being used in a safe and proper manner. We believe that reducing injuries associated with ATVs requires a three-pronged approach. One of the essential components is the enactment of state legislation regulating ATV use. Toward this end, we have developed *Model State ATV Legislation*. SB 189 includes all of the safety measures contained in our Model. Currently North Carolina is one of only six states with absolutely no statutes addressing ATVs.

92% of ATV-related fatalities involve behaviors that the Industry warns against in its rider education programs, in all literature and on vehicle labels. These behaviors include riding inappropriately sized ATVs, operating on paved roads, operating without proper safety gear, and operating under the influence of alcohol. SB 189 prohibits all of these behaviors.

Enactment and enforcement of state ATV laws, in combination with rider education and parental supervision when children are riding ATVs, will significantly reduce the number of ATV related injuries and fatalities.

Over the past two decades, ATV manufacturers have made unprecedented efforts to promote safe and responsible ATV use and to deter children under 16 from using adult-size ATVs. The industry has an unparalleled safety education program. Through our ATV Safety Institute ("ASI"), the Industry has developed a hands-on ATV rider training course. Every new ATV

purchaser is offered an incentive to enroll in this industry-sponsored education course that is provided to new buyers free of charge. Other ATV safety educational efforts include nationwide public safety campaigns and inclusion of safety messages in advertisements.

Passage of legislation is the most effective way to reinforce these messages and efforts and try to ensure that riders use these products safely.

A portion of the public will always do the right thing. Another minority of the public will not follow the rules and will not be persuaded to do so by the passage of a state law. But the behavior of the large group of people in between will be influenced by the existence of a reasonable state law regulating their use of ATVs and I urge you to pass SB 189.

Thank you very much for your consideration of these comments on this vital safety issue.

Respectfully submitted:

Kathe R. U. Klerch

Kathy R. Van Kleeck

Vice President

Government Relations

MCAllister

2005 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

| The following report(s) from standing committee(s) is/are presented: |
|---|
| By Representative McAllister (Chair) for the Committee on CHILDREN, YOUTH AND |
| FAMILIES. |
| Committee Substitute for |
| SB 189 A BILL TO BE ENTITLED AN ACT TO REGULATE THE SALES AND |
| OPERATIONS OF ALL-TERRAIN VEHICLES. |
| With a favorable report as to House committee substitute bill, unfavorable as to the original Sessitute bill, unfavorable as to the original Sessitute bill, |
| |
| (FOR JOURNAL USE ONLY) |
| Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on |
| Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution |
| (No.) is placed on the Calendar of (The original bill resolution No) |
| is placed on the Unfavorable Calendar. |
| The (House) committee substitute bill/(joint) resolution (No) is re-referred to the Committee on (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No) is placed on the Unfavorable Calendar. |

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES MEETING MINUTES

WEDNESDAY July 6, 2005 ROOM 544 LOB, 12 NOON

The House Committee on Children, Youth & Families met on Wednesday July 6, 2005 at 12 noon in Room 605 of the Legislative Office Building.

Committee Chair, Representative Mary McAllister called the meeting to order at 12:05 pm. The visitors were welcomed. The Sergeant-At-Arms staff and pages were recognized as noted on the minutes' attachments.

Members present: Vice Chairs: Representatives Jennifer Weiss and Melinda Goodwin; Members: Representatives Martha Alexander, Nelson Dollar, Jean Farmer-Butterfield, Susan Fisher, Dale Folwell and Bryan Holloway.

Staff Members present: Wendy Gray Ray and Shirley Iorio.

The following bill was presented and addressed as noted below.

SB189 – ALL-TERRAIN VEHICLE REGULATION, AN ACT TO REGULATE THE SALES AND OPERATIONS OF ALL-TERRAIN VEHICLES.

Senator William Purcell was recognized to explain the bill.

Representative Martha Alexander made a motion to hear the proposed committee substitute. Staff Member Wendy Graf Ray explained the revision to the proposed committee substitute for consideration.

Senator William Purcell stated that the North Carolina Police Chief Association strongly supports the bill and have included it in their legislative interests.

Representative Jean Farmer-Butterfield asked if a fiscal note would be needed for this bill and if there is any opposition. Senator Purcell stated

PAGE 2 CHILDREN, YOUTH & FAMILIES COMMITTEE MEETING JULY 6, 2005

the cost has not been determined yet because it would be a new law and stated there has not been opposition.

