

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2015-181
HOUSE BILL 383

AN ACT TO REORGANIZE, RENAME, AND RENUMBER VARIOUS SEXUAL OFFENSES TO MAKE THEM MORE EASILY DISTINGUISHABLE FROM ONE ANOTHER AS RECOMMENDED BY THE NORTH CAROLINA COURT OF APPEALS IN "STATE OF NORTH CAROLINA V. SLADE WESTON HICKS, JR.," AND TO MAKE OTHER TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 7B.

"Rape and Other Sex Offenses.

SECTION 2. G.S. 14-27.1 is recodified as G.S. 14-27.20 under Article 7B of the General Statutes as created by Section 1 of this act.

SECTION 3.(a) G.S. 14-27.2 is recodified as G.S. 14-27.21 under Article 7B of the General Statutes as created by Section 1 of this act.

SECTION 3.(b) G.S. 14-27.2, recodified as G.S. 14-27.21 by subsection (a) of this section, reads as rewritten:

"§ 14-27.21. First-degree forcible rape.

(a) A person is guilty of ~~rape in the first-degree~~ forcible rape if the person engages in vaginal intercourse:

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

(2) ~~With intercourse with another person by force and against the will of the other person, and~~ and does any of the following:

a.(1) ~~Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or~~ weapon.

b.(2) ~~Inflicts serious personal injury upon the victim or another person; or~~ person.

e.(3) ~~The person commits the offense aided and abetted by one or more other persons.~~

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

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of 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 4.(a) G.S. 14-27.3 is recodified as G.S. 14-27.22 under Article 7B of the General Statutes.

SECTION 4.(b) G.S. 14-27.3, recodified as G.S. 14-27.22 by subsection (a) of this section, reads as rewritten:

"§ 14-27.22. Second-degree forcible rape.

(a) A person is guilty of ~~rape in the second-degree~~ second-degree forcible rape 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 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 5.(a) G.S. 14-27.2A is recodified as G.S. 14-27.23 under Article 7B of the General Statutes.

SECTION 5.(b) G.S. 14-27.2A, recodified as G.S. 14-27.23 by subsection (a) of this section, reads as rewritten:

"§ 14-27.23. ~~Rape of a child; adult offender.~~ Statutory rape of a child by an adult.

(a) A person is guilty of ~~rape of a child~~ statutory rape of a child by an adult if the person is at least 18 years of age and engages in vaginal intercourse with a victim who is a child under the age of 13 years.

...
(e) The offense under ~~G.S. 14-27.2(a)(1)~~ G.S. 14-27.24 is a lesser included offense of the offense in this section."

SECTION 6. Article 7B of Chapter 14 of the General Statutes, as created by Section 1 of this act, is amended by adding a new section to read:

"§ 14-27.24. First-degree statutory rape.

(a) A person is guilty of first-degree statutory rape if the person engages in vaginal intercourse with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.

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

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of 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 7.(a) G.S. 14-27.7A is recodified as G.S. 14-27.25 under Article 7B of Chapter 14 of the General Statutes.

SECTION 7.(b) G.S. 14-27.7A, as amended by S.L. 2015-62 and recodified as G.S. 14-27.25 by subsection (a) of this section, reads as rewritten:

"§ 14-27.25. Statutory rape ~~or sexual offense of person who is 15 years of age or younger.~~

(a) A defendant is guilty of a Class B1 felony if the defendant engages in vaginal intercourse ~~or a sexual act~~ with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in vaginal intercourse ~~or a sexual act~~ with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person."

SECTION 8.(a) G.S. 14-27.4 is recodified as G.S. 14-27.26 under Article 7B of Chapter 14 of the General Statutes.

SECTION 8.(b) G.S. 14-27.4, recodified as G.S. 14-27.26 by subsection (a) of this section, reads as rewritten:

"§ 14-27.26. First-degree forcible sexual offense.

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

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

(2) ~~With act with another person by force and against the will of the other person, and~~ and does any of the following:

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

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

SECTION 9.(a) G.S. 14-27.5 is recodified as G.S. 14-27.27 under Article 7B of Chapter 14 of the General Statutes.

SECTION 9.(b) G.S. 14-27.5, recodified as G.S. 14-27.27 by subsection (a) of this section, reads as rewritten:

"§ 14-27.27. Second-degree forcible sexual offense.

