

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1247 1st Edition
SHORT TITLE: Repeat Child Molestation/Aggravating Factor
SPONSOR(S): Representatives Goodwin and Smith

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>

REVENUES

EXPENDITURES

Correction Exact amount cannot be determined; significant fiscal impact possible
Judicial Branch Exact amount cannot be determined; significant fiscal impact possible

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

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

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

BILL SUMMARY:

Amends G.S. 15A-1340.16(d) by adding a new section that provides that a second or subsequent conviction of a sex offense committed against a minor shall be added to the list of aggravating factors to be considered by the court when imposing a sentence for a criminal offense.

ASSUMPTIONS AND METHODOLOGY:

General

Under Structured Sentencing, a defendant is sentenced in the "cell" of the sentencing grid in G.S. 15A-1340.17 corresponding to the Class of felony for which the defendant was convicted, and the number of "points" the defendant has for prior convictions. This bill does not change any Class of felony or prior record determinations, and thus does not change the cell within which

defendants would be sentenced. The bill does amend the sentences that could be given within the cell, for any defendant with multiple convictions of a sex offense against a minor. A finding by the judge that the new aggravating factor applies (and along with any other aggravating factors outweighs any mitigating factors) would justify a longer sentence, in the aggravated rather than presumptive range in the applicable cell. In many instances, the aggravated range results in a significantly longer sentence, comparable to the sentence that a defendant would receive in the sentencing grid for a more severe felony, with fewer prior record points.

Judicial Branch

In calendar 2001, AOC data reveal that 418 defendants were charged with first degree sex offense against a child; 214 with first degree rape against a child; and 853 with statutory rape or sex offense against a person age 13, 14, 15 under G.S. 14-27.7A. Additionally, some 1,572 defendants were charged with taking indecent liberties with children under G.S. 14-202.1. These data reveal that charges occurred for at least 3,000 sex offenses against minors. However, AOC has no readily available data on how many defendants charged with a sex offense against a minor had a prior such conviction. Even with such data, it would be speculative to estimate the number who would be sentenced in the aggravating range as a result of the new aggravating circumstance that would be added by this bill.

Given the fairly substantial number of defendants who commit felony sex offenses against minors, AOC and Fiscal Research anticipate a fiscal impact on the courts from this bill. Some defendants would face longer sentences, and it can be expected that the defense and prosecution would be more vigorous, resulting in more time and cost to the courts. However, as indicated previously, data are not available to generate an estimate.

Department of Correction

According to the Sentencing Commission, during FY 2000-01 there were 1,071 convictions for sex offenses under G.S. 14-27.2 through 14-27.7A, G.S. 14-202.1, and G.S. 14-202.4. It is not known how many of the 1,071 convictions were for sex offenses committed against minors. The convictions ranged from Class B1 felonies to Class I felonies. There were no misdemeanors convictions under these statutes. The largest numbers of convictions were for Class F felonies (69%), Class C felonies (11%), and Class B1 felonies (12%).

Of the 1,071 convictions, 454 had two or more prior record points, which would make them potentially eligible to be aggravated under the proposed factor (i.e., may have had at least one prior felony conviction of a sex offense against a minor). While the AOC database contains information on the number of prior record/conviction points, it does not contain information about the specific offenses that are used to calculate the number of points. Therefore, it is not known how many of the prior convictions were for sex offenses against minors.

Depending on the number of sentences aggravated under this factor, there is the potential for substantial prison impact as a result of sentences in the aggravated range. Impact would also occur as a result of the build-up of these convictions over the years.

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

TECHNICAL CONSIDERATIONS: The effective date for the bill is December 1, 2001, rather than December 1, 2002.

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DATE: July 1, 2002



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