

North Carolina

WOMEN IN PRISON: 2,614 (7/05) ¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

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

North Carolina's law is part of the Criminal Code under the Rape and Other Sexual Offenses section. It provides that vaginal intercourse and sexual acts are offenses when perpetrated by a person having custody of a victim, or where the perpetrator is an agent or employee of an institution. Consent is not a defense.

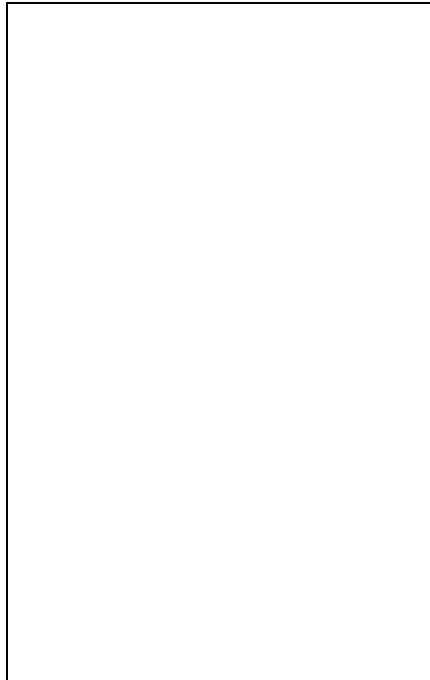
Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	No	The law does not prohibit sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	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, staff, and agents.
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) ²	<p>The North Carolina Attorney General's Office does not compile this information.³</p> <p>In 2005 Amnesty International contacted the North Carolina Department of Justice, which responded that the NC DOJ does not compile statistics on prosecutions and convictions under the state's CSM statute. The DOJ referred AI to the NC Department of Corrections.⁴ AI did not receive a response to its inquiry with this office.</p>
Incidents reported in select media since January 2000	<ul style="list-style-type: none">- Duplin County: A part-time male and a full-time female officer were fired after allegations arose that one of them had 'consensual' sex with a female inmate. The County Sheriff has initiated an internal inquiry and has requested the State Bureau of Investigation to conduct a criminal investigation. The Sheriff claims that this is the first time he has heard of such an incident occurring in the county, but a similar incident was reported in Brunswick County. (<i>Star News 03/03/04</i>)- New Hanover County Jail: A sheriff's deputy was fired after being accused of having sex with a female jail inmate and has been charged with alleged second-degree rape. He pleaded guilty and was sentenced to six months in prison, two years' probation, and 100 hours of community service. (<i>AP 01/07/04; Star News 11/12/04</i>)

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

¹ North Carolina



- Brunswick County: Two corrections officers have been charged in connection with an alleged sexual encounter with a female inmate. The inmate was allegedly taken from her cell by Officer Moraima Cortes and taken to the nurse’s station, where another, Officer Shady Daniels III had sex with her. Both officers were fired and arrested. (*AP State & Local Wire, 12/1/03*)
- Wayne County: Former sheriff’s deputy Braswell was convicted in May 2001 of having sex with five county jail inmates. Four women sued Braswell, Sheriff Cary Winders and Wayne County. Two settled for an undisclosed amount. Two received \$125,000 from the county. Braswell must pay \$5 million to one of the female inmates. (*The AP State and Local Wire, 12/19/02*)
- Johnston County Jail: An employee was fired and charged in connection with allegations that he had sex with a female inmate. (*The News and Observer (Raleigh NC), 11/02/01*)
- North Carolina Correctional Institution for Women: Three correctional officers were arrested and charged with sexual activity by a custodian after more than 40 State Bureau of Investigation agents interviewed roughly 100 inmates. (*The News and Observer (Raleigh NC), 07/29/01*)
- Hoke County Jail: A detention officer was charged with two felony counts of sexual misconduct for allegedly having sex with a female inmate. He was fired from his job at the jail. (*AP, 07/27/01*)

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

The following is based on data provided by the North Carolina Department of Corrections in response to AI’s survey in 2000, 2002 and 2005. Additional information from other sources is included where available.