(a) A person is guilty of ~~a sexual offense in the~~ second degree forcible sexual offense 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 reasonably know that 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 felony."

SECTION 10.(a) G.S. 14-27.4A is recodified as G.S. 14-27.28 under Article 7B of Chapter 14 of the General Statutes as created by Section 1 of this act.

SECTION 10.(b) G.S. 14-27.4A, recodified as G.S. 14-27.28 by subsection (a) of this section, reads as rewritten:

"§ 14-27.28. ~~Sexual offense with a child; adult offender.~~Statutory sexual offense with a child by an adult.

(a) A person is guilty of ~~sexual offense with a child~~ statutory sexual offense with a child by an adult if the person is at least 18 years of age and engages in a sexual act with a victim who is a child under the age of 13 years.

...
(d) The offense under ~~G.S. 14-27.4(a)(1)~~ G.S. 14-27.29 is a lesser included offense of the offense in this section."

SECTION 11. Article 7B of Chapter 14 of the General Statutes, as created by Section 1 of this act, is amended by adding a new section to read:

"§ 14-27.29. First-degree statutory sexual offense.

(a) A person is guilty of first-degree statutory sexual offense if the person engages in a sexual act with a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim.

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

SECTION 12. Article 7B of Chapter 14 of the General Statutes, as created by Section 1 of this act, is amended by adding the following new section:

"§ 14-27.30. Statutory sexual offense with a person who is 15 years of age or younger.

(a) A defendant is guilty of a Class B1 felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and at least six years older than the person, except when the defendant is lawfully married to the person.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a defendant is guilty of a Class C felony if the defendant engages in a sexual act with another person who is 15 years of age or younger and the defendant is at least 12 years old and more than four but less than six years older than the person, except when the defendant is lawfully married to the person."

SECTION 13.(a) G.S. 14-27.7(a) is recodified as G.S. 14-27.31 under Article 7B of Chapter 14 of the General Statutes as created by Section 1 of this act.

SECTION 13.(b) G.S. 14-27.7(a), recodified as G.S. 14-27.31 by subsection (a) of this section, reads as rewritten:

"§ 14-27.31. ~~Intercourse and sexual offenses with certain victims; consent no defense.~~ Sexual activity by a substitute parent or custodian.

(a) If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, ~~home,~~ the defendant is guilty of a Class E felony.

(b) If a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony.

(c) Consent is not a defense to a charge under this section."

SECTION 14.(a) G.S. 14-27.7(b) is recodified as G.S. 14-27.32 under Article 7B of Chapter 14 of the General Statutes as created by Section 1 of this act.

SECTION 14.(b) G.S. 14-27.7(b), recodified as G.S. 14-27.32 by subsection (a) of this section, reads as rewritten:

"§ 14-27.32. Sexual activity with a student.

~~(b)~~(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers.

(b) A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class A1 misdemeanor.

(c) This ~~subsection~~ section shall apply unless the conduct is covered under some other provision of law providing for greater punishment.

(d) Consent is not a defense to a charge under this section.

(e) For purposes of this ~~subsection~~ section, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this ~~subsection~~ section, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools."

SECTION 15. G.S. 14-27.5A is recodified as G.S. 14-27.33 under Article 7B of Chapter 14 of the General Statutes as created by Section 1 of this act. G.S. 14-27.8 through G.S. 14-27.10 are recodified as G.S. 14-27.34 through G.S. 14-27.36 under Article 7B of Chapter 14 of the General Statutes as created by Section 1 of this act.

SECTION 16. G.S. 14-202.4(d)(1) reads as rewritten:

"(d) For purposes of this section, the following definitions apply:

(1) "Indecent liberties" means:

- a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual desire; or
- b. Willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student.

For purposes of this section, the term indecent liberties does not include vaginal intercourse or a sexual act as defined by ~~G.S. 14-27.1, G.S. 14-27.20.~~

SECTION 17. G.S. 14-203(5) reads as rewritten:

"(5) Prostitution. – The performance of, offer of, or agreement to perform vaginal intercourse, any sexual act as defined in ~~G.S. 14-27.1, G.S. 14-27.20,~~ or any sexual contact as defined in ~~G.S. 14-27.1, G.S. 14-27.20,~~ for the purpose of sexual arousal or gratification for any money or other consideration."

