

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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SENATE BILL 93\*

Short Title: Common Sense Compromise to Repeal HB 2. (Public)

Sponsors: Senators Blue, Van Duyn (Primary Sponsors); Foushee, Robinson, and Waddell.

Referred to: Rules and Operations of the Senate

February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A COMMON SENSE COMPROMISE TO REPEAL HOUSE BILL 2 AND REQUIRE ENHANCED CRIMINAL PENALTIES AND PROVIDE NOTICE FOR ADOPTION OF CERTAIN NONDISCRIMINATION ORDINANCES.

The General Assembly of North Carolina enacts:

**SECTION 1.** S.L. 2016-99 and S.L. 2016-3 are repealed.

**SECTION 2.** Article 21 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-499.5. Nondiscrimination ordinances.**

(a) A local government shall provide at least 30 days' notice to the General Assembly, and to the public, before the adoption of any nondiscrimination ordinance extending any protections beyond those already afforded by State law. The notice required by this section shall be given in the same manner as provided by G.S. 120-29.5.

(b) The provisions of this section apply to counties."

**SECTION 3.** Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:

**"§ 15A-1340.16E. Enhanced sentence if defendant committed certain felony offenses in a public changing facility or a changing facility in a place of public accommodations.**

(a) The following definitions apply in this section:

(1) Changing facility. – A facility designed or designated to be used by a person in various states of undress. The term may include, but is not limited to, a restroom, locker room, changing room, or shower room.

(2) Place of public accommodations. – As defined in G.S. 168A-3(8).

(b) If a person is convicted of any of the felonies set out in subdivisions (1) through (8) of this subsection and it is found as provided in this section that the felony was committed in a public changing facility or in a changing facility in a place of public accommodations, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by six months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by six months as specified in G.S. 15A-1340.17. An enhanced penalty may be imposed pursuant to this section on a person convicted of any of the following offenses:

(1) G.S. 14-27.22 (Second degree forcible rape).

(2) G.S. 14-27.27 (Second degree forcible sexual offense).

(3) G.S. 14-190.9(a1) (Indecent exposure for purpose of arousing sexual desire).



- 1           (4)    G.S. 14-202(d), (e), or (f) (Secretly peeping into room occupied by another  
2                    person).
- 3           (5)    G.S. 14-202(g) or (h) (Secretly peeping into room occupied by another person),  
4                    if the person convicted knows or has reason to know that the photographic  
5                    image possessed or any other image being disseminated was taken in a public  
6                    changing facility or changing facility in a place of public accommodations.
- 7           (6)    G.S. 14-202.1 (Taking indecent liberties with children).
- 8           (7)    G.S. 14-202.4 (Taking indecent liberties with a student).
- 9           (8)    G.S. 14-277.3A (Felony stalking offense), if the person is convicted of either a  
10                   Class H or Class F felony.

11       (c)    An indictment or information for the felony shall allege in that indictment or  
12       information or in a separate indictment or information the facts set out in subsection (b) of this  
13       section. The pleading is sufficient if it alleges that the defendant committed the felony in a public  
14       changing facility or in a changing facility in a place of public accommodations. One pleading is  
15       sufficient for all felonies that are tried at a single trial.

16       (d)    The State shall prove the issue set out in subsection (b) of this section beyond a  
17       reasonable doubt during the same trial in which the defendant is tried for the felony unless the  
18       defendant pleads guilty or no contest to that issue. If the defendant pleads guilty or no contest to  
19       the felony but pleads not guilty to the issue set out in subsection (b) of this section, then a jury  
20       shall be impaneled to determine that issue."

21       **SECTION 4.** Article 8 of Chapter 14 of the General Statutes is amended by adding a  
22       new section to read:

23       "§ 14-32.5. Assault in a changing facility.

24       (a)    The following definitions apply in this section:

25           (1)    Changing facility. – As defined in G.S. 15A-1340.16E.

26           (2)    Place of public accommodations. – As defined in G.S. 168A-3(8).

27       (b)    Unless the conduct is covered under some other provision of law providing greater  
28       punishment, any person who commits an assault in a public changing facility or in a changing  
29       facility in a place of public accommodations is guilty of a Class A1 misdemeanor."

30       **SECTION 5.(a)** Sections 3 and 4 of this act become effective December 1, 2017, and  
31       apply to offenses committed on or after that date.

32       **SECTION 5.(b)** The remainder of this act is effective when it becomes law.