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. ⁵
Allow cross-gender pat-down searches?	Yes	According to the North Carolina Department of Correction (DOC), cross-gender pat-down searches are permitted. Strip searches, however, may only be conducted by officers of the same sex except in cases of emergency. ⁶
What is the percentage of female officers in relation to male officers?		Across the system, 29.4% of officers are female (70.6% male). ⁷
Restrictions on the duties of male guards?	Yes	According to a written response from the North Carolina Department of Corrections, some duties are gender specific. ⁸
Staff training on sexual misconduct?	Yes	According to the North Carolina DOC, all staff receive training upon hire. Custodial staff also undergo annual in-service refresher training and sign yearly acknowledgement of the DOC’s “undue familiarity policy.” ⁹
Inform inmates of agency policies and reporting procedures on sexual misconduct?	Yes	According to the North Carolina DOC, all inmates are educated about reporting policies during orientation, which occurs upon admission to the facility. In addition, posters and flyers are posted on inmate bulletin boards that explain reporting procedures. ¹⁰

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

The following is based on the North Carolina Department of Corrections response to AI’s surveys, please see above.

Is medical help available for the victim of alleged sexual abuse?	Yes	According to the North Carolina DOC, medical help is available at all prison facilities. ¹¹
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Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	According to the North Carolina DOC, mental health facilities are available at all prison facilities. ¹²
Is counseling available for the victim of alleged sexual abuse?	Yes	According to the North Carolina DOC, counseling can be arranged if requested or recommended in a mental health evaluation. ¹³
Is a rape kit taken?	--	According to the North Carolina DOC, use of a rape kit is left to the discretion of law enforcement professionals. ¹⁴
Are there special procedures for investigating allegations of sexual misconduct?	Yes	According to the North Carolina DOC, special procedures for investigation of sexual allegations exist. No details were provided. ¹⁵
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	According to the North Carolina DOC, allegations are reported through the chain of command to the Director of Prisons. ¹⁶
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?	--	According to the North Carolina DOC, no system is mandated, however, allegations can be reported directly to local law enforcement. ¹⁷
Is the investigation external?	--	According to the North Carolina DOC, cases may be referred to the State Bureau of Investigation or local law enforcement agencies in addition to internal investigation. ¹⁸
If there is an external investigation, how is it triggered?		According to the North Carolina DOC, external investigation can be triggered by a Department request to local law enforcement or by an outside request to local law enforcement. ¹⁹
Are special measures taken to shield alleged victims from retaliation?	Yes	According to the North Carolina DOC, offenders can be placed in segregation or special housing if retaliation is a concern. ²⁰
If so, do the measures include solitary confinement or lock-down of the inmate?	Yes	See above.
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?	No	No details provided.
Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?	No	According to the North Carolina DOC, as of 2002, a system is was in development. ²¹ However, as of 2005, this system was not yet in place. ²²

Custodial Sexual Misconduct – Pending Legislative Proposals

None

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	North Carolina has no legislation limiting the use of shackling on pregnant inmates.
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Pregnancy - Policies, Procedures and Practices

The following is based on the North Carolina Department of Corrections response to AI's surveys, please see above.

Use of restraints in third trimester	Yes	According to the North Carolina DOC, practice is to use waist chains and leg restrains if approved by doctor when security concerns are
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		thought to necessitate their use. The DOC has no formal policy concerning the use of restraints either generally or with respect to pregnant inmates. ²³
Restraints during transport	Yes	See above.
Restraints during labor	Yes	See above.
Officer in delivery room	No	According to the North Carolina DOC, policy requires that an officer maintain visual contact with the inmate. At the Raleigh hospital where deliveries occur, this can be accomplished with the officer outside the room, observing through a window. ²⁴

Contact information

NORTH CAROLINA DEPARTMENT OF CORRECTIONS

Secretary of Corrections Theodis Beck Public Information Office 4202 Mail Service Center Raleigh, NC 27699-4202 Phone: (919) 716-3700 Email: info@doc.state.nc.us	Homepage: http://www.doc.state.nc.us/
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NORTH CAROLINA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

