



HOUSE BILL 591: Modernize Sex Crimes.

2023-2024 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: May 15, 2024
Introduced by: Rep. Davis	Prepared by: Robert Ryan
Analysis of: Third Edition	Staff Attorney

OVERVIEW: House Bill 591 would do the following:

- Create a new offense for sexual extortion and aggravated sexual extortion.
- Modify the offenses of first-, second-, and third-degree sexual exploitation of a minor to include material that is modified by technological means and to include child sex dolls.
- Create a new offense for an obscene visual representation of a minor engaging in sexual activity.
- Modify the offense of solicitation of a child by computer to include communications with parents of minors.
- Make conforming changes to the sex offender and public protection registration program statutes.
- Make changes to the offense of disclosure of private images to clarify that altered images violate the prohibition against disclosure of certain private images.

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the bill would create a new criminal law in the General Statutes: G.S. 14-202.7, sexual extortion; aggravated sexual extortion. This law would create several criminal offenses if a person threatened to disclose a "private image" or refused to delete a previously disclosed private image of a victim or immediate family member of the victim, with the intent to obtain anything of value from the victim. "Private image" is a defined term which means an image depicting sexual activity or sexually explicit nudity. The level of offense would depend on the age of the defendant and victim at the time of the offense.

- If an adult (a person age 18 or older) committed this offense against an adult victim, it would be the offense of "Sexual Extortion" and a Class F felony.
- If a minor (a person under the age of 18) committed this offense against any victim, it would be the offense of "Sexual Extortion" and a Class 1 misdemeanor for a first offense, and then a Class F felony for any subsequent offense.
- If an adult committed this offense against a minor or an individual with a disability, it would be the offense of "Aggravated Sexual Extortion" and a Class E felony.

Section 2(a) of the bill makes changes to the definitions contained in G.S. 14-190.13, which are used in G.S. 14-190.16, First degree sexual exploitation of a minor, G.S. 14-190.17, Second degree sexual exploitation of a minor, and G.S. 14-190.17A, Third degree sexual exploitation of a minor.

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First, a new definition is created for an "identifiable minor" which means a minor who is "recognizable as an actual person."

Second, the term "material" is modified to include images modified by technological means, including artificial intelligence.

Third, a definition of "obscene" is created mirroring the definition used in G.S. 14-190.1(b), obscene literature and exhibitions.

Fourth, a new definition is created for a "child sex doll" which means an anatomically correct doll that (a) has the features of or features that resemble those of a minor, and (b) is intended to be used for sexual stimulation or gratification.

Section 2(b) of the bill modifies G.S. 14-190.16, First degree sexual exploitation of a minor. Under current law it is a Class C felony to use a minor to engage in sexual activity for a live performance or to produce material, to permit a minor under a person's custody to engage in sexual activity for a live performance or to produce material, to transport a minor to engage in sexual activity for a live performance or to produce material, and to record or duplicate for sale or pecuniary gain material depicting a minor engaging in sexual activity. The bill would modify this law to provide that it is a violation of this law and a Class D felony if a person creates for sale or pecuniary gain material created, adapted, or modified to appear that an identifiable minor is engaged in sexual activity. The bill also modifies this law to provide that it is a violation of this law and a Class D felony if a person creates for sale or pecuniary gain a "child sex doll" of an identifiable minor.

Section 2(c) of the bill modifies G.S. 14-190.17, Second degree sexual exploitation of a minor. Under current law it is a Class E felony to record, duplicate, distribute, or receive material that contains a visual representation of a minor engaging in sexual activity. The bill would modify this law to prohibit the distribution or receiving of material that has been modified to appear that an identifiable minor is engaging in sexual activity. The bill would also create a new offense for distributing or receiving a child sex doll.

Section 2(d) of the bill modifies G.S. 14-190.17A, Third degree sexual exploitation of a minor. Under current law, it is a Class H felony to possess material depicting a minor engaging in sexual activity. The bill would modify this law to also prohibit the possession of a child sex doll or material created or modified to appear that an identifiable minor is engaging in sexual activity.

Section 2(e) of the bill creates a new criminal law G.S. 14-190.17C, Obscene visual representation of sexual exploitation of a minor. This new law creates a Class E felony if a person knowingly produces, distributes, receives, or possesses with intent to distribute material that is obscene and depicts a minor engaging in sexual activity. This new law creates a Class H felony if a person possesses obscene material depicting a minor engaging in sexual activity. It is not a required element of these new offenses that the minor depicted actually exist.

Section 2(f) of the bill modifies G.S. 14-202.3, Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act. Under current law, it is unlawful for a person 16 years of age or older to use a computer or other electronic device to entice a child less than 16 years of age and at least five years younger than the defendant (or a person the defendant believes to meet this criteria) to meet for the purpose of committing an unlawful sex act. The bill would modify this law to make it unlawful for a defendant to communicate with a person the defendant believes to be the parent, guardian, or caretaker of a child who is less than 16 years of age and at least five years younger than the defendant for the purpose of meeting to commit an unlawful sex act.

Section 3 of the bill makes conforming changes to the sex offender and public protection registration program statutes to reflect the creation of the new G.S. 14-190.17C.

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Section 4 of the bill makes changes to G.S. 14-190.5A, Disclosure of private images, to clarify that images altered with artificial intelligence, violate the prohibition against disclosure of certain private images.

Under current law, G.S. 14-190.5A, prohibits a person from knowingly disclosing an "image" of another person's intimate parts or another person engaged in sexual conduct with the intent to coerce, harass, intimidate, demean, humiliate, or cause financial harm to the depicted person.

The bill would modify the definition of "image" to include "a realistic visual depiction created, adapted or modified by technological means, including algorithms of artificial intelligence, such that a reasonable person would believe the image is an identifiable individual." The bill then makes clarifying modifications to the statute.

EFFECTIVE DATE: This act becomes effective December 1, 2024, and applies to offenses committed on or after that date.