

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
Senate Judiciary II Committee Substitute #2 Adopted 8/27/02

Short Title: Close Incest Loophole to Protect Minors.

(Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO CLOSE THE LEGAL LOOPHOLE THAT EXISTS UNDER THE
STATE'S INCEST LAWS BY EQUALIZING PUNISHMENTS FOR CRIMES
COMMITTED AGAINST CHILDREN WITHOUT REGARD TO FAMILIAL
STATUS.

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

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

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

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

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

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

"§ 14-178. ~~Incest between certain near relatives.~~Incest.

(a) ~~The parties shall be guilty of a felony in all cases of~~ Offense. – A person
commits the offense of incest if the person engages in carnal intercourse with
(i) a grandparent and or grandchild, (ii) a parent and or child or stepchild or legally
adopted child, or (iii) a brother and or sister of the half or whole blood, or (iv) an
uncle, aunt, nephew, or niece. ~~Every such offense is punishable as a Class F felony.~~

1 (b) Punishment and Sentencing. –

2 (1) A person is guilty of a Class B1 felony if either of the following
3 occurs:

4 a. The person commits incest against a child under the age of 13
5 and the person is at least 12 years old and is at least four years
6 older than the child when the incest occurred.

7 b. The person commits incest against a child who is 13, 14, or 15
8 years old and the person is at least six years older than the child
9 when the incest occurred.

10 (2) A person is guilty of a Class C felony if the person commits incest
11 against a child who is 13, 14, or 15 and the person is more than four
12 but less than six years older than the child when the incest occurred.

13 (3) In all other cases of incest, the parties are guilty of a Class F felony.

14 (c) No Liability for Children Under 16. – No child under the age of 16 is liable
15 under this section if the other person is at least four years older when the incest
16 occurred."

17 **SECTION 2.** G.S. 14-179 is repealed.

18 **SECTION 3.** This act becomes effective December 1, 2002, and applies to
19 offenses committed on or after that date.