

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** HB 1097 < 1<sup>st</sup> Edition >  
**SHORT TITLE:** Sex Offenses/Amend Plea Bargain Laws  
**SPONSOR(S):** Representative Ellis

**FISCAL IMPACT**

Yes ()	No ()	No Estimate Available (X)		
<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**

**Department of Correction – No estimate available**

**Judicial Branch – No estimate available**

**POSITIONS:** 0

**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:**

**Section 1**

The bill enacts new section G.S. 14-226.2 to create a Class H felony offense for a defendant, who commits a sex offense that results in the victim becoming pregnant, to negotiate a more favorable plea arrangement by intimidating the victim of the crime by threatening to exploit the defendant's paternal rights with regard to adoption, visitation, custody, care, or welfare of child.

**Section 2**

The bill amends existing G.S. 15A-1021 by adding new subsection (b1) to provide that neither the defendant or any person representing the defendant may bring improper pressure

upon the victim of the crime to induce a more favorable plea arrangement for the defendant from the State.

### **Section 3**

This bill adds new section G.S 15A-1013 (in the Article that applies to pleas in district and superior court) to require prior judicial approval for certain subjects in plea arrangements involving a sex offense that results in the victim becoming pregnant. For these offenses, the new section prohibits consideration of parental rights with regard to adoption, visitation, custody, care, or welfare of the child as part of negotiations or substance of a plea arrangement without the prior permission of the presiding, or resident, superior court judge. In addition, new section G.S. 15A-1013 requires the parties to disclose the substance of their plea arrangement to the judge prior to the time the defendant is called upon to plead, unless the judge participated in the discussions and knows the full details of the negotiations and substance of the plea agreement.

### **ASSUMPTIONS AND METHODOLOGY:**

#### Department of Correction

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. Therefore, it is not known how many offenders might be sentenced under this bill. However, during FY 1999/00, there were 15 convictions for intimidating a witness under G.S. 14-226, which is a similar Class H offense. If, for example, there were three convictions for the proposed offense per year, this bill would result in the need for one additional prison bed the first year and two additional prison beds the second year.

Because there are no surplus prison beds available for the five year Fiscal Note horizon and beyond, each active sentence would create the need for an additional prison bed and have a fiscal impact on the Department of Correction.

#### Judicial Branch

AOC data for calendar year 2000 show that 565 defendants were charged under G.S. 14-27.2 (first-degree rape), 314 defendants were charged under G.S. 14-27.3 (second-degree rape), 83 defendants were charged under G.S. 14-27.7 (intercourse and sexual offenses with certain victims-older than age six), and 689 defendants were charged under G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years old).

### **Section 1 and 2**

Fiscal Research and AOC expect this bill to have an impact on the court system, however we are unable to provide an estimate. Data are not available on how many of the more than 1,600 defendants charged with sexual offenses in which the victim might become pregnant would engage in the conduct proscribed in this bill. Any new charges being filed would result in an increase in court time and cost associated with disposing of these new charges arising under the bill.

### **Section 3**

There would also be some impact on the courts due to the changes in the plea negotiation process for defendants who commit a sex offense that results in the victim becoming pregnant. Specifically, the workload of superior court judges, and the time of defense counsel and prosecutors, might be affected by requirements for prior judicial permission for certain plea discussions. AOC has no data, however, on how many cases may be affected, either with regard to the frequency of plea negotiations relating to parental rights with regard to adoption, visitation, custody, care, or welfare of the child; nor does AOC have data on the number of sex offense victims who become pregnant.

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

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** 733-4910

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**DATE:** April 23, 2001



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