

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

2

HOUSE BILL 393
Committee Substitute Favorable 4/26/19

Short Title: Modernizing Sexual Assault Laws.

(Public)

Sponsors:

Referred to:

March 21, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF THE TERM "CARETAKER" USED IN THE JUVENILE CODE; TO AMEND G.S. 14-401.11 TO ALSO PROHIBIT THE KNOWING DISTRIBUTION OF A BEVERAGE THAT CONTAINS ANY SUBSTANCE THAT COULD BE INJURIOUS TO A PERSON'S HEALTH; AND TO AMEND THE DEFINITION FOR THE TERM "MENTALLY INCAPACITATED" USED IN ARTICLE 7B OF CHAPTER 14 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

CLARIFY DEFINITION OF THE TERM "CARETAKER" USED IN THE JUVENILE CODE

SECTION 1. G.S. 7B-101(3) reads as rewritten:

"(3) Caretaker. – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a ~~stepparent,~~ stepparent; foster parent, parent; an adult member of the juvenile's household, household; an adult relative entrusted with the juvenile's care, care; a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a ~~department, department;~~ any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational ~~facility,~~ facility; or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter 50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only."

AMEND G.S. 14-401.11 TO PROHIBIT THE KNOWING DISTRIBUTION OF A BEVERAGE THAT CONTAINS ANY SUBSTANCE THAT COULD BE INJURIOUS TO A PERSON'S HEALTH

SECTION 2. G.S. 14-401.11 reads as rewritten:

"§ 14-401.11. Distribution of certain food at ~~Halloween and all other times~~ or beverage prohibited.

(a) It shall be unlawful for any person to knowingly distribute, sell, give away or otherwise cause to be placed in a position of human ~~accessibility, accessibility~~ or ingestion, any



* H 3 9 3 - V - 2 *

1 ~~food~~ food, beverage, or other eatable or drinkable substance which that person knows to
 2 ~~contain~~ contain any of the following:

- 3 (1) Any noxious or deleterious substance, material or article which might be
 4 injurious to a person's health or might cause a person any physical ~~discomfort,~~
 5 ~~or~~ discomfort.
 6 (2) Any controlled substance included in any schedule of the Controlled
 7 Substances ~~Act, or~~ Act.
 8 (3) Any poisonous chemical or compound or any foreign substance such as, but
 9 not limited to, razor blades, pins, and ground glass, which might cause death,
 10 serious physical injury or serious physical pain and discomfort.

11 (b) Penalties.

- 12 (1) Any person violating the provisions of G.S. 14-401.11(a)(1):
 13 a. Where the actual or possible effect on a person eating or drinking the
 14 ~~food~~ food, beverage, or other substance was or would be limited to
 15 mild physical discomfort without any lasting effect, shall be guilty of
 16 a Class I felony.
 17 b. Where the actual or possible effect on a person eating or drinking the
 18 ~~food~~ food, beverage, or other substance was or would be greater than
 19 mild physical discomfort without any lasting effect, shall be punished
 20 as a Class H felon.
 21 (2) Any person violating the provisions of G.S. 14-401.11(a)(2) shall be punished
 22 as a Class F felon.
 23 (3) Any person violating the provisions of G.S. 14-401.11(a)(3) shall be punished
 24 as a Class C felon."
 25

26 **AMEND DEFINITION FOR THE TERM "MENTALLY INCAPACITATED" USED IN**
 27 **ARTICLE 7B OF CHAPTER 14 OF THE GENERAL STATUTES**

28 **SECTION 3.** G.S. 14-27.20(2) reads as rewritten:

- 29 "(2) Mentally incapacitated. – A victim who due to ~~(i) any act committed upon the~~
 30 ~~victim or (ii) a poisonous or controlled substance provided to the victim~~
 31 ~~without the knowledge or consent of the victim any act~~ is rendered
 32 substantially incapable of either appraising the nature of his or her conduct, or
 33 resisting the act of vaginal intercourse or a sexual act."
 34

35 **SAVINGS CLAUSE**

36 **SECTION 4.** Prosecutions for offenses committed before the effective date of this
 37 act are not abated or affected by this act, and the statutes that would be applicable but for this act
 38 remain applicable to those prosecutions.
 39

40 **EFFECTIVE DATE**

41 **SECTION 5.** This act becomes effective December 1, 2019, and applies to offenses
 42 committed on or after that date.