

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-127
SENATE BILL 579

AN ACT TO INCREASE THE PUNISHMENT FOR DISSEMINATING OBSCENITY, TO CLARIFY RESTITUTION FOR SEXUAL EXPLOITATION OF A MINOR, AND TO MODIFY CERTAIN OFFENSES RELATED TO PUBLIC MORALITY AND DECENCY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-190.1(g) reads as rewritten:

"(g) ~~Violation~~ Except as otherwise provided in this subsection, a violation of this section is a Class I felony. A violation of this section committed knowingly in the presence of an individual under 18 years of age is a Class H felony."

SECTION 1.(b) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

SECTION 2.(a) Article 26 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-190.17B. Restitution for sexual exploitation of a minor.

(a) In addition to any other civil or criminal penalty authorized by law, the court shall order restitution for a violation of G.S. 14-190.16, 14-190.17, or 14-190.17A, as required by Article 81C of Chapter 15A of the General Statutes and this section.

(b) The court shall determine the full amount of the victim's losses for costs incurred as a proximate result of the offense. For the purposes of this section, the term "full amount of the victim's losses" includes, in addition to any applicable injuries and damages described in G.S. 15A-1340.35, the following:

- (1) Medical services relating to physical, psychiatric, or psychological care.
- (2) Physical and occupational therapy or rehabilitation.
- (3) Transportation, temporary housing, and child care expenses.
- (4) Loss of income.
- (5) Reasonable attorneys' fees and other litigation costs associated with the order of restitution or its enforcement.

(c) If more than one defendant contributed to the losses of the victim, the court shall apportion liability among the defendants to reflect the level of contribution of each defendant to the victim's losses. A victim's total aggregate recovery shall not exceed the full amount of the victim's losses, as determined by the court. A defendant may petition the court to amend a restitution order upon a showing that the victim has received restitution in the full amount of the victim's determined losses.

(d) Where it is impossible to trace a particular amount of the determined losses to the defendant, the court shall order restitution in an amount that, in the court's discretion, reflects the defendant's relative role in the causal process that underlies the victim's full amount of loss.

(e) The court may require the victim to provide information concerning the amount of restitution the victim has been paid in other cases for the same losses.

(f) Notwithstanding any other provision of this section, the court is not required to order restitution for a violation of G.S. 14-190.16, 14-190.17, or 14-190.17A if the victim has not been identified.



(g) In case of any conflict between Article 81C of Chapter 15A of the General Statutes and this section, this section prevails."

SECTION 2.(b) This section becomes effective December 1, 2023, and applies to orders for restitution entered on or after that date.

SECTION 3.(a) G.S. 14-190.1 reads as rewritten:

"§ 14-190.1. Obscene literature and exhibitions.

(a) It shall be unlawful for any ~~person, firm~~ person 18 years of age or older, firm, or corporation to intentionally disseminate obscenity. A person, firm or corporation disseminates obscenity within the meaning of this Article if he or it:

- (1) Sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) Presents or directs an obscene play, dance or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) Publishes, exhibits or otherwise makes available anything obscene; or
- (4) Exhibits, presents, rents, sells, delivers or provides; or offers or agrees to exhibit, present, rent or to provide: any obscene still or motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, or any matter or material of whatever form which is a representation, embodiment, performance, or publication of the obscene.

...

(e) It shall be unlawful for any ~~person, firm~~ person 18 years of age or older, firm, or corporation to knowingly and intentionally create, buy, procure or possess obscene material with the purpose and intent of disseminating it unlawfully.

(f) It shall be unlawful for a ~~person, firm~~ person 18 years of age or older, firm, or corporation to advertise or otherwise promote the sale of material represented or held out by said person, ~~firm~~ firm, or corporation as obscene.

(g) ~~Violation~~ Any person who knowingly violates this section in the presence of a minor under 18 years of age shall be guilty of a Class H felony. Any other violation of this section is a Class I felony.

...."

SECTION 3.(b) G.S. 14-190.6 reads as rewritten:

"§ 14-190.6. Employing or permitting minor to assist in offense under Article.

Every person 18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age of 16 years to do or assist in doing any act or thing constituting an offense under this Article and involving any material, act or thing he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1, shall be guilty of a ~~Class I felony.~~ Class H felony."

SECTION 3.(c) G.S. 14-190.7 reads as rewritten:

"§ 14-190.7. Dissemination to minors under the age of 16 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a ~~Class I felony.~~ Class H felony."

SECTION 3.(d) G.S. 14-190.8 reads as rewritten:

"§ 14-190.8. Dissemination to minors under the age of 13 years.

Every person 18 years of age or older who knowingly disseminates to any minor under the age of 13 years any material which he knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1 shall be punished as a ~~Class I felon.~~ Class G felon."

SECTION 3.(e) G.S. 14-190.9 reads as rewritten:

"§ 14-190.9. Indecent exposure.

...

(a1) Unless the conduct is prohibited by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in any public place in the presence of ~~any other person less than 16 years of age~~ a minor as defined in G.S. 14-190.13 for the purpose of arousing or gratifying sexual desire shall be guilty of a Class H felony. An offense committed under this subsection shall not be considered to be a lesser included offense under G.S. 14-202.1.

...

(a4) Unless the conduct is punishable by another law providing greater punishment, any person at least 18 years of age who shall willfully expose the private parts of his or her person in a private residence of which they are not a resident and in the presence of ~~any other person less than 16 years of age~~ a minor as defined in G.S. 14-190.13 who is a resident of that private residence shall be guilty of a Class 2 misdemeanor.

...."

SECTION 3.(f) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of September, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:58 p.m. this 29th day of September, 2023