Representative Dale Folwell expressed concerns whether the bill would change the behavior of All-Terrain Vehicle (ATV) users.

Vice Chair Jennifer Weiss addressed age restrictions for the ATV users and the reduction of injuries.

The Chair recognized Mr. Tom Vitaglione with the Child Fatality Task Force. Mr. Vitaglione stated this a model bill and referred to letters of support from various groups. Mr. Vitaglione stated most injuries occur when the vehicle is an inappropriate size for the driver.

Vice Chair Jennifer Weiss made the motion for the bill. The Committee voted UNFAVORABLE as to the original bill and FAVORABLE to the committee substitute and reported directly to the House floor.

The Chair adjourned the meeting at 12:30 pm.

Respectfully submitted by,

Representative Mary McAllister

Committee Chair

Johnna C. Smith

Committee Assistant

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES MEETING MINUTES

WEDNESDAY JULY 19, 2006 ROOM 605 LOB, 12 NOON

Committee Chair – Representative Mary McAllister, Presiding

The House Committee on CHILDREN, YOUTH & FAMILIES met on Wednesday July 19, 2006 at 12 noon in Room 605 of the Legislative Office Building.

Committee Chair, Representative McAllister called the meeting to order at 12:07 pm. The visitors were welcomed. The House Sergeant-At-Arms staff and House Pages were acknowledged and thanked for their committee meeting assistance. The Visitors, House Pages and House Sergeant-At-Arms are outlined in the attachments.

Committee Members present: Vice Chairs - Representatives Melanie Goodwin, Jennifer Weiss; Members: Representatives Alexander, Dollar, Fisher, Folwell and Walend.

Staff Members present: Wendy Graf Ray, Shirley Iorio and Ben Popkin.

The following bill was considered: HB 767. This bill was addressed as noted below.

HB767 – AN ACT ESTABLISHING TARGET INCOMES FOR PUBLIC HOUSING AUTHORITIES.

CHILDREN, YOUTH & FAMILIES COMMITTEE PAGE 2 JULY 19, 2006

Senator Janet Cowell was recognized to explain the bill on behalf of Representative Julia Howard.

Representative Dollar was recognized for a question, the motion was made and the committee voted to concur with the proposed committee substitute of HB 767.

The Committee Chair adjourned at 12:17 pm.

Respectfully submitted by:

Representative Mary McAllister

Committee Chair

Johnna C. Smith

Committee Assistant

HOUSE COMMITTEE ON CHILDREN YOUTH & FAMILIES 2005- 2006 SESSION

| <u>MEMBER</u> | <u>ASSISTANT</u> | PHONE | OFFICE | <u>SEAT</u> |
|-----------------------------|-------------------|--------------|---------------|-------------|
| Mary McAllister, CHAIR | Johnna Smith | 733-5959 | 638 LOB | 58 |
| Melanie Goodwin, VICE CHAIR | Jane McMillan | 733-5823 | 1305 LB | 91 |
| Jennifer Weiss, VICE CHAIR | Susan Doty | 733-5781 | 2221 LB | 31 |
| Martha Alexander | Ann Faust | 733-5807 | 2208 LB | 32 |
| Jerry Dockham | Regina Irwin | 715-2526 | 1424 LB | 106 |
| Nelson Dollar | Candace Slate | 715-0795 | 1421 LB | 119 |
| Jean Farmer-Butterfield | Barbara Hocutt | 733-5898 | 614 LOB | 53 |
| Susan Fisher | Meredith Woodlief | 715-2013 | 420 LOB | 30 |
| Dale Folwell | Mary Marchman | 733-5787 | 302C LOB | 104 |
| Bryan Holloway | Chad Hinton | 733-5609 | 1409 LB | 98 |
| Howard Hunter | Barbara Phillips | 733-2962 | 613 LOB | 68 |
| Trudi Walend | Ken Walend | 715-4466 | 602 LOB | 115 |

