

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1139

Short Title: Protect Rape Victims/Unfavorable Plea Bargain.

(Public)

Sponsors: Representative Ellis.

Referred to: Judiciary II.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A DEFENDANT WHO COMMITS A SEX OFFENSE THAT RESULTS IN THE VICTIM BECOMING PREGNANT SHALL NOT EXPLOIT HIS PARENTAL RIGHTS TO INTIMIDATE THE CRIME VICTIM OR NEGOTIATE A MORE FAVORABLE PLEA ARRANGEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 30 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-226.2. Interfere with plea arrangement by exploiting parental rights to intimidate the crime victim in order to negotiate a more favorable plea.

(a) A defendant who commits a sex offense that results in the victim becoming pregnant is guilty of a violation of this section if the defendant negotiates or attempts to negotiate a more favorable plea arrangement by intimidating the victim of the crime by threatening to exploit the defendant's parental rights with regard to adoption, visitation, custody, care, or welfare of the child.

(b) A violation of this section is a Class H felony."

SECTION 2. G.S. 15A-1021 is amended by adding a new subsection to read:

"(b1) Neither the defendant nor any person representing the defendant may bring improper pressure upon the victim of the crime to induce a more favorable plea arrangement for the defendant from the State."

SECTION 3. Article 57 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 15A-1013. Judicial approval required for plea arrangement in certain cases.

(a) If the offense is a sex offense that resulted in the victim becoming pregnant, the parties shall not include any consideration of parental rights with regard to the adoption, visitation, custody, care, or welfare of the child as part of the negotiations or substance of a plea arrangement without the prior permission of the presiding, or resident, superior court judge. If the judge grants the permission requested, the judge

1 may participate in the discussions. If the State and defendant agree upon a plea
2 arrangement in a case described in this subsection, they must disclose the substance of
3 their plea negotiations and the substance of the plea agreement to the judge before the
4 time the defendant is called upon to plead, unless the judge participated in the
5 discussions and knows the full details of the negotiations and the substance of the plea
6 agreement.

7 (b) Before accepting a plea pursuant to a plea arrangement for a sex offense that
8 resulted in the victim becoming pregnant, the judge must advise the parties whether he
9 or she approves the arrangement and will dispose of the case accordingly. If the judge
10 rejects the arrangement, the judge must so inform the parties, refuse to accept the
11 defendant's plea and advise the defendant personally that neither the State nor the
12 defendant is bound by the rejected arrangement. The judge must advise the parties of
13 the reasons the judge rejected the arrangement and afford them an opportunity to
14 modify the arrangement accordingly. Upon rejection of the plea arrangement by the
15 judge, the defendant is entitled to a continuance until the next session of court. A
16 decision by the judge disapproving a plea arrangement is not subject to appeal."

17 **SECTION 4.** This act becomes effective December 1, 2003, and applies to
18 offenses committed on or after that date.