

# Sex Crimes: Definitions and Penalties

## North Carolina

*Last Updated: March 2020*

### First Degree Forcible Rape

Question	Answer
How is it defined?	<p>Engaging in vaginal intercourse with another person by force and against the will of the other person, and:</p> <ul style="list-style-type: none"> <li>• Uses, threatens to use or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or</li> <li>• Inflicts serious personal injury upon the victim or another person; or</li> <li>• Commits the offense aided and abetted by one or more other persons.</li> </ul> <p>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.</p>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 144 months to life without parole.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• It is not necessary upon the trial of any indictment for an offense where the sex act alleged is vaginal intercourse or anal intercourse to prove the actual emission of semen in order to constitute the offense; but the offense shall be completed upon proof of penetration only. Penetration, however slight, is <b>vaginal intercourse</b> or <b>anal intercourse</b>.</li> <li>• Any person who commits an offense defined in this section is guilty of a Class B1 felony.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.21; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 14-27.36 (evidence required); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

### Second Degree Forcible Rape

Question	Answer
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How is it defined?	<p>Engaging in vaginal intercourse with another person:</p> <ul style="list-style-type: none"> <li>• By force and against the will of the other person; or</li> <li>• 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.</li> </ul> <p>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.</p>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 44 months to 182 months.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See concept of “<b>vaginal intercourse</b>” in First Degree Forcible Rape.</li> <li>• “<b>Mentally disabled</b>” means a victim who has an intellectual disability or a mental disorder that temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.</li> <li>• “<b>Mentally incapacitated</b>” means a victim who due to (i) any act committed upon the victim or (ii) a poisonous or controlled substance provided to the victim without the knowledge or consent of the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.</li> <li>• “<b>Physically helpless</b>” means (i) a victim who is unconscious; or (ii) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.</li> <li>• Any person who commits Second Degree Forcible Rape is guilty of a Class C felony.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.22; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## Statutory Rape of a Child by an Adult

Question	Answer
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How is it defined?	<ul style="list-style-type: none"> <li>• When a 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.</li> <li>• 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 300 months to life without parole; provided, however, that in no case shall the person receive an active punishment of less than 300 months.</li> <li>• Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See concepts of “<b>vaginal intercourse</b>” and “<b>anal intercourse</b>” in First Degree Forcible Rape.</li> <li>• In order to impose lifetime satellite-based monitoring, the State must present evidence that monitoring is “effective to protect the public from sex offenders.” <i>State of North Carolina v. Jesse James Tucker</i>, 832 S.E.2d 258 (N.C. 2019)</li> <li>• A person committing this crime is guilty of a class B1 felony; First Degree Statutory Rape is a lesser included offense.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.23; see also <i>id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## First Degree Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• When a 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.</li> <li>• 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 144 months to life without parole.</li> <li>• Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See concepts of “<b>vaginal intercourse</b>” and “<b>anal intercourse</b>” in First Degree Forcible Rape.</li> <li>• Any person who commits this crime is guilty of a Class B1 felony.</li> </ul>

Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.24; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>
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## Statutory Rape of a Person Who Is 15 Years of Age or Younger

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• A person is guilty of a Class B1 felony if the defendant engages in vaginal intercourse 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.</li> <li>• 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 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for the Class B1 felony version of this crime ranges from 144 months to life without parole; the penalty for the Class C felony version of this crime is 44 to 182 months in prison.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See concepts of “<b>vaginal intercourse</b>” and “<b>anal intercourse</b>” in First Degree Forcible Rape.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.25; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## First-Degree Forcible Sexual Offense

Question	Answer
How is it defined?	<p>Engaging in a sexual act with another person by force and against the will of the other person, and does any one of the following:</p> <ul style="list-style-type: none"> <li>• Uses, threatens to use or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or</li> <li>• Inflicts serious personal injury upon the victim or another person; or</li> </ul>

	<ul style="list-style-type: none"> <li>• The person commits the offense aided and abetted by one or more other persons.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 144 months to life without parole.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• “<b>Sexual act</b>” means cunnilingus, fellatio, anilingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.</li> <li>• A person who is guilty of First Degree Forcible Sexual Offense is guilty of a Class B1 felony.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.26; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## Second-Degree Forcible Sexual Offense

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in a sexual act with another person: <ul style="list-style-type: none"> <li>• By force and against the will of the other person; or</li> <li>• 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.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 44 months to 182 months.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See definition of “<b>sexual act</b>” under 1<sup>st</sup> Degree Forcible Sexual Offense.</li> <li>• See definitions of “<b>mentally disabled</b>,” “<b>mentally incapacitated</b>,” and “<b>physically helpless</b>” in Second Degree Forcible Rape.</li> <li>• Any person who commits Second-Degree Forcible Sexual Offense is guilty of a Class C felony.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.27; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## Statutory Sexual Offense with a Child by an Adult

