

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2015

Legislative Incarceration Fiscal Note

BILL NUMBER: Senate Bill 418 (First Edition)

SHORT TITLE: Amend Statutory Rape/15 Yrs. Old or Younger.

SPONSOR(S): Senators J. Jackson, Daniel, and Bingham

FISCAL IMPACT

(\$ in millions)

Yes
 No
 No Estimate Available

	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures					
State Positions:					
NET STATE IMPACT	Likely budget cost. See Assumptions & Methodology section for additional details.				

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

Department of Public Safety

EFFECTIVE DATE: December 1, 2015

TECHNICAL CONSIDERATIONS:

None

FISCAL IMPACT SUMMARY:

The proposed bill creates a new Class B1 felony for conduct that is currently covered under other statutes at the same offense level. Therefore, no additional costs are assumed for adults charged under the new statute. However, the proposed language may have a fiscal impact to address juvenile offenders who would not have been charged under the existing statutes. Since there is no historical data on this new offense or similar offenses to use as a proxy for predicting the total number of new juvenile offenses, the Fiscal Research Division cannot reasonably estimate the total additional costs that may be incurred. For every one juvenile adjudicated delinquent under the proposed statute who receives a Level 3 disposition, the cost would be \$97,981 for one year in a youth development center.

Please see the Assumptions and Methodology section for additional information.

BILL SUMMARY:

This bill expands the scope of two existing felony offenses by adding offenses where the victim is less than 13 years old.

G.S. 14-27.7A. Statutory rape or sexual offense of person who is 15 years of age or younger. Subsection (a) currently makes it a Class B1 felony if an offender engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the offender is at least six years older than the person. This bill would expand the offense to include offenders who engage in vaginal intercourse or a sexual act with another person who is less than 13 years of age and the offender is at least six years older than the person. The offense would continue to be a Class B1 felony.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

This bill expands the scope of two existing felony offenses by adding offenses where the victim is less than 13 years old:

G.S. 14-27.7A. Statutory rape or sexual offense of person who is 15 years of age or younger. Subsection (a) currently makes it a Class B1 felony if an offender engages in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the offender is at least six years older than the person. This bill would expand the offense to include offenders who engage in vaginal intercourse or a sexual act with another person who is less than 13 years of age and the offender is at least six years older than the person. The offense would continue to be a Class B1 felony.

This conduct is currently covered by G.S. 14-27.2, First-degree rape, and G.S. 14-27.4, First-degree sexual offense. Under subdivision (a)(1) of G.S. 14-27.2, it is a Class B1 felony for an offender to engage in vaginal intercourse with a victim who is a child under the age of 13 years and the offender is at least 12 years old and is at least four years older than the victim. Under subdivision (a)(1) of G.S. 14-27.4, it is a Class B1 felony for an offender to engage in a sexual act with a victim who is a child under the age of 13 years and the offender is at least 12 years old and is at least four years older than the victim. In FY 2013-14, there were eight convictions for violations of G.S. 14-27.2(a)(1) and 43 convictions for violations of G.S. 14-27.4(a)(1). Since these offenses are Class B1 felonies, the proposed expansion of G.S. 14-27.7A is not expected to cause a change in the violations of G.S. 14-27.2(a)(1) and G.S. 14-27.4(a)(1).

This conduct is also currently covered by G.S. 14-27.2A, Rape of a child; adult offender, and G.S. 14-27.4A, Sexual offense with a child; adult offender. Under G.S. 14-27.2A, it is a Class B1 felony for an offender to rape a child if the offender is at least 18 years old and the victim is under the age of 13 years. Under G.S. 14-27.4A, it is a Class B1 felony for an offender to engage in a sexual act with a child if the offender is at least 18 years old and the victim is under the age of 13 years. In FY 2013-14, there were two convictions for violations of G.S. 14-27.2A and six convictions for violations of G.S. 14-27.4A. Both of these offenses are subject to a mandatory minimum sentence of at least 300 months. No change is expected for violations of G.S. 14-27.2A and G.S. 14-27.4A due to the proposed expansion of the victim's age in Subsection (a).

Subsection (b) currently makes it a Class C felony for an offender to engage in vaginal intercourse or a sexual act with another person who is 13, 14, or 15 years old and the offender is more than four but less than six years older than the person. This bill would expand the offense to include offenders who engage in vaginal intercourse or a sexual act with another person who is less than 13 years of age and the offender is

more than four but less than six years older than the person, unless the conduct is covered under some other provision of law providing greater punishment. The offense would continue to be a Class C felony.

This conduct is currently covered by G.S. 14-27.2, First-degree rape, and G.S. 14-27.4, First-degree sexual offense. Under subdivision (a)(1) of G.S. 14-27.2, it is a Class B1 felony for an offender to engage in vaginal intercourse with a victim who is a child under the age of 13 years and the offender is at least 12 years old and is at least four years older than the victim. Under subdivision (a)(1) of G.S. 14-27.4, it is a Class B1 felony for an offender to engage in a sexual act with a victim who is a child under the age of 13 years and the offender is at least 12 years old and is at least four years older than the victim. In FY 2013-14, there were eight convictions for violations of G.S. 14-27.2(a)(1) and 43 convictions for violations of G.S. 14-27.4(a)(1). Since these offenses are Class B1 felonies, the proposed expansion of G.S. 14-27.7A is not expected to cause a change in the violations of G.S. 14-27.2(a)(1) and G.S. 14-27.4(a)(1).

Department of Public Safety – Juvenile Justice

If a juvenile offender engages in vaginal intercourse or a sexual act with another person and the offender is more than four years older than the person but is under the age of 12 years, he cannot be charged under existing G.S. 14-27.2(a)(1) or G.S. 14-27.4(a)(1). It is possible the offender would currently be charged under G.S. 14-202.2, Indecent liberties between children (Class 1 misdemeanor – Minor offense classification), G.S. 14-27.5A, Sexual battery (Class A1 – Serious offense classification), or G.S. 14-177, Crime against nature (Class I felony – Serious offense classification). If the juvenile offender is found to be delinquent under the proposed expansion of G.S. 14-27.7A, it would be a Class B1 or C felony (Violent offense classification). In the juvenile disposition chart, the more serious the classification of the offense is, the more restrictive the dispositional options that are available (e.g., residential treatment, Youth Development Center (YDC) commitment). YDC bed impact would occur if any of the juveniles were adjudicated delinquent under the proposed G.S. 14-27.7A and received a Level 3 disposition. The average cost to house a juvenile in a YDC for one year is \$97,981. The average length of stay for juveniles in a YDC is 352 days, or approximately one-year.

SOURCES OF DATA: Department of Public Safety; Administrative Office of the Courts; North Carolina Sentencing and Policy Advisory Commission; Office of Indigent Defense Services.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Kristine Leggett

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: March 31, 2015



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