

North Carolina

WOMEN IN PRISON: 1,916 (3/00) ⁱ

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§ 14-27.7 – *Intercourse and sexual offenses with certain victims; consent no defense.*¹

North Carolina’s law is part of the Criminal Code under the Rape and Other Sexual Offenses section. It provides that vaginal intercourse is an offense when it involves a person having custody of a victim, where that person is an agent or employee of an institution, and that consent is no defense.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	No	The law does not prohibit sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law specifically removes consent from issue.
Does the statute cover all custodians and staff in contact with inmates?	Yes	The law covers all custodians and staff.
Does the statute cover all places where an inmate might be abused?	Yes	The law covers all places where a person in custody might be.
Is the penalty a felony?	Yes	Class E Felony.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ⁱⁱ	The North Carolina Attorney General’s Office does not compile this information. ⁱⁱⁱ	
Incidents reported in select media since 10/98	- Wayne County: Sheriff’s deputy Braswell was indicted on 22 felony sexual offenses counts against five female inmates. Braswell had promised to get the charges against the women dropped or reduced in exchange for sex. Two of five female former jail inmates dropped their federal lawsuit against him. <i>The News and Observer</i> (Raleigh), 11/02/00; 09/10/99	

Custodial Sexual Misconduct –Policies, Procedures and Practices of Guarding Specific to Women

The following data is based on surveys performed by the National Institute of Corrections in 1996 and 2000, except in cases when further details have been available to AI from alternative sources.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	Yes	Policy includes direct and specific language about the nature of the sexual behaviors prohibited. ^{iv}
Allow cross-gender pat-down searches?	Yes	Searches are predominantly same-sex. Cross-sex done only in emergency - “emergency” not defined. ^v
Restrictions on the duties of male guards?	Yes	According to written response from the North Carolina Department of Corrections, some duties are gender specific. ^{vi}

¹ The text of the North Carolina statute is reprinted at the end of this section

Was there staff training on sexual misconduct 1996-2000?	Yes	All staff with inmate contact receives six hours annual in-service training. ^{vii}
Has staff training been developed since 1996?	No	North Carolina DOC is in the process of introducing new training procedures. ^{viii}
Were there special procedures for investigating allegations of sexual misconduct in 1996?	No	North Carolina is not specifically mentioned in the National Institute of Corrections report. However, it is noted that most DOCs use standard investigatory procedures with no special considerations for the nature of the complaint. ^{ix}
Have new investigation procedures been introduced 1996-2000?	No	No new initiatives. ^x
Were inmates informed of agency policies about sexual misconduct in 1996?	Yes	Policies are covered in the standard inmate orientation and in the inmate handbook. ^{xi}
Have procedures on informing inmates about sexual misconduct been revised 1996-2000?	No	No new initiatives. ^{xii}

Custodial Sexual Misconduct –Legislative Proposals 2000-01

None

Parenting and Pregnancy in Custody

Pregnancy - Relevant Statutes/Administrative Rules

Legislation banning shackling in the third trimester or during labor	No	North Carolina has no legislation limiting the use of shackling on pregnant inmates.
Administrative rules concerning pregnancy and delivery	Yes	The state has adopted statutory provisions relating to pregnant inmates, but these only contain provisions for determining custody of the baby. ^{xiii}

Pregnancy and Parenting: Policies, Procedures and Practices

Use of restraints in third trimester	Yes	According to North Carolina DOC, practice is to use waist chains and leg restraints if approved by doctor when security concerns are thought to necessitate their use. The DOC has no formal policy concerning the use of restraints either generally or with respect to pregnant inmates. ^{xiv}
Restraints during transport	Yes	See above.
Restraints during labor	Yes	See above.
Officer in delivery room		Not known. ^{xv}
Parenting programs specific for women	Yes	According to North Carolina DOC, the Department has two parenting programs: the STEP and MATCH Programs. ^{xvi}
Special visitation rights for women	Yes	North Carolina DOC has special visitation rights for women with children. ^{xvii} The Fountain Correctional Center for Women has a Girl Scout program – Girl Scouts Behind Bars, allowing inmates’ children to visit the prison so the inmate and the child have time together. ^{xviii}
State Mother and Child Residency Program	No	North Carolina DOC has no residential program for inmate mothers and their infants/children. ^{xix}

Contact information

NORTH CAROLINA DEPARTMENT OF CORRECTIONS

Secretary of Corrections Theodis Beck Public Information Office MSC 4201 Raleigh, NC 27699-4201 Phone: (919) 7163700; Fax: (919) 7163794 Email: info@doc.state.nc.us	Homepage: http://www.doc.state.nc.us/ Prison addresses: http://www.doc.state.nc.us/dop/list/county.htm
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NORTH CAROLINA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

North Piedmont Correctional Center for Women <i>Female inmates: 112 (02/01)^{xx}</i> Superintendent: Brenda Jarra Box 1227 Lexington, NC 27292 Phone: (336) 242-1259	Black Mountain Correctional Center for Women <i>Female inmates: 71(02/01)^{xxii}</i> Superintendent: Renae Brame Box 609 Black Mountain, NC 28711 Phone: (828) 669-9165	Fountain Correctional Center for Women <i>Female inmates: 414 (02/01)^{xxii}</i> Superintendent: Jimmy Horton Box 1435 Rocky Mount, NC 27802 Phone: (252) 442-9712
N.C. Correctional Institution for Women <i>Female inmates: 1039 (02/01)^{xxii}</i> Warden: Annie Harvey 1034 Bragg Street Raleigh, NC 27610 Phone: (919) 733-4340	Raleigh Correctional Center for Women <i>Female inmates: 172 (02/01)^{xxii}</i> Superintendent: Cynthia Bostic 1201 South State Street Raleigh, NC 27610 Phone (919) 733-4248	Wilmington Residential Facility for Women <i>Female inmates: 36(02/01)^{xxii}</i> Superintendent: Laura Overstreet Box 5354 Wilmington, NC 28403-4155 Phone (910) 251-2671
<u>CONTRACT HOUSING:</u> ECO Halfway House: 19 ^{xxii} Mary Frances Center: 101 ^{xxii}		

