

N.C.P.I.—Crim 207.15.1A
FIRST DEGREE STATUTORY RAPE—ALLEGED VICTIM UNDER THE AGE OF
THIRTEEN YEARS. (OFFENSES ON OR AFTER DEC. 1, 2015) FELONY.
CRIMINAL VOLUME
JUNE 2016
N.C. Gen. Stat. § 14-27.24

207.15.1A FIRST DEGREE STATUTORY RAPE—ALLEGED VICTIM UNDER THE
AGE OF THIRTEEN YEARS. (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, use N.C.P.I.—Crim. 207.15.1.*

The defendant has been charged with first degree statutory rape.

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 twelve years old and was at least four years older than the alleged
victim.

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 twelve years
old and was at least four years older than the 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.²

*NOTE WELL: If the indictment alleges both forcible and statutory
rape, and if there is any question as to the age of the victim, and*

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if there is evidence of a forcible rape, give either N.C.P.I.-Crim. 207.10A or 207.20A as an alternative instruction.

In an appropriate case the judge should use N.C.P.I.-Crim. 207.15A.1A to charge on attempted first degree (statutory) rape as a lesser included offense.

Taking Indecent Liberties with a Child, N.C. Gen. Stat. § 14-202.1, Assault on a Female, N.C. Gen. Stat. § 14-33(c)(2), and Assault on a Child Under Twelve, N.C. Gen. Stat. § 14-33(c)(3), are still crimes. However, in State v. Weaver, 306 N.C. 629 (1983), the North Carolina Supreme Court held that none of those crimes is a lesser included offense of N.C. Gen. Stat. § 14-27.2(a)(1).

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 If there are lesser included offenses, change the last phrase to ". . . you would not return a verdict of guilty of first degree rape."