

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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**HOUSE BILL 1276**  
**Committee Substitute Favorable 4/19/01**  
**Senate Judiciary II Committee Substitute Adopted 6/28/01**

Short Title: Close Incest Loophole to Protect Minors.

(Public)

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Sponsors:

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Referred to:

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April 12, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO CLOSE THE LEGAL LOOPHOLE THAT EXISTS UNDER THE  
3 STATE'S INCEST LAWS AND TO EQUALIZE PUNISHMENTS FOR CRIMES  
4 COMMITTED AGAINST CHILDREN WITHOUT REGARD TO FAMILIAL  
5 STATUS.

6       Whereas, despite the progress made in modernizing laws to protect children  
7 in North Carolina, a little-known loophole exists in the General Statutes of North  
8 Carolina that has very troubling consequences for some abused children; and

9       Whereas, this loophole allows far lesser penalties for perpetrators convicted  
10 of sexually assaulting their own children than for those who rape or molest other  
11 children; and

12       Whereas, this unintended disparity is the result of archaic incest laws that  
13 date to 1879, statutes that were originally intended to limit intermarriage among family  
14 members but now hamper modern efforts to fight sexual abuse of children; and

15       Whereas, this double standard, that essentially rewards perpetrators for the  
16 most unthinkable betrayal of a child's trust, does not reflect the values and goals of the  
17 citizens of North Carolina; and

18       Whereas, criminals who sexually assault children should be prosecuted  
19 without regard to familial relationship; Now, therefore,  
20 The General Assembly of North Carolina enacts:

21       **SECTION 1.** G.S. 14-178 reads as rewritten:

22       "**§ 14-178. Incest between certain near relatives.**

23       ~~The parties shall be guilty of a felony in~~ In all cases of carnal intercourse between (i)  
24 grandparent and grandchild, (ii) parent and child or stepchild or legally adopted child, or  
25 (iii) brother and sister of the half or whole blood. ~~Every such offense is punishable as a~~  
26 ~~Class F felony.~~ blood:

27       (a) If one party is under the age of 13 and the other party is at least four years  
28 older, the older party shall be guilty of a Class B1 felony.

1       (b) If one party is 13, 14, or 15 years old and the other party is at least six years  
2 older, the older party shall be guilty of a Class B1 felony.

3       (c) If one party is 13, 14, or 15 years old and the other party is more than four but  
4 less than six years older, the older party shall be guilty of a Class C felony.

5       (d) The parties shall be guilty of a Class F felony if:

6           (1) Both parties are 16 years old or older; or

7           (2) The parties are less than four years apart in age, and the act of carnal  
8 intercourse was consensual."

9       **SECTION 2.** G.S. 14-179 reads as rewritten:

10 **"§ 14-179. Incest between uncle and niece and nephew and aunt.**

11       In all cases of carnal intercourse between uncle and niece, and nephew and  
12 ~~aunt~~,aunt:

13       (a) If one party is under the age of 13 and the other party is at least four years  
14 older, the older party shall be guilty of a Class B1 felony.

15       (b) If one party is 13, 14, or 15 years old and the other party is at least six years  
16 older, the older party shall be guilty of a Class B1 felony.

17       (c) If one party is 13, 14, or 15 years old and the other party is more than four but  
18 less than six years older, the older party shall be guilty of a Class C felony.

19       (d) ~~the~~The parties shall be guilty of a Class 1 misdemeanor~~misdemeanor~~ if:

20           (1) Both parties are 16 years old or older; or

21           (2) The parties are less than four years apart in age, and the act of carnal  
22 intercourse was consensual."

23       **SECTION 3.** This act becomes effective December 1, 2001, and applies to  
24 offenses committed on or after that date.