SECTION 18. G.S. 14-205.2(a) reads as rewritten:

"(a) Any person who willfully performs any of the following acts with a person not his or her spouse commits the offense of patronizing a prostitute:

- (1) Engages in vaginal intercourse, any sexual act as defined in ~~G.S. 14-27.1, G.S. 14-27.20,~~ or any sexual contact as defined in ~~G.S. 14-27.1, G.S. 14-27.20,~~ for the purpose of sexual arousal or gratification with a prostitute.
- (2) Enters or remains in a place of prostitution with intent to engage in vaginal intercourse, any sexual act as defined in ~~G.S. 14-27.1, G.S. 14-27.20,~~ or any sexual contact as defined in ~~G.S. 14-27.1, G.S. 14-27.20,~~ for the purpose of sexual arousal or gratification."

SECTION 19. G.S. 15A-136 reads as rewritten:

"§ 15A-136. Venue for sexual offenses.

If a person is transported by any means, with the intent to violate any of the provisions of Article 7A of Chapter 14 (~~§ 14-27.1~~ § 14-27.20 et seq.) of the General Statutes and the intent is followed by actual violation thereof, the defendant may be tried in the county where transportation was offered, solicited, begun, continued or ended."

SECTION 20. G.S. 50-16.1A(3) reads as rewritten:

"(3) "Marital misconduct" means any of the following acts that occur during the marriage and prior to or on the date of separation:

- a. Illicit sexual behavior. For the purpose of this section, illicit sexual behavior means acts of sexual or deviate sexual intercourse, deviate sexual acts, or sexual acts defined in ~~G.S. 14-27.1(4), G.S. 14-27.20(4),~~ voluntarily engaged in by a spouse with someone other than the other spouse;
- b. Involuntary separation of the spouses in consequence of a criminal act committed prior to the proceeding in which alimony is sought;
- c. Abandonment of the other spouse;
- d. Malicious turning out-of-doors of the other spouse;
- e. Cruel or barbarous treatment endangering the life of the other spouse;
- f. Indignities rendering the condition of the other spouse intolerable and life burdensome;
- g. Reckless spending of the income of either party, or the destruction, waste, diversion, or concealment of assets;
- h. Excessive use of alcohol or drugs so as to render the condition of the other spouse intolerable and life burdensome;
- i. Willful failure to provide necessary subsistence according to one's means and condition so as to render the condition of the other spouse intolerable and life burdensome."

SECTION 21. G.S. 7B-101(1) reads as rewritten:

"(1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:

- a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
- b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
- c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
- d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: ~~first degree rape, as provided in G.S. 14-27.2; rape of a child by an adult offender, as provided in G.S. 14-27.2A; second degree rape as provided in G.S. 14-27.3; first degree sexual offense, as provided in G.S. 14-27.4; sexual offense with a child by an adult offender, as provided in G.S. 14-27.4A; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; first-degree forcible rape, as provided in G.S. 14-27.21; second-degree forcible rape as provided in G.S. 14-27.22; statutory~~

rape of a child by an adult as provided in G.S. 14-27.23; first-degree statutory rape as provided in G.S. 14-27.24; first-degree forcible sex offense as provided in G.S. 14-27.26; second-degree forcible sex offense as provided in G.S. 14-27.27; statutory sexual offense with a child by an adult as provided in G.S. 14-27.28; first-degree statutory sexual offense as provided in G.S. 14-27.29; sexual activity by a substitute parent or custodian as provided in G.S. 14-27.31; sexual activity with a student as provided in G.S. 14-27.32; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-205.3(b); and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;

- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others;
- f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile; or
- g. Commits or allows to be committed an offense under G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) against the child."

SECTION 22. G.S. 7B-401.1(b) reads as rewritten:

"(b) Parents. – The juvenile's parent shall be a party unless one of the following applies:

- (1) The parent's rights have been terminated.
- (2) The parent has relinquished the juvenile for adoption, unless the court orders that the parent be made a party.
- (3) The parent has been convicted under ~~G.S. 14-27.2~~ or ~~G.S. 14-27.3~~ G.S. 14-27.21, G.S. 14-27.22, or G.S. 14-27.24 for an offense that resulted in the conception of the juvenile."

