

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 793 (Second Edition) **REVISED**

SHORT TITLE: Indecent Behavior Between Minors

SPONSOR(S): Representative Starnes

FISCAL IMPACT

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

FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06

REVENUES

EXPENDITURES

Department of Correction – No Fiscal Impact

Judicial Branch – No Estimate Available but no significant fiscal impact

Department of Juvenile Justice and Delinquency Prevention (DJJDP) - No Fiscal Impact

(There could be a small increase in the number of offenders sentenced to local jails but we cannot project that number)

POSITIONS: None

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Judicial Branch; Dept. of Correction; DJJDP

EFFECTIVE DATE: This act is effective on December 1, 2001, and applicable to offenses committed on or after that date.

BILL SUMMARY:

This bill adds new section, G.S. 14-190.21 making it a class 3 misdemeanor for any minor to (a) willfully photograph or videotape to produce a photograph or image that fully exposes the private parts of another minor or (b) willfully disseminate a photograph or image obtained in violation of (a). The second edition deletes an offense from the first edition, which mandated a class 3 misdemeanor for a minor exposing his or her private parts in the presence of another minor for the purpose of producing a photograph computer image, or other electronic visual media. The second edition also eliminates

language stating that an offense would not apply if each minor participating in the prohibited acts had obtained the consent of the minor's parent or legal guardian prior to committing such acts.

ASSUMPTIONS AND METHODOLOGY:

NOTE: There is no change in fiscal impact due to changes in the Second Edition of the bill.

Department of Correction

The proposed bill would apply primarily to juvenile offenders, so there is no fiscal impact on the Department of Correction. Juveniles (less than age 16 under the juvenile system) are not sentenced to an active prison sentence in the adult system for misdemeanor offenses. (HB 793 establishes Class 3 Misdemeanor).

While "minors" are covered under this bill, which adds offenders aged 16 and 17 to the possible pool of offenders, these offenders would not be sentenced to DOC for a Class 3 misdemeanor. There could be some impact on county jails but that number cannot be determined.

Department of Juvenile Justice and Delinquency Prevention

The Sentencing Commission also reviews bills for their impact on the juvenile population and commitments to training schools. Minor offenders would be charged with a Class 3 misdemeanor under this bill and those under 16 would be handled in the juvenile system.

According to the Commission, there were no juveniles committed to training schools for Class 3 misdemeanors. (Based on Year 2000 Juvenile Disposition Sample). The Commission also provided data showing that, of 95 juveniles sentenced in the juvenile system under the current Class 2 misdemeanor, indecent liberties with minors, none received an active sentence (commitment to training school). Given this data, and the probability that some of the offenders under this bill are likely already charged under indecent liberties with minors (Class 2), or indecent exposure (Class 2), it is assumed there will be no fiscal impact on DJJDP. There could be a small increase in offenders adjudicated in court and sentenced to community programs but there is no reliable method for estimating that number.

Judicial Branch

According to the AOC, it is likely that at least some persons committing the first offense under this bill (subsection (a)) are currently being charged with indecent exposure under G.S. 14-190.9, a Class 2 misdemeanor. As noted under the discussion of DJJDP there also could be some offenders charged under "indecent liberties with minors".

Since the proposed bill creates two criminal offenses that would be punishable as Class 3 misdemeanors, AOC expects some impact from the provision. However, they are unable to estimate how often the behaviors proscribed under the bill might occur. Therefore there is no estimate available. However, given that many offenses in HB 793 may

already be captured under current statutes, Fiscal Research expects that fiscal impact will not be significant.

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

TECHNICAL CONSIDERATIONS: None

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DATE: May 9, 2001



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