

INCEST WITH A PERSON [THIRTEEN] [FOURTEEN] [FIFTEEN] YEARS OF AGE. FELONY. G.S. 14-178.

NOTE WELL: Use this instruction for offenses occurring on or after December 1, 2002. For offenses occurring before that date, use N.C.P.I.--Crim. 226.20.

The defendant has been charged with incest with a person [thirteen] [fourteen] [fifteen] years of age.

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

First, that the defendant had vaginal intercourse with another person. Vaginal intercourse is penetration, however slight, of the female sex organ by the male sex organ.

Second, that the person with whom the defendant had vaginal intercourse was the defendant's [child] [stepchild] [legally adopted child] [grandchild] [parent] [grandparent] [[brother] [sister] of the [half] [whole] blood] [uncle] [aunt] [nephew] [niece].

Third, that the defendant knew the person was (*state relationship*).

Fourth, that at the time of the act, the victim was [thirteen] [fourteen] [fifteen] years old.

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And Fifth, that at the time of the act, the defendant was [at least six]¹ [more than 4 but less than six]² years older than the victim.³

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant had vaginal intercourse with a person who was the defendant's [child] [stepchild] [legally adopted child] [grandchild] [parent] [grandparent] [[brother] [sister] of the [half] [whole] blood] [uncle] [aunt] [nephew] [niece], that the defendant knew the person was (*state relationship*), and that at the time of the acts alleged the victim was [thirteen] [fourteen] [fifteen] years old and that the defendant was [at least six] [more than 4 but less than six] years older than the victim, then 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, then it would be your duty to return a verdict of not guilty.

¹A defendant who commits this offense and is at least six years older than the victim when the incest occurs is guilty of Class B1 Felony. G.S. 14-178(b)(1)(b).

²A defendant who commits this offense and is more than 4 but less than six years older than the victim when the incest occurs is guilty of Class C Felony. G.S. 14-178(b)(2).

³No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred. G.S. 14-178(c).