SECTION 23. G.S. 7B-1103(c) reads as rewritten:

"(c) No person whose actions resulted in a conviction under ~~G.S. 14-27.2~~ or ~~G.S. 14-27.3~~ G.S. 14-27.21, G.S. 14-27.22, or G.S. 14-27.24 and the conception of the juvenile may file a petition to terminate the parental rights of another with respect to that juvenile."

SECTION 24. G.S. 7B-1104(3) reads as rewritten:

- "(3) The name and address of the parents of the juvenile. If the name or address of one or both parents is unknown to the petitioner or movant, the petitioner or movant shall set forth with particularity the petitioner's or movant's efforts to ascertain the identity or whereabouts of the parent or parents. The information may be contained in an affidavit attached to the petition or motion and incorporated therein by reference. A person whose actions resulted in a conviction under ~~G.S. 14-27.2~~ or ~~G.S. 14-27.3~~ G.S. 14-27.21, G.S. 14-27.22, or G.S. 14-27.24 and the conception of the juvenile need not be named in the petition."

SECTION 25. G.S. 7B-1602(a) reads as rewritten:

"(a) When a juvenile is committed to the Division for placement in a youth development center for an offense that would be first degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to ~~G.S. 14-27.2~~, G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, or first-degree forcible sexual offense pursuant to ~~G.S. 14-27.4~~ G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult,

jurisdiction shall continue until terminated by order of the court or until the juvenile reaches the age of 21 years, whichever occurs first."

SECTION 26. G.S. 7B-2509 reads as rewritten:

"§ **7B-2509. Registration of certain delinquent juveniles.**

In any case in which a juvenile, who was at least 11 years of age at the time of the offense, is adjudicated delinquent for committing a violation of ~~G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), or G.S. 14-27.29 (first-degree statutory sexual offense)~~, the judge, upon a finding that the juvenile is a danger to the community, may order that the juvenile register in accordance with Part 4 of Article 27A of Chapter 14 of the General Statutes."

SECTION 27. G.S. 7B-2513(a)(1) reads as rewritten:

"(1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to ~~G.S. 14-27.2, G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, or~~ first-degree forcible sexual offense pursuant to ~~G.S. 14-27.4~~ G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult;"

SECTION 28. G.S. 7B-2514(c)(2) reads as rewritten:

"(2) The juvenile's twenty-first birthday if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to ~~G.S. 14-27.2, G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, or~~ first-degree forcible sexual offense pursuant to ~~G.S. 14-27.4~~ G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult."

SECTION 29. G.S. 7B-2516(c)(1) reads as rewritten:

"(1) The juvenile's twenty-first birthday if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to ~~G.S. 14-27.2, G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, or~~ first-degree forcible sexual offense pursuant to ~~G.S. 14-27.4~~ G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult."

SECTION 30. G.S. 7B-2600(c) reads as rewritten:

"(c) In any case where the court finds the juvenile to be delinquent or undisciplined, the jurisdiction of the court to modify any order or disposition made in the case shall continue (i) during the minority of the juvenile, (ii) until the juvenile reaches the age of 19 years if the juvenile has been adjudicated delinquent and committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a), (iii) until the juvenile reaches the age of 21 years if the juvenile has been adjudicated delinquent and committed for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to ~~G.S. 14-27.2, G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, or~~ first-degree forcible sexual offense pursuant to ~~G.S. 14-27.4~~ G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult, or (iv) until terminated by order of the court."

SECTION 31. G.S. 8-53.12(a)(7) reads as rewritten:

"(7) Sexual assault. – Any alleged violation of ~~G.S. 14-27.2, 14-27.3, 14-27.4, 14-27.5, 14-27.7, 14-27.7A, G.S. 14-27.21, 14-27.22, 14-27.24, 14-27.25, 14-27.26, 14-27.27, 14-27.29, 14-27.30, 14-27.31, 14-27.32, or 14-202.1,~~ whether or not a civil or criminal action arises as a result of the alleged violation."

