



Sex Crimes and Penetration

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In the recent court of appeals case [In re J.F., ___ N.C. App. ___, ___ S.E.2d ___ \(Nov. 18, 2014\)](#), the defendant argued that penetration is an essential element of sexual offense and crime against nature. Following prior case law, the court held that penetration is required for crime against nature, and that in the case presented, the evidence wasn't sufficient on that issue. Turning to the sexual offense conviction, the court noted that offense covers different types of sexual acts, specifically, cunnilingus, fellatio, anilingus, anal intercourse, and the penetration, however slight, by any object into the genital or anal opening of another person's body. *Id.* (citing G.S. 14-27.1(4)). In the case before it, the relevant conduct was fellatio, a "touching" act, which the court held doesn't require penetration.

The question of whether penetration is required recurs in the case law regarding several of the more commonly charged sex crimes. To simplify things, here's your cheat sheet on the issue. Note that if penetration is required for a particular crime but didn't occur, the defendant may be guilty of an attempt.

Offense	Penetration required?
Rape	Yes. G.S. 14-27.10 (when conduct is vaginal intercourse, penetration "however slight" will suffice); State v. Murry, 277 N.C. 197, 203 (1970); State v. Bell, 159 N.C. App. 151, 158 (2003).
Sexual offense	