NORTH CAROLINA EXECUTIVE

Governor Michael F. Easley [D] Office of the Governor 20301 Mail Service Center Raleigh, NC 27699-0301 Phone: (919) 733-4240 or (919) 733-5811 Fax: (919) 715-3175 or (919) 733-2120	Home page: http://www.governor.state.nc.us/ Contact Page: http://www.governor.state.nc.us/feedback/index.html Elected: 1977 (to 1985) and 1994 and 1999 (fourth term)
Attorney General Roy Cooper [D] NC Office of the Attorney General North Carolina Department of Justice P.O. Box 629, Raleigh, NC 27602-0629 E-mail: agjus@mail.jus.state.nc.us Phone: (919) 716-6400; Fax: (919) 716-6750	Home page: http://www.jus.state.nc.us/

NORTH CAROLINA LEGISLATIVE INFORMATION

<p>Legislative Session: The General Assembly is elected in even-numbered years at the November general election. The General Assembly meets in regular sessions usually beginning on the third Wednesday following the second Monday in January of each odd-numbered year. Since 1973 the General Assembly has met for five to seven months in the odd-numbered year and has adjourned to reconvene the following even-numbered year for a shorter session.</p> <p>Senate: 50 members, 2-year term House of Representatives: 120 members, 2-year term</p>	<p>Legislative information home page: http://www.ncga.state.nc.us/</p> <p>Bill search: http://www.ncga.state.nc.us/html2001/BillInfo/billsearch/billnumber.html</p> <p>Bill information phone number: (919) 733-7778</p>
<p>Senate North Carolina General Assembly Raleigh, North Carolina 27601-2808</p>	<p>Senate homepage: http://www.ncga.state.nc.us/html2001/Senate/Senate.html</p>
<p>House of Representatives North Carolina General Assembly Raleigh, NC 27601-1096</p>	<p>House home page: http://www.ncga.state.nc.us/html2001/House/House.html</p>

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

<p>North Carolina Prisoner Legal Services Inc PO Box 25397 Raleigh NC 27611-5397 Phone: (919) 856-2200 <i>Provides range of services to prisoners including advice on legal rights and court representation.</i></p>
<p>Summit House Inc 319 Smyres Place Greensboro, NC 27403 Phone: (336) 691-9888 / (800) 294-0189(NC only) Web site: www.summithouse.org <i>Summit House is an alternative correctional facility (intensive residential program) that helps non-violent female offenders and their children under age seven.</i></p>
<p>Grassroots Leadership P.O. Box 36006, 15 Elizabeth Ave Charlotte, NC 28236 Web page: www.grass-roots.org <i>Categories: Research/Analysis</i></p>
<p>ACLU of North Carolina P.O. Box 28004 Raleigh, NC 27611 Phone: (919) 834-3390 Web site: www.acluofnorthcarolina.org</p>
<p>National Child Rights Alliance / YLA P.O. Box 61125 Durham NC 27705 Phone: (919) 682-5509; Fax: (919) 683-3194 <i>Categories: Prisoners' Rights, Youth.</i></p>

North Carolina's Custodial Sexual Misconduct Statute

§ 14-27.7. Intercourse and sexual offenses with certain victims; consent no defense.

If a defendant who has assumed the position of a parent in the home of a minor victim engages in vaginal intercourse or a sexual act with a victim who is a minor residing in the home, or if a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal

intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section.

ⁱ North Carolina Department of Corrections, Quick Facts, Offender Demographics 3/31/00, <http://www.doc.state.nc.us/>

ⁱⁱ The information does not reflect prosecutions or convictions under rape statutes.

ⁱⁱⁱ Letter from the North Carolina Attorney General's Office, William N. Farrell, Jr., Senior Deputy Attorney General, August 9, 2000

^{iv} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^v National Institute of Corrections, Prisons Division and Information Center, "Cross-sex Pat Search Practices: Findings From NIC Telephone Research," Colorado, January 1999

^{vi} Faxed corrections from North Carolina Department of Corrections, Tracy Little, Public Information Director, 02/15/01. The nature of duties that are gender specific were not specified.

^{vii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{viii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{ix} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^x US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{xi} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Agency Response, and Prevention," National Institute of Corrections, Colorado, November 1996

^{xii} US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000

^{xiii} Women in Prison: Their Family Relationships and Their Depiction in the Media, Caneila Dyer, University of South Florida

^{xiv} Letter from the North Carolina Department of Correction, Pamela Walker, Public Information Officer, 01/30/2001 AND faxed corrections from North Carolina Department of Corrections, Tracy Little, Public Information Director, 02/15/01

^{xv} Letter from the North Carolina Department of Correction, Pamela Walker, Public Information Officer, 01/30/2001

^{xvi} Faxed communication from North Carolina Department of Corrections, Tracy Little, Public Information Director, 02/15/01

^{xvii} US Department of Justice National Institute of Corrections Information Center, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Colorado, September 1998

^{xviii} North Carolina Department of Corrections website: <http://www.doc.state.nc.us/dop/prisons/fountain.htm>

^{xix} General Accounting Office, "Managing Female Inmate Populations," GAO/GGD-00-22, 2000

^{xx} Faxed communication from North Carolina Department of Corrections, Tracy Little, Public Information Director, 02/15/01