

N.C.P.I.—Crim 207.15.3A

STATUTORY SEXUAL OFFENSE OF AN ALLEGED VICTIM WHO WAS FIFTEEN YEARS OF AGE OR YOUNGER. (OFFENSES ON OR AFTER DEC. 1, 2015) FELONY.

CRIMINAL VOLUME

JUNE 2016

N.C. Gen. Stat. § 14-27.30

207.15.3A STATUTORY SEXUAL OFFENSE OF AN ALLEGED VICTIM WHO WAS FIFTEEN YEARS OF AGE OR YOUNGER. (OFFENSES ON OR AFTER DEC. 1, 2015) FELONY.

NOTE WELL: Use this instruction for offenses committed on or after December 1, 2015. For offenses committed before December 1, 2015 and after December 1, 1995, use N.C.P.I.—Crim. 207.15.3.

The defendant has been charged with statutory sexual offense against an alleged victim who was fifteen years of age or younger at the time of the offense.

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

First, that the defendant engaged in a sexual act with the alleged victim. A sexual act means

- a) [cunnilingus, which is any touching, however slight, by the lips or tongue of one person to any part of the female sex organ of another.]¹
- b) [fellatio, which is any touching by the lips or tongue of one person and the male sex organ of another.]²
- c) [analingus, which is any touching by the lips or tongue of one person and the anus of another.]
- d) [anal intercourse, which is any penetration, however slight, of the anus of any person by the male sexual organ of another.]
- e) [any penetration, however slight, by an object into the [genital] [anal] opening of a person's body.]

Second, that at the time of the act[s], the alleged victim was fifteen years of age or younger.

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Third, that at the time of the act[s], the defendant was at least twelve years old and [at least six] [more than four but less than six] years older than the alleged victim.

And Fourth, that at the time of the act[s], the defendant was not lawfully married to the alleged victim.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant engaged in a sexual act with the alleged victim who was [thirteen] [fourteen] [fifteen] years old, and that the defendant was at least twelve years old and [at least six] [more than four but less than six] years older than the victim, and was not lawfully married to the alleged victim, 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.

1 *State v. Ludlum*, 303 N.C. 666 (1981), held that penetration of the female sex organ is not required to complete the act of cunnilingus under Sexual Offense Statutes, N.C. Gen. Stat. § 14-27.4 *et seq.* However, the court did specifically adhere to the rule of earlier cases that penetration is required to complete the offense of crime against nature (N.C.P.I.—Crim. 226.10).

2 *State v. Warren*, 309 N.C. 224 (1983) held that crime against nature is not a lesser included offense of first or second degree sexual offense, but when the bill charges anal intercourse Warren infers that crime against nature is a lesser included offense.