

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1039
Judiciary I Committee Substitute Adopted 5/31/05
Appropriations/Base Budget Committee Substitute Adopted 7/27/05

Short Title: Increase Rape Penalties/Helpless Victims.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO STRENGTHEN PENALTIES FOR COMMITTING SECOND-DEGREE
3 RAPE OR SECOND-DEGREE SEXUAL OFFENSE AND TO MAKE
4 FIRST-DEGREE RAPE AND FIRST-DEGREE SEX OFFENSES APPLICABLE
5 WHERE THE VICTIM IS MENTALLY DISABLED, MENTALLY
6 INCAPACITATED, OR PHYSICALLY HELPLESS.

7 The General Assembly of North Carolina enacts:

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

9 "**§ 14-27.3. Second-degree rape.**

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

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

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

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

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

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

24 "**§ 14-27.5. Second-degree sexual offense.**

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

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

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

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

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

8 "**§ 14-27.2. First-degree rape.**

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

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

14 (2) With another person by force and against the will of the other person,
15 ~~and~~or with another person who is mentally disabled, mentally
16 incapacitated, or physically helpless, and the person performing the act
17 knows or should reasonably know the other person is mentally
18 disabled, mentally incapacitated, or physically helpless, and:

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

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

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

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

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

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

33 "**§ 14-27.4. First-degree sexual offense.**

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

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

39 (2) With another person by force and against the will of the other person,
40 ~~and~~or with another person who is mentally disabled, mentally
41 incapacitated, or physically helpless, and the person performing the act
42 knows or should reasonably know the other person is mentally
43 disabled, mentally incapacitated, or physically helpless, and:

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

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

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