RESEARCH DIVISION STAFF: (919)733-2578

Shirley Iorio Ben Popkin Wendy Graf Ray

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005 – 2006 SESSION



Representative McAllister Chair



Rep. Goodwin Vice Chair



Representative Weiss Vice Chair



Representative Alexander



Representative Dockham



Representative Dollar



Representative Farmer-Butterfield



Representative Fisher



Representative Folwell



Representative Holloway



Representative Hunter



Representative Walend



Rep. Culpepper Ex-officio



Rep. Cunningham Ex-officio



Rep. Eddins Ex-officio



Rep. Hackney Ex-officio

ATTENDANCE

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005-06

| DATES | 01/19/06 | | | | | | | | | |
|--------------------------------------|----------|------|---|---|---|---|------|------|---|---------|
| McALLISTER, Mary, CHAIR | X | | | | | | | | | |
| GOODWIN, Melanie, VICE CHAIR | X | | | | | | _ | | | |
| WEISS, Jennifer, VICE CHAIR | X | | | | | | | | | |
| ALEXANDER, Martha | X | | | | | | | | | |
| DOCKHAM, Jerry | | | | | | | | | | |
| DOLLAR, Nelson | X | | | | | | | | | |
| FARMER-BUTTERFIELD, Jean | | | | | | | , | | | |
| FISHER, Susan | X | | | | | ; | | | | |
| FOLWELL, Dale | X | | | | | | | | | |
| HOLLOWAY, Bryan | | | | | | | | | | |
| HUNTER, Howard | | | | | : | | | | | |
| WALEND, Trudi | X | | | | | | | | | |
| | | | | | | | | | | |
| Ex-Officios: | | | | ļ | | | | | i | |
| CULPEPPER, Bill | | | | | | | | | | |
| CUNNINGHAM, Pete | | | | | | | | | : | |
| EDDINS, Rick | | | | | | | | | | |
| HACKNEY, Joe | | | | | | | | | | |
| | | | | | | | | | | |
| Staff Members: | | | | | | | | | | <u></u> |
| WENDY GRAF RAY | X | | | | | | | | | |
| SHIRLEY IORIO | X | | | | | | | | | |
| BEN POPKIN | X | | - | | | | | | | |
| JOHNNA SMITH, COMMITTEE ASSISTANT | X | | | | | | | | | |

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES MEETING MINUTES

WEDNESDAY JULY 19, 2006 ROOM 605 LOB, 12 NOON

Committee Chair – Representative Mary McAllister, Presiding

The House Committee on CHILDREN, YOUTH & FAMILIES met on Wednesday July 19, 2006 at 12 noon in Room 605 of the Legislative Office Building.

Committee Chair, Representative McAllister called the meeting to order at 12:07 pm. The visitors were welcomed. The House Sergeant-At-Arms staff and House Pages were acknowledged and thanked for their committee meeting assistance. The Visitors, House Pages and House Sergeant-At-Arms are outlined in the attachments.

Committee Members present: Vice Chairs - Representatives Melanie Goodwin, Jennifer Weiss; Members: Representatives Alexander, Dollar, Fisher, Folwell and Walend.

Staff Members present: Wendy Graf Ray, Shirley Iorio and Ben Popkin.

The following bill was considered: HB 767. This bill was addressed as noted below.

HB767 – AN ACT ESTABLISHING TARGET INCOMES FOR PUBLIC HOUSING AUTHORITIES.

CHILDREN, YOUTH & FAMILIES COMMITTEE PAGE 2 JULY 19, 2006

Senator Janet Cowell was recognized to explain the bill on behalf of Representative Julia Howard.

Representative Dollar was recognized for a question, the motion was made and the committee voted to concur with the proposed committee substitute of HB 767.

The Committee Chair adjourned at 12:17 pm.

Respectfully submitted by:

Representative Mary McAllister Committee Chair

Johnna C. Smith Committee Assistant

Johnna Smith (Rep. McAllister)

From:

Johnna Smith (Rep. McAllister)

Sent:

Friday, July 14, 2006 12:26 PM

To:

@House/Children, Youth&Families; @HouseCommitteeNotice; Wendy Graf Ray (Research); Shirley

Iorio (Research); Ben Popkin (Research)

Cc:

Rep. Rick Eddins; Rep. Pete Cunningham; Rep. Joe Hackney; Rep. Julia Howard

Subject: Children, Youth & Families Committee Meeting

NORTH CAROLINA HOUSE OF REPRESENTATIVES COMMITTEE MEETING NOTICE 2005-2006 SESSION

You are hereby notified that the Committee on CHILDREN, YOUTH & FAMILIES will meet as follows:

DAY & DATE:

WEDNESDAY JULY 19, 2006

TIME:

12:00 NOON

LOCATION:

