SUBCHAPTER VII. OFFENSES AGAINST PUBLIC MORALITY AND DECENCY.

Article 26.

Offenses Against Public Morality and Decency.

§ 14-177. Crime against nature.

If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon. (5 Eliz., c. 17; 25 Hen. VIII, c. 6; R.C., c. 34, s. 6; 1868-9, c. 167, s. 6; Code, s. 1010; Rev., s. 3349; C.S., s. 4336; 1965, c. 621, s. 4; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1191; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-178. Incest.

(a) Offense. – A person commits the offense of incest if the person engages in carnal intercourse with the person's (i) grandparent or grandchild, (ii) parent or child or stepchild or legally adopted child, (iii) brother or sister of the half or whole blood, or (iv) uncle, aunt, nephew, or niece.

(b) Punishment and Sentencing. –

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

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

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

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

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

(c) No Liability for Children Under 16. – No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred. (1879, c. 16, s. 1; Code, s. 1060; Rev., s. 3351; 1911, c. 16; C.S., s. 4337; 1965, c. 132; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1192; 1994, Ex. Sess., c. 24, s. 14(c); 2002-119, s. 1.)

§ 14-179: Repealed by Session Laws 2002-119, s. 2, effective December 1, 2002.

§ 14-180. Repealed by Session Laws 1975, c. 402.

§§ 14-181 through 14-182. Repealed by Session Laws 1973, c. 108, s. 4.

§ 14-183. Bigamy.

If any person, being married, shall marry any other person during the life of the former husband or wife, every such offender, and every person counseling, aiding or abetting such offender, shall be punished as a Class I felon. Any such offense may be dealt with, tried, determined and punished in the county where the offender shall be apprehended, or be in custody, as if the offense had been actually committed in that county. If any person, being married, shall contract a marriage with any other person outside of this State, which marriage would be punishable as bigamous if

contracted within this State, and shall thereafter cohabit with such person in this State, he shall be guilty of a felony and shall be punished as in cases of bigamy. Nothing contained in this section shall extend to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to have been living within that time; nor to any person who at the time of such second marriage shall have been lawfully divorced from the bond of the first marriage; nor to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction. (See 9 Geo. IV, c. 31, s. 22; 1790, c. 323, P.R.; 1809, c. 783, P.R.; 1829, c. 9; R.C., c. 34, s. 15; Code, s. 988; Rev., s. 3361; 1913, c. 26; C.S., s. 4342; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1193; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-184. Fornication and adultery.

If any man and woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they shall be guilty of a Class 2 misdemeanor: Provided, that the admissions or confessions of one shall not be received in evidence against the other. (1805, c. 684, P.R.; R.C., c. 34, s. 45; Code, s. 1041; Rev., s. 3350; C.S., s. 4343; 1969, c. 1224, s. 9; 1993, c. 539, s. 119; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-185. Repealed by Session Laws 1975, c. 402.

§ 14-186. Opposite sexes occupying same bedroom at hotel for immoral purposes; falsely registering as husband and wife.

Any man and woman found occupying the same bedroom in any hotel, public inn or boardinghouse for any immoral purpose, or any man and woman falsely registering as, or otherwise representing themselves to be, husband and wife in any hotel, public inn or boardinghouse, shall be deemed guilty of a Class 2 misdemeanor. (1917, c. 158, s. 2; C.S., s. 4345; 1969, c. 1224, s. 3; 1993, c. 539, s. 120; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-187. Repealed by Session Laws 1975, c. 402.

§ 14-188. Certain evidence relative to keeping disorderly houses admissible; keepers of such houses defined; punishment.

(a) On a prosecution in any court for keeping a disorderly house or bawdy house, or permitting a house to be used as a bawdy house, or used in such a way as to make it disorderly, or a common nuisance, evidence of the general reputation or character of the house shall be admissible and competent; and evidence of the lewd, dissolute and boisterous conversation of the inmates and frequenters, while in and around such house, shall be prima facie evidence of the bad character of the inmates and frequenters, and of the disorderly character of the house. The manager or person having the care, superintendency or government of a disorderly house or bawdy house is the "keeper" thereof, and one who employs another to manage and conduct a disorderly house or bawdy house is also "keeper" thereof.

