

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-119
HOUSE BILL 1276**

AN ACT TO CLOSE THE LEGAL LOOPHOLE THAT EXISTS UNDER THE STATE'S INCEST LAWS BY EQUALIZING PUNISHMENTS FOR CRIMES COMMITTED AGAINST CHILDREN WITHOUT REGARD TO FAMILIAL STATUS.

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

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

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

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

Whereas, criminals who sexually assault children should be prosecuted without regard to familial relationship; Now, therefore,

The General Assembly of North Carolina enacts:

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

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

~~(a) The parties shall be guilty of a felony in all cases of Offense. – A person commits the offense of incest if the person engages in carnal intercourse with the person's ~~between~~ (i) grandparent ~~and or~~ grandchild, (ii) parent ~~and or~~ child or stepchild or legally adopted child, ~~or~~ (iii) brother ~~and or~~ sister of the half or whole blood, ~~blood,~~ or (iv) uncle, aunt, nephew, or niece. Every such offense is punishable as a Class F felony.~~

~~(b) Punishment and Sentencing. –~~

~~(1) A person is guilty of a Class B1 felony if either of the following occurs:~~

~~a. The person commits incest against a child under the age of 13 and the person is at least 12 years old and is at least four years older than the child when the incest occurred.~~

~~b. The person commits incest against a child who is 13, 14, or 15 years old and the person is at least six years older than the child when the incest occurred.~~

~~(2) A person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the person is more than four but less than six years older than the child when the incest occurred.~~

~~(3) In all other cases of incest, the parties are guilty of a Class F felony.~~

~~(c) No Liability for Children Under 16. – No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred."~~

SECTION 2. G.S. 14-179 is repealed.

SECTION 3. This act becomes effective December 1, 2002, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of September, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:59 p.m. this 23rd day of September, 2002