605 LOB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 767 – Public Housing Authority/Target Incomes - Representative Howard

Respectfully,

Representative Mary McAllister Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at 1:00 pm on Friday July 14, 2006.

| Principal Clerk | |
|------------------------------|----|
| Reading Clerk - House Chambo | eı |

Johnna Smith (Committee Assistant)

MEETING AGENDA

COMMITTEE ON CHILDREN, YOUTH & FAMILIES Wednesday July 19, 2006 Room 605 LOB

12 Noon

CALL TO ORDER:

Representative Mary McAllister, CHAIR

BILL CONSIDERATION:

HB767 – Public Housing Authority/Target Incomes Primary Sponsor - Senator Cowell

REMARKS & ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

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(Public)

HOUSE BILL 767

Committee Substitute Favorable 4/18/05 Committee Substitute #2 Favorable 5/2/05 Senate State and Local Government Committee Substitute Adopted 7/5/06

Short Title: Public Housing Authority/Target Incomes.

| | Sponsors: | |
|----------------------------|----------------|---|
| | Referred to: | |
| | | March 17, 2005 |
| 1 | | A BILL TO BE ENTITLED |
| 2 | AN ACT ES | STABLISHING TARGET INCOMES FOR PUBLIC HOUSING |
| 3 | AUTHORI | TIES. |
| 4 | The General As | ssembly of North Carolina enacts: |
| 5 | SEC | TION 1. G.S. 157-29(b) reads as rewritten: |
| 6 | | e operation or management of housing projects, portions of projects, or |
| 7 | | assistance programs for persons of low income, an authority shall at all |
| 8 | | he following duties with respect to rentals and tenant selection: |
| 9 | (1) | It may rent or lease dwelling accommodations set aside for persons of |
| 10 | | low income only to persons who lack the amount of income that is |
| 11 | | necessary (as determined by the housing authority undertaking the |
| 12 | | project) to enable them, without financial assistance, to live in decent, |
| 13 | | safe, and sanitary dwellings, without overcrowding; and |
| 14 | (2) | It may rent or lease dwelling accommodations to persons of low |
| 15 | | income only at rentals within the financial reach of such persons. |
| 16. | (3) | In the administration of its waiting lists, it shall adopt a preference for |
| 17 | | households with incomes of less than thirty percent (30%) of the area |
| 18 | | median income. |
| 19 | <u>(3a)</u> | It shall comply with the following targeting requirements: |
| 20 | | a. Not less than forty percent (40%) of the families admitted to its |
| 21 22 23 24 25 | | public housing program from its waiting list in its fiscal year |
| 22 | | shall be extremely low-income families with incomes at or |
| 23 | · | below thirty percent (30%) of the area median income. For |
| 24 | | purposes of this section, this shall be known as the "basic |
| 25 | | targeting requirement". |
| | | b. To the extent provided in subdivision (4a) of this subsection. |
| 27 | | the admission of extremely low-income families to its section 8 |
| | | |

| 1 | voucher program during the same liscal year shall be credit |
|----|--|
| 2 | against the basic targeting requirement. For purposes of the |
| 3 | section, "section 8" refers to section 8 of the U.S. Housing A |
| 4 | of 1937 as amended. |
| 5 | c. If admissions of extremely low-income families to its section |
| 6 | voucher program during its fiscal year exceeds seventy-fi |
| 7 | percent (75%) of the minimum targeting requirement for |
| 8 | section 8 voucher program, the excess shall be credited again |
| 9 | its basic targeting requirement for the same fiscal year. |
| 10 | d. The fiscal year credit for section 8 voucher program admissio |
| 11 | that exceeded the minimum section 8 voucher progra |
| 12 | targeting requirement shall not exceed the lower of the |
| 13 | following: |
| 14 | 1. Ten percent (10%) of its waiting list admissions during |
| 15 | its fiscal year. |
| 16 | 2. Ten percent (10%) of waiting list admissions to |
| 17 | section 8 tenant-based assistance program during |
| 18 | fiscal year. |
| 19 | 3. The number of qualifying low-income families wh |
| 20 | during the fiscal year, commence occupancy of its publ |
| 21 | housing units that are located in census tracts with |
| 22 | poverty rate of thirty percent (30%) or more. F |
| 23 | purposes of this sub-sub-subdivision, qualifying |
| 24 | low-income family means a low-income family oth |
| 25 | than an extremely low-income family. |
| 26 | (4) An authority shall take applications on a continuous basis fro |
| 27 | persons meeting the preference listed in this section and shall not close |
| 28 | the application process to these persons. Any additional loc |
| 29 | preferences shall not take priority over the preference in this section. |
| 30 | (4a) Its targeting requirement for tenant-based assistance shall ensure th |
| 31 | not less than seventy-five percent (75%) of the families admitted to i |
| 32 | tenant-based voucher program from its waiting list during its fisc |
| 33 | year shall be extremely low-income families with incomes at or belo |
| 34 | thirty percent (30%) of the area median income." |
| 35 | SECTION 2. This act is effective when it becomes law. |



