

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15091-LH-77A (2/4)

Short Title: Amend Second Degree Rape & Sexual Offense.

(Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CRIMINAL OFFENSES OF SECOND DEGREE RAPE AND SECOND DEGREE SEXUAL OFFENSE TO MAKE IT UNLAWFUL FOR A PERSON IN A POSITION OF AUTHORITY TO ENGAGE IN A SEX OFFENSE WITH A VICTIM WHO IS UNDULY INFLUENCED BY THE PERSON IN A POSITION OF AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-27.1 is amended by adding a new subdivision to read:

"(3a) Position of authority. – That position occupied by a parent, guardian, relative, household member, teacher, employer, custodian, or any other person who, by reason of his or her position, is able to exercise significant influence over a person."

SECTION 2. G.S. 14-27.3 reads as rewritten:

"§ 14-27.3. **Second-degree rape.**

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

- (1) By force and against the will of the other person; or
- (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically ~~helpless~~; or
- (3) Over whom the offending person is in a position of authority and the offending person uses this position of authority to influence the other person to submit to the act.

(b) Any person who commits the offense defined in this section is guilty of a Class C ~~felony~~-felony, unless the conduct is covered under some other provision of law providing greater punishment.

(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.

(d) Consent is not a defense to a charge under subdivision (3) of subsection (a) of this section."

SECTION 3. G.S. 14-27.5 reads as rewritten:

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



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

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

4 (2) Who is mentally disabled, mentally incapacitated, or physically helpless, and
5 the person performing the act knows or should reasonably know that the
6 other person is mentally disabled, mentally incapacitated, or physically
7 ~~helpless~~helpless; or

8 (3) Over whom the offending person is in a position of authority and the
9 offending person uses this position of authority to influence the other person
10 to submit to the act.

11 (b) Any person who commits the offense defined in this section is guilty of a Class C
12 ~~felony~~felony, unless the conduct is covered under some other provision of law providing
13 greater punishment.

14 (c) Consent is not a defense to a charge under subdivision (3) of subsection (a) of this
15 section."

16 **SECTION 4.** This act becomes effective December 1, 2009, and applies to
17 offenses committed on or after that date.