(b) On a prosecution in any court for keeping a disorderly house or a bawdy house, or permitting a house to be used as a bawdy house or used in such a way to make it disorderly or a common nuisance, the offense shall constitute a Class 2 misdemeanor. (1907, c. 779; C.S., s. 4347; 1969, c. 1224, s. 22; 1993, c. 539, s. 121; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-189 through 14-189.1. Repealed by Session Laws 1971, c. 405, s. 4.

§§ 14-189.2 through 14-190. Repealed by Session Laws 1971, c. 591, s. 4.

§ 14-190.1. Obscene literature and exhibitions.

(a) It shall be unlawful for any person, firm or corporation to intentionally disseminate obscenity. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

(1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or

(2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or

(3) Publishes, exhibits or otherwise makes available anything obscene; or

(4) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide: any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

(b) For purposes of this Article any material is obscene if:

(1) The material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (c) of this section; and

(2) The average person applying contemporary community standards relating to the depiction or description of sexual matters would find that the material taken as a whole appeals to the prurient interest in sex; and

(3) The material lacks serious literary, artistic, political, or scientific value; and

(4) The material as used is not protected or privileged under the Constitution of the United States or the Constitution of North Carolina.

(c) As used in this Article, "sexual conduct" means:

(1) Vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted; or

(2) Masturbation, excretory functions, or lewd exhibition of uncovered genitals; or

(3) An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in revealing or bizarre costume.

(d) Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other especially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be especially designed for or directed to such children or audiences.

(e) It shall be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented or held out by said person, firm or corporation as obscene.

(g) Violation of this section is a Class I felony.

(h) Obscene material disseminated, procured, or promoted in violation of this section is contraband.

(i) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech. (1971, c. 405, s. 1; 1973, c. 1434, s. 1; 1985, c. 703, s. 1; 1993, c. 539, s. 1194; 1994, Ex. Sess., c. 24, s. 14(c); 1998-46, s. 2.)

§ 14-190.2. Repealed by Session Laws 1985, c. 703, s. 2.

§ 14-190.3. Repealed by Session Laws 1985, c. 703, s. 3.

§ 14-190.4. Coercing acceptance of obscene articles or publications.

No person, firm or corporation shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication require that the purchaser or consignee receive for resale any other article, book, or publication which is obscene within the meaning of G.S. 14-190.1; nor shall any person, firm or corporation deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof. Violation of this section is a Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 4; 1993, c. 539, s. 122; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.5. Preparation of obscene photographs, slides and motion pictures.

Every person who knowingly:

(1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for the purpose of dissemination; or

(2) Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for the purpose of dissemination,

shall be guilty of a Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 5; 1993, c. 539, s. 123; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.5A. Disclosure of private images; civil action.

(a) Definitions. – The following definitions apply in this section:

(1) Disclose. – Transfer, publish, distribute, or reproduce.

(2) Image. – A photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction that is made by electronic, mechanical, or other means.

(3) Intimate parts. – Any of the following naked human parts: (i) male or female genitals, (ii) male or female pubic area, (iii) male or female anus, or (iv) the nipple of a female over the age of 12.

(4), (5) Repealed by Session Laws 2017-93, s. 1, effective December 1, 2017, and applicable to offenses committed on or after that date.

(6) Sexual conduct. – Includes any of the following:

a. Vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted.

b. Masturbation, excretory functions, or lewd exhibition of uncovered genitals.
c. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in revealing or bizarre costume.

(b) Offense. – A person is guilty of disclosure of private images if all of the following apply:

(1) The person knowingly discloses an image of another person with the intent to do either of the following:
a. Coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person.
b. Cause others to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person.
(2) The depicted person is identifiable from the disclosed image itself or information offered in connection with the image.
(3) The depicted person's intimate parts are exposed or the depicted person is engaged in sexual conduct in the disclosed image.
(4) The person discloses the image without the affirmative consent of the depicted person.
(5) The person obtained the image without consent of the depicted person or under circumstances such that the person knew or should have known that the depicted person expected the images to remain private.