HOUSE BILL 767: Public Housing Authority/Target Incomes

BILL ANALYSIS

House Children, Youth and Families Committee:

Introduced by: Rep. Howard/Senator Cowell

Version:

Fourth Edition

Date:

July 19, 2006

Summary by: Shirley Iorio, Ph D

Legislative Analyst

House Bill 767 would set new targeting requirements with respect to rentals SUMMARY: and tenant selection for public housing authorities.

A public housing authority is required, in the administration of its waiting lists, **CURRENT LAW:** to adopt a preference for households with incomes of less than thirty percent (30%) of the area median income. Authorities are required to take applications on a continuous basis and keep the application process open to persons meeting the preference level of income.

This act would amend G.S. 157-29 (b), the section of the Housing Authorities **BILL ANALYSIS:** Law that pertains to the operation or management of housing projects, portions of projects, or other housing assistance programs for low income persons. Authorities would be required to comply with the following targeting requirements:

- The "basic targeting requirement" would be that not less than 40% of families admitted to a public housing program from a waiting list must be extremely low-income families (families with an income that is at or below 30% of the area median income).
- Extremely low-income families admitted to a tenant-based voucher program (Section 8) during the same fiscal year shall be credited against the basic targeting requirement.
- If admissions of extremely low-income families to the Section 8 voucher program exceed the 75% minimum targeting requirement for the Section 8 program, the excess must be credited against the basic targeting requirement for the same fiscal year. However, this credit shall not exceed the lower of the following:
 - o Ten percent (10%) of the waiting list admissions during the fiscal year;
 - o Ten percent (10%) of the waiting list admissions to its Section 8 tenant-based assistance program during the fiscal year; or
 - o The number of qualifying low income families who, during the fiscal year, occupy public housing units that are located in census tracts with a poverty rate of 30% or more.

Authorities' targeting requirement for tenant-based assistance must ensure that 75% or more of the families admitted to its tenant-based voucher program from its waiting list must be extremely lowincome families.

EFFECTIVE DATE: The act would become effective when it becomes law.

H0767e4-SMSF

Hal Pell, Staff Attorney, substantially contributed to this summary.

2005 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

| The following report(s) from standing committee(s) is/are presented: | | | |
|--|--|--|--|
| By Representative McAllister (Chair) for the Committee on CHILDREN, YOUTH AND | | | |
| FAMILIES. | | | |
| Senate Committee Substitute for | | | |
| HB 767 A BILL TO BE ENTITLED AN ACT ESTABLISHING TARGET INCOMES | | | |
| FOR PUBLIC HOUSING AUTHORITIES. | | | |
| ☑ With recommendation that the House concur. | | | |
| (FOR JOURNAL USE ONLY) | | | |
| | | | |
| Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on | | | |
| | | | |
| Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of | | | |

VISITOR REGISTRATION SHEET

CHILDREN, YOUTH AND FAMILIES

7-19-06

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

| NAME | FIRM OR AGENCY AND ADDRESS |
|-----------------|----------------------------|
| Olms kulla | cu |
| allism Hargood | Raleigh Housing Authority |
| Jami Fitzgerald | NCFPC |
| Stephanie Evans | NCFPC |
| Lauren Rogers | NCFPC |
| Al Ripley | NC Justice Center |
| Rick Zechin | MAR |
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| | · |

DATE 7-19-06

COMMITTEE ON CHILDREN, YOUTH & FAMILIES 2005 – 2006 SESSION

| Mussy Carclas |
|------------------|
| Tony A. Tyson I |
| Pearce Dougan |
| SERGEANT-AT-ARMS |
| MARUIN LEE |
| NELL CASPER |