

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

1

HOUSE BILL 1276

Short Title: Close Incest Loophole to Protect Minors.

(Public)

Sponsors: Representative Nesbitt.

Referred to: Judiciary I.

April 12, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO CLOSE THE LEGAL LOOPHOLE THAT EXISTS UNDER THE
3 STATE'S INCEST LAWS AND TO EQUALIZE PUNISHMENTS FOR CRIMES
4 COMMITTED AGAINST CHILDREN WITHOUT REGARD TO FAMILIAL
5 STATUS.

6 Whereas, despite the progress made in modernizing laws to protect children
7 in North Carolina, a little-known loophole exists in the General Statutes of North
8 Carolina that has very troubling consequences for some abused children; and

9 Whereas, this loophole allows far lesser penalties for perpetrators convicted
10 of sexually assaulting their own children than for those who rape or molest other
11 children; and

12 Whereas, this unintended disparity is the result of archaic incest laws that
13 date to 1879, statutes that were originally intended to limit intermarriage among family
14 members but now hamper modern efforts to fight sexual abuse of children.; and

15 Whereas, this double standard, that essentially rewards perpetrators for the
16 most unthinkable betrayal of a child's trust, does not reflect the values and goals of the
17 citizens of North Carolina; and

18 Whereas, criminals who sexually assault children should be prosecuted
19 without regard to familial relationship; Now, therefore,
20 The General Assembly of North Carolina enacts:

21 **SECTION 1.** G.S. 14-178 reads as rewritten:

22 **"§ 14-178. Incest between certain near relatives.**

23 (a) The parties shall be guilty of a felony in all cases of carnal intercourse
24 between (i) grandparent and grandchild, (ii) parent and child or stepchild or legally
25 adopted child, or (iii) brother and sister of the half or whole blood.

26 (b) Every such offense is punishable as a Class F felony.

27 (c) This section applies only if the parties are 18 years old or older. This section
28 does not apply if one of the parties is a minor. Conduct covered under this section, and

1 committed against a minor is unlawful and shall be prosecuted as provided under other
2 provisions of applicable law."

3 **SECTION 2.** G.S. 14-179 reads as rewritten:

4 "**§ 14-179. Incest between uncle and niece and nephew and aunt.**

5 (a) In all cases of carnal intercourse between uncle and niece, and nephew and
6 aunt, the parties shall be guilty of a Class 1 misdemeanor.

7 (b) This section applies only if the parties are 18 years old or older. This section
8 does not apply if one of the parties is a minor. Conduct covered under this section, and
9 committed against a minor is unlawful and shall be prosecuted as provided under other
10 provisions of applicable law."

11 **SECTION 3.** This act becomes effective December 1, 2001, and applies to
12 offenses committed on or after that date.