(c) Penalty. – A violation of this section shall be punishable as follows:

(1) For an offense by a person who is 18 years of age or older at the time of the offense, the violation is a Class H felony.
(2) For a first offense by a person who is under 18 years of age at the time of the offense, the violation is a Class 1 misdemeanor.
(3) For a second or subsequent offense by a person who is under the age of 18 at the time of the offense, the violation is a Class H felony.

(d) Exceptions. – This section does not apply to any of the following:

(1) Images involving voluntary exposure in public or commercial settings.
(2) Disclosures made in the public interest, including, but not limited to, the reporting of unlawful conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, medical treatment, or scientific or educational activities.
(3) Providers of an interactive computer service, as defined in 47 U.S.C. § 230(f), for images provided by another person.

(e) Destruction of Image. – In addition to any penalty or other damages, the court may award the destruction of any image made in violation of this section.

(f) Other Sanctions or Remedies Not Precluded. – A violation of this section is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(g) Civil Action. – In addition to any other remedies at law or in equity, including an order by the court to destroy any image disclosed in violation of this section, any person whose image is disclosed, or used, as described in subsection (b) of this section, has a civil cause of action against any person who discloses or uses the image and is entitled to recover from the other person any of the following:

(1) Actual damages, but not less than liquidated damages, to be computed at the rate of one thousand dollars ($1,000) per day for each day of the violation or in the amount of ten thousand dollars ($10,000), whichever is higher.

(2) Punitive damages.

(3) A reasonable attorneys' fee and other litigation costs reasonably incurred.

The civil cause of action may be brought no more than one year after the initial discovery of the disclosure, but in no event may the action be commenced more than seven years from the most recent disclosure of the private image. (2015-250, s. 1; 2017-93, s. 1.)

§ 14-190.6. Employing or permitting minor to assist in offense under Article.

Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age of 16 years to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1983, c. 916, s. 2; 1985, c. 703, s. 6.)

§ 14-190.7. Dissemination to minors under the age of 16 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1977, c. 440, s. 2; 1985, c. 703, s. 7.)

§ 14-190.8. Dissemination to minors under the age of 13 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 13 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be punished as a Class I felon. (1971, c. 405, s. 1; 1977, c. 440, s. 3; 1979, c. 760, s. 5; 1983, c. 175, ss. 7, 10, c. 720, ss. 4, 10; 1985, c. 703, s. 8; 1993, c. 539, s. 1195; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.9. Indecent exposure.

(a) Unless the conduct is punishable under subsection (a1) of this section, any person who shall willfully expose the private parts of his or her person in any public place and in the presence of any other person or persons, except for those places designated for a public purpose where the same sex exposure is incidental to a permitted activity, or aids or abets in any such act, or who procures another to perform such act; or any person, who as owner, manager, lessee, director, promoter or agent, or in any other capacity knowingly hires, leases or permits the land, building, or premises of which he is owner, lessee or

tenant, or over which he has control, to be used for purposes of any such act, shall be guilty of a Class 2 misdemeanor.

(a1) Unless the conduct is prohibited by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in any public place in the presence of any other person less than 16 years of age for the purpose of arousing or gratifying sexual desire shall be guilty of a Class H felony. An offense committed under this subsection shall not be considered to be a lesser included offense under G.S. 14-202.1.

(a2) Unless the conduct is prohibited by another law providing greater punishment, any person who shall willfully expose the private parts of his or her person in the presence of anyone other than a consenting adult on the private premises of another or so near thereto as to be seen from such private premises for the purpose of arousing or gratifying sexual desire is guilty of a Class 2 misdemeanor.

(a4) Unless the conduct is punishable by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in a private residence of which they are not a resident and in the presence of any other person less than 16 years of age who is a resident of that private residence shall be guilty of a Class 2 misdemeanor.

