

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

3

SENATE BILL 742
Judiciary II Committee Substitute Adopted 4/15/99
House Committee Substitute Favorable 6/7/99

Short Title: Teacher/Student/No Sex Acts.

(Public)

Sponsors:

Referred to:

April 5, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE IT UNLAWFUL FOR SCHOOL PERSONNEL TO ENGAGE IN
3 SEXUAL ACTS WITH A STUDENT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 26 of Chapter 14 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 14-202.4. Taking indecent liberties with a student.**

8 (a) A person is guilty of taking indecent liberties with a student if the person holds
9 or held a position as school personnel and the person engages in any of the following
10 activities with a student who, at any time during or after the time the activities occurred,
11 was present in the same school with the school personnel, except when the person is
12 lawfully married to the student:

13 (1) Willfully takes or attempts to take any immoral, improper, or indecent
14 liberties with a student for the purpose of arousing or gratifying sexual
15 desire; or

16 (2) Willfully commits or attempts to commit any lewd or lascivious act
17 upon or with the body or any part or member of the body of a student.

1 (b) Unless the conduct is covered under some other provision of law providing for
2 greater punishment, taking indecent liberties with a student is punishable as a Class I
3 felony.

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

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

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

9 (2) "School personnel" means any person included in the definition
10 contained in G.S. 115C-332(a)(2), and any person who volunteers at a
11 school or a school-sponsored activity.

12 (3) "Student" means a person enrolled in kindergarten, or in grade one
13 through grade 12 in any school.

14 (e) For purposes of this section, the term indecent liberties does not include
15 vaginal intercourse or a sexual act as defined by G.S. 14-27.1."

16 Section 2. G.S. 14-27.7 reads as rewritten:

17 **"§ 14-27.7. Intercourse and sexual offenses with certain victims; consent no defense.**

18 (a) If a defendant who has assumed the position of a parent in the home of a minor
19 victim engages in vaginal intercourse or a sexual act with a victim who is a minor
20 residing in the home, or if a person having custody of a victim of any age or a person who
21 is an agent or employee of any person, or institution, whether such institution is private,
22 charitable, or governmental, having custody of a victim of any age engages in vaginal
23 intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony.
24 Consent is not a defense to a charge under this section.

25 (b) If a defendant holds or held a position as school personnel in a school in which
26 the victim is or was a student and engages in vaginal intercourse or a sexual act with a
27 victim, at any time during or after the time the defendant and victim were present
28 together in the same school, the defendant is guilty of a Class G felony, except when the
29 defendant is lawfully married to the student. This subsection shall apply unless the
30 conduct is covered under some other provision of law providing for greater punishment.
31 Consent is not a defense to a charge under this section. For purposes of this subsection,
32 the terms "school", "school personnel", and "student" shall have the same meaning as in
33 G.S.14-202.4(d)."

34 Section 3. This act becomes effective December 1, 1999, and applies to
35 offenses committed on or after that date.