

April 10, 2003

H 1139. PROTECT RAPE VICTIMS/UNFAVORABLE PLEA BARGAIN. *TO PROVIDE THAT A DEFENDANT WHO COMMITS A SEX OFFENSE THAT RESULTS IN THE VICTIM BECOMING PREGNANT SHALL NOT EXPLOIT HIS PARENTAL RIGHTS TO INTIMIDATE THE CRIME VICTIM OR NEGOTIATE A MORE FAVORABLE PLEA ARRANGEMENT.* Makes it a Class H felony for a defendant who commits a sex offense that results in the victim becoming pregnant to negotiate or attempt to negotiate a more favorable plea arrangement by threatening to exploit the defendant's parental rights regarding adoption, visitation, custody, care, or welfare of the child. Requires judicial approval for plea arrangements for sex offenses that resulted in the victim becoming pregnant. Prohibits parties from including any consideration of parental rights as part of the negotiations or substance of a plea arrangement without the prior permission of the court. Effective Dec. 1, 2003.

Intro. by Ellis.

Ref. to Judiciary II	GS 14, 15A
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April 30, 2003

H 1139. JUDICIAL APPROVAL FOR PLEAS IN CERTAIN CASES (NEW). Intro. 4/10/03. House committee substitute makes the following changes to 1st edition. Changes title. Deletes proposed new GS 14-226.2 (intimidation of crime victim). Deletes proposed new GS 15A-1021(b1). Deletes subsection (b) of proposed new GS 15A-1013, but retains subsection (a).

July 6, 2004

H 1139. RAPIST PARENTAL RIGHTS/OPEN CRIM. DISCOVERY (NEW). Intro. 4/10/2003. Senate committee substitute adopted July 1, 2004 makes the following changes to 2nd edition. Deletes new GS 15A-1013 pertaining to judicial approval for certain pleas. Amends GS 14-27.2 (first-degree rape), GS 14-27.3 (second-degree rape), and GS 14-27.7A (statutory rape or sexual offense of a person who is 13, 14, or 15 years old) by adding new subsections providing that upon conviction, a defendant has no right to custody of or inheritance from any child born as a result of the act, nor shall the defendant have any rights related to the child under GS Ch. 48 or GS Ch. 7B, Subchapter 1. Notwithstanding the above, a defendant who comes within the provisions of GS 48-3-601(2)a or -601(2)b.1 shall be entitled to petition for adoption of the child under GS Ch. 48. Amends GS 14-27.7A to provide that a defendant who is the child's biological father shall be entitled to petition for adoption. Amends GS 14-226 (intimidating or interfering with witnesses), making it a crime for a defendant in a criminal proceeding to threaten a witness in the defendant's case with the assertion or denial of parental rights. Amends GS 15A-902 (discovery procedure) to provide that a written discovery request is not required if the parties agree in writing to voluntarily comply with the provisions in GS Ch. 15A, Art. 48. Completely rewrites GS 15A-903 to provide that on the defendant's motion, the court must order the state to (1) make available the complete files of all law enforcement and prosecutorial agencies involved in the investigation and prosecution, (2) give notice of any expert witnesses that the state reasonably expects to call at trial and provide certain materials regarding these experts, and (3) give the defendant, at the beginning of jury selection, a written list of the names of all other witnesses whom the state reasonably expects to call, unless an exception applies. If the state voluntarily provides disclosure under GS 15A-902(a), the disclosure shall be to the same extent as required above. Amends GS 15A-904, delineating material that the state is not required to disclose. Adds a new GS 15A-905(c), providing that if the court grants any relief sought by the defendant under GS 15A-903 or if disclosure is voluntarily made by the state pursuant to GS 15A-902(a), the court must, on motion of the state, order the defendant to give notice of certain defenses, experts, and witnesses. Provides that if the defendant voluntarily provides discovery under GS 15A-902(a), the disclosure shall be the same as required by new GS 15A-903(c). Amends GS 15A-908, to allow parties to apply for *ex parte* protective orders, with notice if the order is granted. Amends GS 15A-910, providing that before allowing sanctions, the court must consider the materiality of the subject matter and the totality of the circumstances pertaining to the alleged failure to comply. Amends GS 15A-959 pertaining to the defendant's notice of intent to raise the insanity defense. Adds a

new GS 15A-501(6), providing that arresting officers must make available to the state on a timely basis all materials and information acquired in the course of all felony investigations and that this responsibility is continuing. Makes and technical conforming changes. Sections pertaining to sexual assaults and intimidating witnesses are effective December 1, 2004 and apply to offenses committed on or after that date. Remaining sections become effective October 1, 2004 and apply to cases set for trial pursuant to GS 7A-49.4 on or after that date.

H 1139. RAPIST PARENTAL RIGHTS/OPEN CRIM. DISCOVERY. Intro. 4/10/2003. Senate amendment makes the following changes to 3rd edition. Makes clarifying changes to the time for the defendant's notice of defenses, as provided in new GS 15A-905(c).