North Piedmont Correctional Center for Women <i>Female inmates: 138</i> ²⁵ Superintendent: Brenda Jarra Box 1227 Lexington, NC 27292 Phone: (336) 242-1259 Fax: 336-248-6539	Black Mountain Correctional Center for Women <i>Female inmates: 74</i> ²⁶ Superintendent: Victoria Justice Box 609 Black Mountain, NC 28711 Phone: (828) 664-2002 Fax: (828)-664-2007	Fountain Correctional Center for Women <i>Female inmates: 532</i> ²⁷ Superintendent: Jimmy Horton Box 1435 Rocky Mount, NC 27802 Phone: (252) 442-9712 Fax: (252) 442-1413
N.C. Correctional Institution for Women <i>Female inmates: 1118</i> ²⁸ Warden: Annie Harvey 1034 Bragg Street Raleigh, NC 27610 Phone: (919) 733-4340	Raleigh Correctional Center for Women <i>Female inmates: 176</i> ²⁹ Superintendent: Joyce Kornegay 1201 South State Street Raleigh, NC 27610 Phone (919) 733-4248	Wilmington Residential Facility for Women <i>Female inmates: 36</i> ³⁰ Superintendent: Laura Overstreet PO Box 4880 Wilmington NC 28406 Phone (910) 251-2671 Fax: 910-251-2673
Southern Correctional Institution <i>Female inmates: 415</i> ³¹ Superintendent: Gary Miller PO Box 786 Troy, NC 27371 Phone: 910-572-3784 Fax: 910-576-2145	<u>CONTRACT HOUSING:</u> ECO Halfway House: 20(06/02) ³² Mary Frances Center: 99(06/02) ³³	

NORTH CAROLINA EXECUTIVE

<p>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</p>	<p>Home page: http://www.governor.state.nc.us/ Elected: 2000; Reelected: 2004</p>
<p>Attorney General Roy Cooper [D] North Carolina Department of Justice P.O. Box 629, Raleigh, NC 27602-0629 Phone: (919) 716-6400 E-mail link: http://www.ncdoj.com</p>	<p>Home page: http://www.jus.state.nc.us/ Elected: 2000; Reelected: 2004</p>

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 Website: www.ncpls.org <i>Provides range of services to prisoners including advice on legal rights and court representation.</i></p>
<p>Summit House Inc 122 N. Elm Street, Suite 910 Greensboro, NC 27401 Phone: 336-691-9888; Fax: 336-275-5042 (fax) Web site: www.summithouse.org</p>
<p>ACLU of North Carolina P.O. Box 28004 Raleigh, NC 27611 Phone: (919) 834-3390; Fax: (919) 828-3265 Email: aclunc@nc.rr.com Web site: www.acluofnorthcarolina.org</p>

North Carolina CURE

Contact: Sherri Toney

P.O. Box 78198

Greensboro, NC 27427

Phone: (336) 988-6808; Fax: (336) 641-6431

E-mail: ncarolinacure@aol.com

Services: Advocacy organization that works to reduce crime through criminal justice reform and the rehabilitation of errants.

North Carolina Prisoner Legal Services, Inc.

1110 Wake Forest Road (27604)

Post Office Box 25397

Raleigh, North Carolina 27611

Website: www.ncpls.org

Services: Legal services to North Carolina prisoners only. Provide a range of services from advice about prisoners' legal rights to representation in all state and federal courts. Handle a variety of legal matters involving prison conditions and criminal convictions. Write NCPLS for a brochure detailing which types of cases receive top priority, providing information on how to request assistance from NCPLS, and listing information packets and legal forms available to prisoners.

North Carolina's Custodial Sexual Misconduct Statute

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

(a) 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.

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¹ North Carolina Department of Correction (DOC), *Offender Population*, 07/22/05, available at <http://www.doc.state.nc.us/inc/stats.htm>, as per 01/27/06.

² The information does not reflect prosecutions or convictions under rape statutes.

³ Letter from William N. Farrell, Jr., Senior Deputy Attorney General, the North Carolina Attorney General's Office, 08/09/00.

⁴ Email from Will Polk, Director, Victims and Citizens Services Section, North Carolina DOJ, 08/11/05.

⁵ 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.

⁶ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

⁷ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

⁸ Faxed corrections from Tracy Little, Public Information Director, North Carolina Department of Corrections, 02/15/01. The nature of duties that are gender-specific were not specified.

⁹ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

¹⁰ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

¹¹ Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

¹² Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

¹³ Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

¹⁴ Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

¹⁵ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

¹⁶ Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

¹⁷ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

¹⁸ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

¹⁹ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²⁰ Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

²¹ Fax from Keith Acre, Public Information Officer, North Carolina DOC, 06/14/02.

²² Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²³ Letter from Pamela Walker, Public Information Officer, North Carolina DOC, 01/30/01; Fax from Tracy Little, Public Information Director, North Carolina DOC, 02/15/01.

²⁴ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²⁵ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²⁶ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²⁷ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²⁸ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

²⁹ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

³⁰ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

³¹ Email from Keith Acre, Public Affairs Officer, North Carolina DOC, 08/16/05.

³² Keith Acree, Public Information Officer, Fax from North Carolina DOC, 06/14/02.

³³ Keith Acree, Public Information Officer, Fax from North Carolina DOC, 06/14/02.