

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 356

Short Title: Enhance Penalty for Rape of Child Victim. (Public)

Sponsors: Senators Smith; Allran, Apodaca, Berger of Rockingham, Bingham, Blake, Brock, Brown, Brunstetter, East, Forrester, Goodall, Hartsell, Hunt, Jacumin, Pittenger, Preston, Stevens, and Tillman.

Referred to: Judiciary 1 (Civil).

February 27, 2007

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE PENALTY FOR FIRST DEGREE RAPE AND FIRST DEGREE SEXUAL OFFENSE IF THE VICTIM OF THE OFFENSE IS LESS THAN TWELVE YEARS OF AGE.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1340.16E. Enhance sentence if defendant is convicted of first degree rape or first degree sexual offense and the victim was 11 years of age or younger.

(a) If a person is convicted of the offense of first degree rape under G.S. 14-27.2 or first degree sexual offense under G.S. 14-27.4 and it is found as provided in this section that the person committed the offense against a victim who was 11 years of age or younger at the time of the offense, then the person shall have the minimum term of imprisonment to which the person is sentenced for that offense increased by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1).

(b) An indictment or information for the offense of first degree rape under G.S. 14-27.2 or first degree sexual offense under G.S. 14-27.4 shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that the defendant committed the felony against a victim who was 11 years of age or younger at the time of the offense. One pleading is sufficient for all felonies that are tried at a single trial.

(c) The State shall prove the issues set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the offense of first degree rape or first degree sexual offense unless the defendant pleads

1 guilty or no contest to the issues. The issues shall be presented in the same manner as
2 provided in G.S. 15A-928(c). If the defendant pleads guilty or no contest to the felony
3 but pleads not guilty to the issues set out in subsection (a) of this section, then a jury
4 shall be impaneled to determine the issues.

5 (d) This section does not apply if the evidence that the victim of the offense was
6 11 years of age or younger is needed to prove an element of the offense."

7 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
8 offenses committed on or after that date.