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• When a person of at least 18 years of age engages in a sexual act with a victim who is a child under the age of 13 years.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 300 months to life without parole; provided, however, that in no case shall the person receive an active punishment of less than 300 months.</li> </ul> <p>Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life.</p>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See definition of “<b>sexual act</b>” under 1<sup>st</sup> Degree Forcible Sexual Offense.</li> <li>• First Degree Statutory Sexual Offense is a lesser included offense.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.28; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## First-Degree Statutory Sexual Offense

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• When a 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 144 months to life without parole.</li> </ul> <p>Following the termination of active punishment, the person shall be enrolled in satellite-based monitoring for life.</p>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See definition of “<b>sexual act</b>” under 1<sup>st</sup> Degree Forcible Sexual Offense.</li> </ul> <p>Any person who commits First-degree Statutory Sexual Offense is guilty of a Class B1 felony.</p>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.29; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## Statutory Sexual Offense with a Person Who Is 15 or Younger

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• (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.</li> <li>• (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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for the Class B1 felony version of this crime ranges from 144 months to life without parole; the penalty for the Class C felony version of this crime is 44 to 182 months in prison.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See definition of “<b>sexual act</b>” under 1<sup>st</sup> Degree Forcible Sexual Offense.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.30; see also <i>id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## Sexual Battery

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• If, for the purpose of sexual arousal, sexual gratification, or sexual abuse, a person engages in sexual contact with another person: <ul style="list-style-type: none"> <li>• By force and against the will of the other person; or</li> <li>• 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.</li> </ul> </li> </ul>

What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 1 day to 150 days in prison and a fine, at the discretion of the court.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See definition of “<b>mentally disabled</b>,” “<b>mentally incapacitated</b>,” or “<b>physically helpless</b>” under Rape – 2<sup>nd</sup> Degree.</li> <li>• “<b>Sexual contact</b>” means (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.</li> <li>• “<b>Touching</b>” as used in “sexual contact” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.</li> <li>• Any person who commits Sexual Battery is guilty of a Class A1 misdemeanor.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.33; see also <i>id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.23 (punishment).</li> </ul>

## Sexual Activity by a Substitute Parent of Custodian

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• If a person 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.</li> <li>• 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 15 months to 63 months.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See definition of “<b>sexual act</b>” under 1<sup>st</sup> Degree Forcible Sexual Offense.</li> <li>• See concept of “<b>vaginal intercourse</b>” under First Degree Forcible Rape.</li> <li>• Sexual Activity by a Substitute Parent or Custodian is a Class E felony.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.31; see also <i>id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>



## Sexual Activity with a Student

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• When a person 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.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 3 months to 12 months.</li> <li>• 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 I felony.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• <b>“School”</b> means any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.</li> <li>• <b>“School personnel”</b> 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.</li> <li>• <b>“Same school”</b> means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers.</li> <li>• <b>“Student”</b> means a person enrolled in kindergarten, or in grade one through grade 12 in any school.</li> <li>• <b>“School safety officer”</b> 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 school.</li> <li>• See definition of <b>“sexual act”</b> under 1<sup>st</sup> Degree Forcible Sexual Offense.</li> <li>• See concept of <b>“vaginal intercourse”</b> under First Degree Forcible Rape.</li> <li>• If the conduct is covered under another provision of law providing for greater punishment, that other provision applies.</li> <li>• Consent is not a defense.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 14-27.32; <i>see also id.</i> § 14-27.20 (definitions); <i>id.</i> § 15A-1340.17 (punishment).</li> </ul>

## Crime Against Nature (Sodomy)

Question	Answer
How is it defined?	<ul style="list-style-type: none"><li>• The crime against nature, with mankind or beast.</li><li>• Note: Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>.</li></ul>
What are punishments for this crime?	<ul style="list-style-type: none"><li>• The length of the sentence in North Carolina is based on prior criminal history. The penalty for this crime ranges from 3 months to 12 months.</li></ul>
Anything else I should know?	<ul style="list-style-type: none"><li>• A violation of a crime against nature is a Class I felony.</li><li>• Law was found unconstitutional as applied by <i>State v. Whitely</i>, 616 S.E.2d 576 (N.C.App. Aug. 16, 2005) and recognized as unconstitutional by <i>State v. Gentle</i>, 817 S.E.2d 833 (N.C.App. July 03, 2018).</li></ul>
Statutory citation(s):	<ul style="list-style-type: none"><li>• N.C. Gen. Stat. Ann. § 14-177.</li></ul>