SECTION 32. G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of ~~G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second~~

~~degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13, 14, or 15 years old where the defendant is at least six years older), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses."~~

SECTION 33. G.S. 14-208.26(a) reads as rewritten:

"Part 4. Registration of Certain Juveniles Adjudicated for Committing Certain Offenses.

"§ 14-208.26. Registration of certain juveniles adjudicated delinquent for committing certain offenses.

"(a) When a juvenile is adjudicated delinquent for a violation of ~~G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), or G.S. 14-27.29 (first-degree statutory sexual offense)~~, and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall be entered requiring the juvenile to register. The court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record. No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community.

A juvenile ordered to register under this Part shall register and maintain that registration as provided by this Part."

SECTION 34. G.S. 48-3-603(a)(9) reads as rewritten:

"(9) An individual whose actions resulted in a conviction under ~~G.S. 14-27.2, G.S. 14-27.2A, or G.S. 14-27.3~~ G.S. 14-27.21, G.S. 14-27.22, G.S. 14-27.23, or G.S. 14-27.24 and the conception of the minor to be adopted."

SECTION 35. G.S. 50-13.1(a) reads as rewritten:

"(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Any person whose actions resulted in a conviction under ~~G.S. 14-27.2, G.S. 14-27.2A, or G.S. 14-27.3~~ G.S. 14-27.21, G.S. 14-27.22, G.S. 14-27.23, or G.S. 14-27.24 and the conception of the minor child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or visitation or both."

SECTION 36. G.S. 50B-1(a)(3) reads as rewritten:

"(3) Committing any act defined in ~~G.S. 14-27.2~~ G.S. 14-27.21 through G.S. 14-27.7. G.S. 14-27.33."

SECTION 37. G.S. 90-171.38(b) reads as rewritten:

"(b) Any individual, organization, association, corporation, or institution may establish a program for the purpose of training or educating any registered nurse licensed under G.S. 90-171.30, 90-171.32, or 90-171.33 in the skills, procedures, and techniques necessary to conduct examinations for the purpose of collecting evidence from the victims of ~~first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, statutory rape as defined in G.S. 14-27.7A, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5 or attempted first-degree or second-degree rape or attempted first-degree or second-degree sexual offense. first-degree forcible rape as defined in G.S. 14-27.21, second-degree forcible rape as defined in G.S. 14-27.22, statutory rape of a child by an adult as defined in G.S. 14-27.23, first-degree statutory rape as defined in G.S. 14-27.24, statutory rape of a person who is 15 years of age or younger as defined in G.S. 14-27.25, first-degree forcible sexual offense as defined in G.S. 14-27.26, second-degree forcible sexual offense as defined in G.S. 14-27.27, statutory sexual offense with a child by an adult as defined in G.S. 14-27.28, first-degree statutory sexual offense as defined in G.S. 14-27.29, statutory sexual offense with a person who is 15 years of age or younger as defined in G.S. 14-27.30, attempted first-degree or second-degree forcible rape, attempted first-degree statutory rape, attempted first-degree or second-degree forcible sexual offense, or attempted first-degree statutory sexual offense.~~ The Board, pursuant to G.S. 90-171.23(b)(14), shall establish, revise, or repeal standards for any such program. Any individual, organization, association, corporation, or institution which desires to establish a program under this subsection shall apply to the Board and submit satisfactory evidence that it will meet the standards prescribed by the Board."

SECTION 38. G.S. 143B-1200(i)(3) reads as rewritten:

"(3) Sexual assault. – Any of the following crimes:

- a. ~~First-degree rape as defined in G.S. 14-27.2.~~
- b. ~~Second-degree rape as defined in G.S. 14-27.3.~~
- c. ~~First-degree sexual offense as defined in G.S. 14-27.4.~~
- d. ~~Second-degree sexual offense as defined in G.S. 14-27.5.~~
- e. ~~Statutory rape as defined in G.S. 14-27.7A.~~
- a. First-degree forcible rape as defined in G.S. 14-27.21.
- b. Second-degree forcible rape as defined in G.S. 14-27.22.
- c. First-degree statutory rape as defined in G.S. 14-27.24.
- d. Statutory rape of a person who is 15 years of age or younger as defined in G.S. 14-27.25.
- e. First-degree forcible sexual offense as defined in G.S. 14-27.26.
- f. Second-degree forcible sexual offense as defined in G.S. 14-27.27.
- g. First-degree statutory sexual offense as defined in G.S. 14-27.29.
- h. Statutory sexual offense with a person who is 15 years of age or younger as defined in G.S. 14-27.30."

