

N.C.P.I.—Crim 207.15

RAPE OF A CHILD. (OFFENSES PRIOR TO DEC. 1, 2015) FELONY.

CRIMINAL VOLUME

REPLACEMENT JUNE 2016

N.C. Gen. Stat. § 14-27.2A

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NOTE WELL: This instruction is valid for offenses committed before December 1, 2015. For offenses committed on or after December 1, 2015, use N.C.P.I.—Crim. 207.15A.

The defendant has been charged with rape of a child.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant engaged in vaginal intercourse with the victim. Vaginal intercourse is penetration, however slight, of the female sex organ by the male sex organ. (The actual emission of semen is not necessary.)

Second, that at the time of the acts alleged, the alleged victim was a child under the age of thirteen years.¹

And Third, that at the time of the acts alleged, the defendant was at least eighteen years of age.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant engaged in vaginal intercourse with the alleged victim and that at that time the alleged victim was a child under the age of thirteen years and that the defendant was at least eighteen years of age, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.²

¹ A child would be under the age of thirteen if she had not yet reached her thirteenth birthday. *In re Robinson*, 120 N.C. App. 874 (1995).

² N.C. Gen. Stat. § 14-27.2A provides that N.C. Gen. Stat. § 14-27.2(a)(1) is a lesser included offense. Caution should be used in considering whether a lesser included offense instruction is warranted. For example, N.C. Gen. Stat. § 14-27.2(a)(1) differs from this offense in that the State need not prove that the defendant is 18 or older. If there are

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lesser included offenses, change the last phrase to ". . . you would not return a verdict of guilty of rape of a child."