(a5) Unless the conduct is prohibited by another law providing greater punishment, any person located in a private place who shall willfully expose the private parts of his or her person with the knowing intent to be seen by a person in a public place shall be guilty of a Class 2 misdemeanor.

(b) Notwithstanding any other provision of law, a woman may breast feed in any public or private location where she is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

(c) Notwithstanding any other provision of law, a local government may regulate the location and operation of sexually oriented businesses. Such local regulation may restrict or prohibit nude, seminude, or topless dancing to the extent consistent with the constitutional protection afforded free speech. (1971, c. 591, s. 1; 1993, c. 301, s. 1; c. 539, s. 124; 1994, Ex. Sess., c. 24, s. 14(c); 1998-46, s. 3; 2005-226, s. 1; 2015-250, ss. 2, 2.1, 2.3.)

§§ 14-190.10 through 14-190.12. Repealed by Session Laws 1985, c. 703, s. 9.

§ 14-190.13. Definitions for certain offenses concerning minors.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; 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.

(1) Harmful to Minors. – That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
c. The material or performance lacks serious literary, artistic, political, or scientific value for minors.

(2) Material. – Pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.

(3) Minor. – An individual who is less than 18 years old and is not married or judicially emancipated.

(4) Prostitution. – Engaging or offering to engage in sexual activity with or for another in exchange for anything of value.

(5) Sexual Activity. – Any of the following acts:
a. Masturbation, whether done alone or with another human or an animal.
b. Vaginal, anal, or oral intercourse, whether done with another human or with an animal.
c. Touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female.
d. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.
e. Excretory functions; provided, however, that this sub-subdivision shall not apply to G.S. 14-190.17A.
f. The insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.
g. The lascivious exhibition of the genitals or pubic area of any person.

(6) Sexually Explicit Nudity. – The showing of:
a. Uncovered, or less than opaquely covered, human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast, except as provided in G.S. 14-190.9(b); or

b. Covered human male genitals in a discernibly turgid state. (1985, c. 703, s. 9; 1989 (Reg. Sess., 1990), c. 1022, s. 2; 1993, c. 301, s. 2; 2008-218, s. 1; 2013-368, s. 18.)

§ 14-190.14. Displaying material harmful to minors.

(a) Offense. – A person commits the offense of displaying material that is harmful to minors if, having custody, control, or supervision of a commercial establishment and knowing the character or content of the material, he displays material that is harmful to minors at that establishment so that it is open to view by minors as part of the invited general public. Material is not considered displayed under this section if the material is placed behind "blinder racks" that cover the lower two thirds of the material, is wrapped, is placed behind the counter, or is otherwise covered or located so that the portion that is harmful to minors is not open to the view of minors.

(b) Punishment. – Violation of this section is a Class 2 misdemeanor. Each day's violation of this section is a separate offense. (1985, c. 703, s. 9; 1993, c. 539, s. 125; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.15. Disseminating harmful material to minors; exhibiting harmful performances to minors.

(a) Disseminating Harmful Material. – A person commits the offense of disseminating harmful material to minors if, with or without consideration and knowing the character or content of the material, he:

(1) Sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or

(2) Allows a minor to review or peruse material that is harmful to minors.

(b) Exhibiting Harmful Performance. – A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance that is harmful to minors.

(c) Defenses. – Except as provided in subdivision (3), a mistake of age is not a defense to a prosecution under this section. It is an affirmative defense to a prosecution under this section that:

(1) The defendant was a parent or legal guardian of the minor.

(2) The defendant was a school, church, museum, public library, governmental agency, medical clinic, or hospital carrying out its legitimate function; or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.

(3) Before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least 18 years old, and the defendant reasonably believed the minor was at least 18 years old.

(4) The dissemination was made with the prior consent of a parent or guardian of the recipient.

(d) Punishment. – Violation of this section is a Class 1 misdemeanor. (1985, c. 703, s. 9; 1993, c. 539, s. 126; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-190.16. First degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) Uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(2) Permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(3) Transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(4) Records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. – Violation of this section is a Class C felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1196; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 507, s. 19.5(o); 2008-117, s. 3; 2008-218, s. 2.)

