

See Administrative Implications below.

ADMINISTRATIVE IMPLICATIONS

Agencies report that by expanding the circumstances which would result in second and third degree felonies, additional administrative costs would be generated.

The AOC reports that there will be an administrative impact on the courts resulting from added judicial and clerk time needed to dispose to additional cases.

The AODA and the PD report that modification of a current offense will probably result in an increase of cases filed by District Attorney's offices and therefore an increased number of cases to defend by the Public Defender Offices. An increase in the number of cases filed will increase the costs to both agencies and may increase costs to the Corrections Department due to longer sentences.

TECHNICAL ISSUES

Section 2.F. delete "sixteen" and add instead "eighteen".

OTHER SUBSTANTIVE ISSUES

The addition of sections 30-9-11(D)(2) and 30-9-13(A)(2)(b) dealing with school employees and volunteers eliminates the proof element that a perpetrator had to use their position of authority to coerce the victim into the prohibited acts.

The Bill essentially takes what is, under current law, either a 4th degree felony CSP under 30-9-11(F), (or not a crime in the case of a consenting 17 year old), and elevates the offense to a very high level. Of course, if "coercion" is involved, current section 30-9-11(D)(1) would already apply and impose a 2nd degree felony penalty to such conduct. The severe penalty in this bill is inconsistent with the present statutory scheme. Where no coercion is involved, it would be more consistent with the current scheme to punish the conduct involved as a 4th degree felony, not a 2nd degree felony.

If the rationale is that a school employee is in a position of authority, then perhaps the employee's authority should be known to, or apply to, the child.

There is a possible constitutional problem ("status crime") with enhancing a criminal penalty based solely on employment status of perpetrator.

FAR/sb:ar