

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1449

Short Title: Drug Ed. School/Fees.

(Public)

Sponsors: Representatives Hill; Cole, Church, Bowman, Justus, and Alexander.

Referred to: Appropriations.

May 17, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE DRUG EDUCATION SCHOOL MANDATORY AND TO INCREASE THE FEES FOR ENROLLING IN AN ACCREDITED DRUG EDUCATION SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-96(a) reads as rewritten:

"(a) Whenever any person who has not previously been convicted of any offense under this Article or under any statute of the United States or any state relating to those substances included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 pleads guilty to or is found guilty of a misdemeanor under this Article by possessing a controlled substance included within Schedules II through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.21, the court may, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. To fulfill the terms and conditions of probation the court ~~may allow~~ shall require the defendant to participate in a drug education program approved for this purpose by the Department of Human Resources. ~~Resources.~~ Resources unless:

- (1) There is no drug education school within a reasonable distance of the defendant's residence; or
- (2) There are specific, extenuating circumstances that make it likely that the defendant will not benefit from the program of instruction.

1 Upon violation of a term or condition, the court may enter an adjudication of guilt
2 and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the
3 court shall discharge such person and dismiss the proceedings against him. Discharge
4 and dismissal under this section shall be without court adjudication of guilt and shall not
5 be deemed a conviction for purposes of this section or for purposes of disqualifications
6 or disabilities imposed by law upon conviction of a crime including the additional
7 penalties imposed for second or subsequent convictions under this Article. Discharge
8 and dismissal under this section or G.S. 90-113.14 may occur only once with respect to
9 any person. Disposition of a case to determine discharge and dismissal under this
10 section at the district court division of the General Court of Justice shall be final for the
11 purpose of appeal. Prior to taking any action to discharge and dismiss under this section
12 the court shall make a finding that the defendant has no record of previous convictions
13 under the 'North Carolina Controlled Substances Act', Article 5, Chapter 90, the 'North
14 Carolina Toxic Vapors Act', Article 5A, Chapter 90, or the 'Drug Paraphernalia Act',
15 Article 5B, Chapter 90."

16 Sec. 2. G.S. 90-96.01(a) reads as rewritten:

17 "(a) The Commission for Mental Health, Developmental Disabilities, and
18 Substance Abuse Services shall establish standards and guidelines for the curriculum
19 and operation of local drug education programs. The Department of Human Resources
20 shall oversee the development of a statewide system of schools and shall insure that
21 schools are available in all localities of the State as soon as is practicable.

22 (1) A fee of ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars
23 (\$150.00) shall be paid by all persons enrolling in an accredited drug
24 education school established pursuant to this section. That fee must be
25 paid to an official designated for that purpose and at a time and place
26 specified by the area mental health, developmental disabilities, and
27 substance abuse authority providing the course of instruction in which
28 the person is enrolled. If the clerk of court in the county in which the
29 person is convicted agrees to collect the fees, the clerk shall collect all
30 fees for persons convicted in that county. The clerk shall pay the fees
31 collected to the area mental health, developmental disabilities, and
32 substance abuse authority for the catchment area where the clerk is
33 located regardless of the location where the defendant attends the drug
34 education school and that authority shall distribute the funds in
35 accordance with the rules and regulations of the Department. The fee
36 must be paid in full within two weeks of the date the person is
37 convicted and before he attends any classes, unless the court, upon a
38 showing of reasonable hardship, allows the person additional time to
39 pay the fee or allows him to begin the course of instruction without
40 paying the fee. If the person enrolling in the school demonstrates to the
41 satisfaction of the court that ordered him to enroll in the school that he
42 is unable to pay and his inability to pay is not willful, the court may
43 excuse him from paying the fee. Parents or guardians of persons
44 attending drug education school shall be allowed to audit the drug

1 education school along with their children or wards at no extra
2 expense.

3 (2) The Department of Human Resources shall have the authority to
4 approve programs to be implemented by area mental health,
5 developmental disabilities, and substance abuse authorities. Area
6 mental health, developmental disabilities, and substance abuse
7 authorities may subcontract for the delivery of drug education program
8 services. The Department shall have the authority to approve budgets
9 and contracts with public and private governmental and
10 nongovernmental bodies for the operation of such schools.

11 (3) Fees collected under this section and retained by the area mental
12 health, developmental disabilities, and substance abuse authority shall
13 be placed in a nonreverting fund. That fund must be used, as
14 necessary, for the operation, evaluation and administration of the drug
15 educational schools; excess funds may only be used to fund other drug
16 or alcohol programs. The area mental health, developmental
17 disabilities, and substance abuse authority shall remit five percent
18 (5%) of each fee collected to the Department of Human Resources on
19 a monthly basis. Fees received by the Department as required by this
20 section may only be used in supporting, evaluating, and administering
21 drug education schools, and any excess funds will revert to the General
22 Fund.

23 (4) All fees collected by any area mental health, developmental
24 disabilities, and substance abuse authority under the authority of this
25 section may not be used in any manner to match other State funds or
26 be included in any computation for State formula-funded allocations."

27 Sec. 3. There is appropriated to the Division of Mental Health,
28 Developmental Disabilities, and Substance Abuse Services, Department of Human
29 Resources, the sum of one hundred thousand dollars (\$100,000) for the 1993-94 fiscal
30 year and the sum of one hundred thousand dollars (\$100,000) for the 1994-95 fiscal
31 year to implement Section 1 of this act.

32 Sec. 4. This act becomes effective December 1, 1993, and applies to
33 sentences for acts committed on or after that date and for fees due and payable on or
34 after that date.