



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 142: Protect Our Students Act, PART IIIA.

2023-2024 General Assembly

Committee:	House Pensions and Retirement. If favorable, re-fer to Rules, Calendar, and Operations of the House	Date:	March 20, 2023
Introduced by:	Reps. Torbett, K. Baker, Johnson, Kidwell	Prepared by:	Theresa Matula
Analysis of:	PCS to Second Edition H142-CSSHp-8		Legislative Analyst

OVERVIEW: *HB 142, Part IIIA, amends the laws for the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System to add a definition for "conduct directly related to the office or employment" for purposes of forfeiture of retirement benefits for certain felonies related to employment or office holding.*

CURRENT LAW & BACKGROUND ON FELONY FORFEITURE: S.L. 2012-193 enacted statutes providing for the *forfeiture of retirement benefits for certain felonies related to employment or holding office*. The current law provides that the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to *any member who is convicted of any felony under federal law or the laws of the state if all of the following apply:*

- (1) *The offense is committed while the member is in service.*
- (2) *The conduct resulting in the member's conviction is directly related to the member's office or employment.*

The 2012 law included language providing that item (2) above applies to felony convictions where the court finds under a specified statute (G.S. 15A-1340.16(d)(9)) or other State or federal procedure that the member's conduct is directly related to the member's office or employment. This language was removed by S.L. 2020-48.

ANALYSIS of PART IIIA: The PCS for HB 142 only amends PART IIIA related to retirement. The PCS adds a definition for the Local Governmental Employees' Retirement System (LGERS) in Section 3A(a), and for the Teachers' and State Employees' Retirement System (TSERS) in Section 3A(b).

The definition for "conduct directly related to the office or employment" is defined as follows:

- (1) Is an offense identified in G.S. 115C-270.35(b), and the commission of the offense occurred while the member was employed in a public school or working in a public school subject to a memorandum of understanding.
- (2) Is an offense which required the revocation of the member's licensure or certification required for the member's employment or office at the time of the commission of the offense.
- (3) Is conduct that was directly related to the member's employment or office as determined by the Board of Trustees.

EFFECTIVE DATE: Section 3A would become effective July 1, 2023, and apply to offenses committed on or after that date.

Jeffrey Hudson
Director



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CURRENT LAW (G.S. 115C-270.35(b)):

§ 115C-270.35. License suspension and revocation.

...

(b) Automatic Revocation With No Hearing. – The State Board shall automatically revoke the license of a professional educator without the right to a hearing upon receiving verification of the identity of the professional educator together with a certified copy of a criminal record showing that the professional educator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes:

- (1) Murder in the first or second degree, G.S. 14-17.
- (2) Conspiracy or solicitation to commit murder, G.S. 14-18.1.
- (3) Rape or sexual offense, as defined in Article 7B of Chapter 14 of the General Statutes.
- (4) Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32.
- (5) Kidnapping, G.S. 14-39.
- (6) Abduction of children, G.S. 14-41.
- (7) Crime against nature, G.S. 14-177.
- (8) Incest, G.S. 14-178 or G.S. 14-179.
- (9) Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6.
- (10) Dissemination to minors under the age of 16 years, G.S. 14-190.7.
- (11) Dissemination to minors under the age of 13 years, G.S. 14-190.8.
- (12) Displaying material harmful to minors, G.S. 14-190.14.
- (13) Disseminating harmful material to minors, G.S. 14-190.15.
- (14) First degree sexual exploitation of a minor, G.S. 14-190.16.
- (15) Second degree sexual exploitation of a minor, G.S. 14-190.17.
- (16) Third degree sexual exploitation of a minor, G.S. 14-190.17A.
- (17) Taking indecent liberties with children, G.S. 14-202.1.
- (18) Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3.
- (19) Taking indecent liberties with a student, G.S. 14-202.4.
- (20) Prostitution, G.S. 14-204.
- (21) Patronizing a prostitute who is a minor or has a mental disability, G.S. 14-205.2(c) or (d).
- (22) Promoting prostitution of a minor or a person who has a mental disability, G.S. 14-205.3(b).
- (23) Child abuse under G.S. 14-318.4.

The State Board shall mail notice of its intent to act pursuant to this subsection by certified mail, return receipt requested, directed to the professional educator's last known address. The notice shall inform the professional educator that it will revoke the person's license unless the professional educator notifies the State Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the professional educator. If the professional educator provides this written notice to the State Board, the State Board shall not revoke the license unless it can establish as a fact that the defendant and the professional educator are the same person.