§ 14-190.17. Second degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) Records, photographs, films, develops, or duplicates material that contains a visual representation of a minor engaged in sexual activity; or

(2) Distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. – Violation of this section is a Class E felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1197; 1994, Ex. Sess., c. 24, s. 14(c); 2008-117, s. 4; 2008-218, s. 3.)

§ 14-190.17A. Third degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

(d) Punishment and Sentencing. – Violation of this section is a Class H felony. (1989 (Reg. Sess., 1990), c. 1022, s. 1; 1993, c. 539, s. 1198; 1994, Ex. Sess., c. 24, s. 14(c); 2008-117, s. 5; 2008-218, s. 4.)

§ 14-190.18: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-190.19: Repealed by Session Laws 2013-368, s. 4, effective October 1, 2013, and applicable to offenses committed on or after that date.

§ 14-190.20. Warrants for obscenity offenses.

A search warrant or criminal process for a violation of G.S. 14-190.1 through 14-190.5 may be issued only upon the request of a prosecutor. (1985, c. 703, s. 9.1.)

§ 14-191. Repealed by Session Laws 1971, c. 591, s. 4.

§§ 14-192 through 14-193. Repealed by Session Laws 1971, c. 405, s. 4.

§ 14-194. Repealed by Session Laws 1971, c. 591, s. 4.

§ 14-195: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(11).

§ 14-196. Using profane, indecent or threatening language to any person over telephone; annoying or harassing by repeated telephoning or making false statements over telephone.

(a) It shall be unlawful for any person:

(1) To use in telephonic communications any words or language of a profane, vulgar, lewd, lascivious or indecent character, nature or connotation;

(2) To use in telephonic communications any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person;

(3) To telephone another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing or embarrassing any person at the called number;

(4) To make a telephone call and fail to hang up or disengage the connection with the intent to disrupt the service of another;

(5) To telephone another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct or criminal conduct of the person telephoned or of any member of his family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass;

(6) To knowingly permit any telephone under his control to be used for any purpose prohibited by this section.

(b) Any of the above offenses may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received. For purposes of this section, the term "telephonic communications" shall include communications made or received by way of a telephone answering machine or recorder, telefacsimile machine, or computer modem.

(c) Anyone violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1913, c. 35; 1915, c. 41; C.S., s. 4351; 1967, c. 833, s. 1; 1989, c. 305; 1993, c. 539, s. 128; 1994, Ex. Sess., c. 24, s. 14(c); 1999-262, s. 1; 2000-125, s. 2.)

§§ 14-196.1 through 14-196.2. Repealed by Session Laws 1967, c. 833, s. 3.

§ 14-196.3. Cyberstalking.

(a) The following definitions apply in this section:

(1) Electronic communication. – Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) Electronic mail. – The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(3) Electronic tracking device. – An electronic or mechanical device that permits a person to remotely determine or track the position and movement of another person.

(4) Fleet vehicle. – Any of the following: (i) one or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the general public, or (iii) motor vehicles held for sale, or used as demonstrators, test vehicles, or loaner vehicles, by motor vehicle dealers.

(b) It is unlawful for a person to:

(1) Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

(2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person.

(3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness,

disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.

(4) Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section.

(5) Knowingly install, place, or use an electronic tracking device without consent, or cause an electronic tracking device to be installed, placed, or used without consent, to track the location of any person. The provisions of this subdivision do not apply to the installation, placement, or use of an electronic tracking device by any of the following:

a. A law enforcement officer, judicial officer, probation or parole officer, or employee of the Division of Corrections, Department of Public Safety, when any such person is engaged in the lawful performance of official duties and in accordance with State or federal law.

b. The owner or lessee of any vehicle on which the owner or lessee installs, places, or uses an electronic tracking device, unless the owner or lessee is subject to (i) a domestic violence protective order under Chapter 50B of the General Statutes or (ii) any court order that orders the owner or lessee not to assault, threaten, harass, follow, or contact a driver or occupant of the vehicle.