SECTION 39. G.S. 14-401.16(c) reads as rewritten:

"(c) A violation of this section is a Class H felony. However, if a person violates this section with the intent of committing an offense under ~~G.S. 14-27.3~~G.S. 14-27.22 or ~~G.S. 14-27.5~~G.S. 14-27.27, the violation is a Class G felony."

SECTION 40. G.S. 14-208.40(a)(3) reads as rewritten:

"(3) Any offender who is convicted of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.28, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment."

SECTION 41. G.S. 14-208.40A reads as rewritten:

"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, has committed an aggravated offense, or was convicted of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.28, the court shall order the offender to enroll in a satellite-based monitoring program for life.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.28 and the offender is not a recidivist, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult Correction's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 42. G.S. 14-208.40B(c) reads as rewritten:

"(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.4A, the court shall order the offender to enroll in satellite-based monitoring for life.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of ~~G.S. 14-27.2~~G.S. 14-27.23 or ~~G.S. 14-27.4A~~G.S. 14-27.28, and the offender is not a recidivist, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court. The

Division of Adult Correction may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Division of Adult Correction, the court shall determine whether, based on the Division of Adult Correction's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court."

SECTION 43. G.S. 15A-145.5(a)(4) reads as rewritten:

"(4) Any of the following sex-related or stalking offenses: ~~G.S. 14-27.7A(b), G.S. 14-27.25(b), 14-27.30(b),~~ 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1."

SECTION 44. G.S. 15A-145.4(5) reads as rewritten:

"(5) Any felony offense under the following sex-related or stalking offenses: ~~G.S. 14-27.7A(b), G.S. 14-27.25(b), 14-27.30(b),~~ 14-190.7, 14-190.8, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1."

SECTION 45. G.S. 90-210.25B(b) reads as rewritten:

"(b) For purposes of this Article, the term "sexual offense against a minor" means a conviction of any of the following offenses: ~~G.S. 14-27.4A(a) (sex offense with a child; adult offender), G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years old where the defendant is at least six years older), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger where the defendant is at least six years older), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.30 (statutory sexual offense with a person who is 15 years of age or younger where the defendant is at least six years older),~~ G.S. 14-190.16 (first-degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term shall also include a conviction of the following: any attempt, solicitation, or conspiracy to commit any of these offenses or any aiding and abetting any of these offenses. The term shall also include a conviction in another jurisdiction for an offense which if committed in this State has the same or substantially similar elements to an offense against a minor as defined by this section."

SECTION 46. G.S. 15A-290(c)(1) reads as rewritten:

"(1) Any felony offense against a minor, including any violation of ~~G.S. 14-27.7 (Intercourse and sexual offenses with certain victims; consent no defense), G.S. 14-27.31 (Sexual activity by a substitute parent or custodian), G.S. 14-27.32 (Sexual activity with a student),~~ G.S. 14-41 (Abduction of children), G.S. 14-43.11 (Human trafficking), G.S. 14-43.12 (Involuntary servitude), G.S. 14-43.13 (Sexual servitude), G.S. 14-190.16 (First degree sexual exploitation of a minor), G.S. 14-190.17 (Second degree sexual exploitation of a minor), G.S. 14-202.1 (Taking indecent liberties with children), G.S. 14-205.2(c) or (d) (Patronizing a prostitute who is a minor or a mentally disabled person), or G.S. 14-205.3(b) (Promoting prostitution of a minor or a mentally disabled person)."

SECTION 47. The Revisor of Statutes may correct statutory references, as required by this act, throughout the General Statutes. In making the changes authorized by this act, the Revisor may also adjust the order of lists of multiple statutes to maintain statutory order, correct terms, make conforming changes to catch lines and references to catch lines, and adjust subject and verb agreement and the placement of conjunctions.

SECTION 48. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 29th day of July, 2015.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Paul Stam
Speaker Pro Tempore of the House of Representatives

s/ Pat McCrory
Governor

Approved 3:05 p.m. this 5th day of August, 2015