

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1039  
Judiciary I Committee Substitute Adopted 5/31/05

Short Title: Increase Rape Penalties/Helpless Victims.

(Public)

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Sponsors:

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Referred to:

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March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN PENALTIES FOR COMMITTING SECOND-DEGREE RAPE OR SECOND-DEGREE SEXUAL OFFENSE AND TO MAKE FIRST-DEGREE RAPE AND FIRST-DEGREE SEX OFFENSES APPLICABLE WHERE THE VICTIM IS MENTALLY DISABLED, MENTALLY INCAPACITATED, OR PHYSICALLY HELPLESS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-27.3 reads as rewritten:

"§ 14-27.3. **Second-degree rape.**

(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class ~~C~~B2 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes."

**SECTION 2.** G.S. 14-27.5 reads as rewritten:

"§ 14-27.5. **Second-degree sexual offense.**

(a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should

1 reasonably know that the other person is mentally disabled, mentally  
2 incapacitated, or physically helpless.

3 (b) Any person who commits the offense defined in this section is guilty of a  
4 Class ~~C-B2~~ felony."

5 **SECTION 3.** G.S. 14-27.2 reads as rewritten:

6 "**§ 14-27.2. First-degree rape.**

7 (a) A person is guilty of rape in the first degree if the person engages in vaginal  
8 intercourse:

9 (1) With a victim who is a child under the age of 13 years and the  
10 defendant is at least 12 years old and is at least four years older than  
11 the victim; or

12 (2) With another person by force and against the will of the other ~~person,~~  
13 ~~and;person;~~ or

14 (3) With a person who is mentally disabled, mentally incapacitated, or  
15 physically helpless, and the person performing the act knows or should  
16 reasonably know the other person is mentally disabled, mentally  
17 incapacitated, or physically helpless, and:

18 a. Employs or displays a dangerous or deadly weapon or an article  
19 which the other person reasonably believes to be a dangerous or  
20 deadly weapon; or

21 b. Inflicts serious personal injury upon the victim or another  
22 person; or

23 c. The person commits the offense aided and abetted by one or  
24 more other persons.

25 (b) Any person who commits an offense defined in this section is guilty of a  
26 Class B1 felony.

27 (c) Upon conviction, a person convicted under this section has no rights to  
28 custody of or rights of inheritance from any child born as a result of the commission of  
29 the rape, nor shall the person have any rights related to the child under Chapter 48 or  
30 Subchapter 1 of Chapter 7B of the General Statutes."

31 **SECTION 4.** G.S. 14-27.4 reads as rewritten:

32 "**§ 14-27.4. First-degree sexual offense.**

33 (a) A person is guilty of a sexual offense in the first degree if the person engages  
34 in a sexual act:

35 (1) With a victim who is a child under the age of 13 years and the  
36 defendant is at least 12 years old and is at least four years older than  
37 the victim; or

38 (2) With another person by force and against the will of the other ~~person,~~  
39 ~~and;person;~~ or

40 (3) With a person who is mentally disabled, mentally incapacitated, or  
41 physically helpless, and the person performing the act knows or should  
42 reasonably know the other person is mentally disabled, mentally  
43 incapacitated, or physically helpless, and:

- 1                   a.     Employs or displays a dangerous or deadly weapon or an article  
2                             which the other person reasonably believes to be a dangerous or  
3                             deadly weapon; or  
4                   b.     Inflicts serious personal injury upon the victim or another  
5                             person; or  
6                   c.     The person commits the offense aided and abetted by one or  
7                             more other persons.

8       (b)   Any person who commits an offense defined in this section is guilty of a  
9   Class B1 felony."

10           **SECTION 5.** This act becomes effective December 1, 2005, and applies to  
11 offenses committed on or after that date. Prosecutions for offenses committed before  
12 the effective date of this act are not abated or affected by this act, and the statutes that  
13 would be applicable but for this act remain applicable to those prosecutions.