c. A legal guardian for a disabled adult, as defined in G.S. 108A-101(d), or a legally authorized individual or organization designated to provide protective services to a disabled adult pursuant to G.S. 108A-105(c), when the electronic tracking device is installed, placed, or used to track the location of the disabled adult for which the person is a legal guardian or the individual or organization is designated to provide protective services.

d. The owner of fleet vehicles, when tracking such vehicles.

e. A creditor or other secured party under a retail installment agreement involving the sale of a motor vehicle or the lessor under a retail lease of a motor vehicle, and any assignee or successor in interest to that creditor, secured party, or lessor, when tracking a motor vehicle identified as security under the retail installment sales agreement or leased pursuant to a retail lease agreement, including the installation, placement, or use of an electronic tracking device to locate and remotely disable the motor vehicle, with the express written consent of the purchaser, borrower, or lessee of the motor vehicle.

f. The installation, placement, or use of an electronic tracking device authorized by an order of a State or federal court.

g. A motor vehicle manufacturer, its subsidiary, or its affiliate that installs or uses an electronic tracking device in conjunction with providing a vehicle subscription telematics service, provided that the customer subscribes or consents to that service.

h. A parent or legal guardian of a minor when the electronic tracking device is installed, placed, or used to track the location of that minor unless the parent or legal guardian is subject to a domestic violence protective order under Chapter 50B of the General Statutes or any court order that orders the parent or legal guardian not to assault, threaten, harass, follow, or contact that minor or that minor's parent, legal guardian, custodian, or caretaker as defined in G.S. 7B-101.

i. An employer, when providing a communication device to an employee or contractor for use in connection with his or her work for the employer.

j. A business, if the tracking is incident to the provision of a product or service requested by the person, except as limited in sub-subdivision k. of this subdivision.

k. A private detective or private investigator licensed under Chapter 74C of the General Statutes, provided that (i) the tracking is pursuant to authority under G.S. 74C-3(a)(8), (ii) the tracking is not otherwise contrary to law, and (iii) the person being tracked is not under the protection of a domestic violence protective order under Chapter 50B of the General Statutes or any other court order that protects against assault, threat, harassment, following, or contact.

(c) Any offense under this section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received in this State, or first viewed by any person in this State.

(d) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(e) This section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly. (2000-125, s. 1; 2000-140, s. 91; 2015-282, s. 1.)

§ 14-197: Repealed by Session Laws 2015-286, s. 1.1(1), effective October 22, 2015.

§ 14-198. Repealed by Session Laws 1975, c. 402.

§ 14-199. Obstructing way to places of public worship.

If any person shall maliciously stop up or obstruct the way leading to any place of public worship, or to any spring or well commonly used by the congregation, he shall be guilty of a Class 2 misdemeanor. (1785, c. 241, P.R.; R.C., c. 97, s. 5; Code, s. 3669; Rev., s. 3776; C.S., s. 4354; 1945, c. 635; 1969, c. 1224, s. 1; 1993, c. 539, s. 130; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 14-200 through 14-201: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(9), (10).

§ 14-202. Secretly peeping into room occupied by another person.

(a) Any person who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor.

(a1) Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section:

(1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.

(2) The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing room.

(c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.

(d) Unless covered by another provision of law providing greater punishment, any person who, while secretly peeping into any room, uses any device to create a photographic image of another person in that room for the purpose of arousing or gratifying the sexual desire of any person shall be guilty of a Class I felony.

(e) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class I felony.

(f) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously uses or installs in a room any device that can be used to create a photographic image with the intent to capture the image of another without their consent shall be guilty of a Class I felony.

(g) Any person who knowingly possesses a photographic image that the person knows, or has reason to believe, was obtained in violation of this section shall be guilty of a Class I felony.

(h) Any person who disseminates or allows to be disseminated images that the person knows, or should have known, were obtained as a result of the violation of this section shall be guilty of a Class H felony if the dissemination is without the consent of the person in the photographic image.

(i) A second or subsequent felony conviction under this section shall be punished as though convicted of an offense one class higher. A second or subsequent conviction for a Class 1 misdemeanor shall be punished as a Class A1 misdemeanor. A second or subsequent conviction for a Class A1 misdemeanor shall be punished as a Class I felony.

(j) If the defendant is placed on probation as a result of violation of this section:

(1) For a first conviction under this section, the judge may impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.

(2) For a second or subsequent conviction under this section, the judge shall impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.

(k) Any person whose image is captured or disseminated in violation of this section has a civil cause of action against any person who captured or disseminated the image or procured any other person to capture or disseminate the image and is entitled to recover from those persons actual damages, punitive damages, reasonable attorneys' fees and other litigation costs reasonably incurred.

(*l*) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register.

(m) The provisions of subsections (a), (a1), (c), (e), (g), (h), and (k) of this section do not apply to:

(1) Law enforcement officers while discharging or attempting to discharge their official duties; or

(2) Personnel of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or of a local confinement facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Division or the local confinement facility.

(n) This section does not affect the legal activities of those who are licensed pursuant to Chapter 74C, Private Protective Services, or Chapter 74D, Alarm Systems, of the General Statutes, who are legally engaged in the discharge of their official duties within their respective professions, and who are not engaging in activities for an improper purpose as described in this section. (1923, c. 78; C.S., s. 4356(a); 1957, c. 338; 1993, c. 539, s. 131; 1994, Ex. Sess., c. 24, s. 14(c); 2003-303, s. 1; 2004-109, s. 7; 2011-145, s. 19.1(h); 2012-83, s. 1; 2017-186, s. 2(p).)

§ 14-202.1. Taking indecent liberties with children.

(a) A person is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years older than the child in question, he either:

(1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex under the age of 16 years for the purpose of arousing or gratifying sexual desire; or

(2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex under the age of 16 years.

(b) Taking indecent liberties with children is punishable as a Class F felony. (1955, c. 764; 1975, c. 779; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1201; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-202.2. Indecent liberties between children.

(a) A person who is under the age of 16 years is guilty of taking indecent liberties with children if the person either:

(1) Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratifying sexual desire; or

(2) Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratifying sexual desire.

(b) A violation of this section is punishable as a Class 1 misdemeanor. (1995, c. 494, s. 1; 1995 (Reg. Sess., 1996), c. 742, s. 12.)

§ 14-202.3. Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act.

(a) Offense. – A person is guilty of solicitation of a child by a computer if the person is 16 years of age or older and the person knowingly, with the intent to commit an unlawful sex act, entices, advises, coerces, orders, or commands, by means of a computer or any other device capable of electronic data storage or transmission, a child who is less than 16 years of age and at least five years younger than the defendant, or a person the defendant believes to be a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person for the purpose of committing an unlawful sex act. Consent is not a defense to a charge under this section.

(b) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(c) Punishment. – A violation of this section is punishable as follows:

(1) A violation is a Class H felony except as provided by subdivision (2) of this subsection.

(2) If either the defendant, or any other person for whom the defendant was arranging the meeting in violation of this section, actually appears at the meeting location, then the violation is a Class G felony. (1995 (Reg. Sess., 1996), c. 632, s. 1; 2005-121, s. 1; 2008-218, s. 5; 2009-336, s. 1.)

§ 14-202.4. Taking indecent liberties with a student.

(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 is at least four years older than the victim, takes indecent liberties 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 I felony, unless the conduct is covered under some other provision of law providing for greater punishment. A person is not guilty of taking indecent liberties with a student if the person is lawfully married to the student.

(b) If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and who is less than four years older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the defendant is guilty of a Class I felony.

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

(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. 14-27.20.

(1a) "Same school" means a school at which (i) the student is enrolled or is present for a school-sponsored or school-related activity and (ii) the school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.

(2) "School" means any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.

(3) "School personnel" means any person included in the definition contained in G.S. 115C-332(a)(2), including those employed by a nonpublic, charter, or regional school, and any person who volunteers at a school or a school-sponsored activity.

(3a) "School safety officer" means any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools and includes a school resource officer.

(4) "Student" means a person enrolled in kindergarten, or in grade one through grade 12 in any school. (1999-300, s. 1; 2003-98, s. 2; 2004-203, s. 19(a); 2015-44, s. 3; 2015-181, s. 16.)

§ 14-202.5. Ban online conduct by high-risk sex offenders that endangers children.

(a) Offense. – It is unlawful for a high-risk sex offender to do any of the following online:

(1) To communicate with a person that the offender believes is under 16 years of age.
(2) To contact a person that the offender believes is under 16 years of age.
(3) To pose falsely as a person under 16 years of age with the intent to commit an unlawful sex act with a person the offender believes is under 16 years of age.
(4) To use a Web site to gather information about a person that the offender believes is under 16 years of age.
(5) To use a commercial social networking Web site in violation of a policy, posted in a manner reasonably likely to come to the attention of users, prohibiting convicted sex offenders from using the site.

(b) Definition of Commercial Social Networking Web Site. – For the purposes of this section, a "commercial social networking Web site" includes any Web site, application, portal, or other means of accessing the Internet that meets all of the following requirements:

(1) Is operated by a person who derives revenue from membership fees, advertising, or other sources related to the operation of the Web site.
(2) Repealed by Session Laws 2019-245, s. 3(a), effective December 1, 2019, and applicable to offenses committed on or after that date.
(3) Allows users to create personal Web pages or profiles that contain the user's name or nickname, photographs of the user, and other personal information.
(4) Provides users or visitors a mechanism to communicate with others, such as a message board, chat room, or instant messenger.

(c) Exclusions from Commercial Social Networking Web Site Definition. – A commercial social networking Web site does not include a Web site that meets either of the following requirements:

(1) Repealed by Session Laws 2019-245, s. 3(a), effective December 1, 2019, and applicable to offenses committed on or after that date.
(2) Has as its primary purpose the facilitation of commercial transactions, the dissemination of news, the discussion of political or social issues, or professional networking.
(3) Is a Web site owned or operated by a local, State, or federal governmental entity.

(c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter 14 of the General Statutes that meets any of the following requirements:

(1) Was convicted of an aggravated offense, as that term is defined in G.S. 14-208.6, against a person under 18 years of age.
(2) Is a recidivist, as that term is defined in G.S. 14-208.6, and one offense is against a person under 18 years of age.
(3) Was convicted of an offense against a minor, as that term is defined in G.S. 14-208.6.

(4) Was convicted of a sexually violent offense, as that term is defined in G.S. 14-208.6, against a person under 18 years of age.

(5) Was found by a court to be a sexually violent predator, as that term is defined in G.S. 14-208.6, based on a conviction of a sexually violent offense committed against a minor.

(d) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(e) Punishment. – A violation of this section is a Class H felony.

(f) Severability. – If any provision of this section or its application is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provisions or applications, and, to this end, the provisions of this section are severable. (2008-218, s. 6; 2009-570, s. 4; 2019-245, s. 3(a).)

§ 14-202.5A. Liability of commercial social networking sites.

(a) A commercial social networking site, as defined in G.S. 14-202.5, that complies with G.S. 14-208.15A or makes other reasonable efforts to prevent a high-risk sex offender, as defined in G.S. 14-202.5, from using its Web site to endanger children shall not be held civilly liable for damages arising out of the sex offender's communications on the social networking site's system or network.

(b) Repealed by Session Laws 2019-245, s. 3(b), effective December 1, 2019, and applicable to offenses committed on or after that date. (2008-218, s. 7; 2009-272, s. 1; 2019-245, s. 3(b).)

§ 14-202.6. Ban on name changes by sex offenders.

It is unlawful for a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to obtain a change of name under Chapter 101 of the General Statutes. (2008-218, s. 8.)

§ 14-202.7. Reserved for future codification purposes.

§ 14-202.8. Reserved for future codification purposes.

§ 14-202.9. Reserved for future codification purposes.