

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1746*

Short Title: Sex Offender Registration/Funds.

(Public)

Sponsors: Representatives Gottovi; Adams, Bowie, Colton, Flaherty, Gardner, Hall, Hightower, Hill, H. Hunter, Jenkins, Kuczarski, Luebke, McCrary, McLawhorn, Mitchell, Mosley, Nichols, J. Preston, Spears, Sutton, Wainwright, Warner, and Wright.

Referred to: Judiciary II.

May 26, 1994

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REGISTRATION OF PERSONS CONVICTED OF CERTAIN CRIMINAL SEXUAL OFFENSES AND TO APPROPRIATE FUNDS TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

Section 1. Subchapter VII of Chapter 14 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 27A.

"SEXUAL OFFENDER REGISTRATION PROGRAM.

"§ 14-208.5. Purpose.

The General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is of paramount governmental interest. Further, the General Assembly recognizes that local law enforcement officers' efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses are impaired by the lack of information available to law enforcement agencies about convicted sex offenders who live within the agency's jurisdiction. Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sex offenders to law enforcement agencies, and under limited circumstances to authorized requesters, will further the

1 governmental interests of public safety so long as the information released is rationally
2 related to the furtherance of those goals.

3 Therefore, it is the purpose of this Article to assist local law enforcement agencies'
4 efforts to protect their communities by requiring sex offenders to register with local law
5 enforcement agencies and to require the exchange of relevant information about sex
6 offenders among law enforcement agencies and to authorize the release of necessary
7 and relevant information about sex offenders to authorized requesters as provided in this
8 Article.

9 **"§ 14-208.6. Definitions.**

10 The following definitions apply in this Article:

11 (1) 'Division' means the Division of Criminal Statistics of the Department
12 of Justice.

13 (2) 'Penal institution' means a detention facility operated under the
14 jurisdiction of the Division of Prisons of the Department of Correction,
15 or a county jail.

16 (3) 'Released' means discharged, paroled, or placed on probation.

17 (4) 'Reportable conviction' means:

18 a. A conviction for violation of G.S. 14-27.2 (first degree rape),
19 14-27.3 (second degree rape), 14-27.4 (first degree sexual
20 offense), 14-27.5 (second degree sexual offense), 14-27.6
21 (attempted rape or sexual offense), 14-27.7 (intercourse and
22 sexual offense with certain victims), 14-178 (incest between
23 near relatives), 14-179 (incest between uncle and niece, nephew
24 and aunt), 14-190.6 (employing or permitting minor to assist in
25 offenses against public morality and decency), 14-190.16 (first
26 degree sexual exploitation of a minor), 14-190.17 (second
27 degree sexual exploitation of a minor), 14-190.17A (third
28 degree sexual exploitation of a minor), 14-190.18 (promoting
29 prostitution of a minor), 14-190.19 (participating in prostitution
30 of a minor), or 14-202.1 (taking indecent liberties with
31 children).

32 b. The second conviction for a violation of G.S. 14-
33 190.9 (indecent exposure).

34 c. A conviction in another state of an offense, which if committed
35 in this State, would have been a sex offense as defined by the
36 sections of the General Statutes set forth in paragraphs a. and b.
37 of this subdivision.

38 (5) 'Sheriff' means the sheriff of a county in this State.

39 **"§ 14-208.7. Registration.**

40 (a) A person who has a reportable conviction shall register with the sheriff of
41 the county where the person resides or intends to reside for more than 10 days. If the
42 person moves to North Carolina from outside this State, the person shall register within
43 10 days of establishing residence in this State. If the person is a current resident of
44 North Carolina, the person shall register:

- 1 (1) Within 10 days of release from a penal institution or arrival in a county
2 to live outside a penal institution; or
3 (2) Immediately upon conviction for a reportable offense where an active
4 term of imprisonment was not imposed.

5 (b) The Division shall provide each sheriff with forms for registering persons as
6 required by this Article. The registration form shall require:

- 7 (1) The person's full name, each alias, date of birth, sex, race, height,
8 weight, eye color, hair color, social security number, drivers license
9 number, and home address;
10 (2) The type of offense for which the person was convicted, the date of
11 conviction, and the sentence imposed;
12 (3) A current photograph; and
13 (4) Any other information required by the Division, including fingerprints
14 or other corroborative information.

15 (c) Not later than the third day after a person registers, the sheriff with whom the
16 person registered shall send the registration information to the Division in a manner
17 determined by the Division. The sheriff shall retain the original registration form and
18 other information collected.

19 **"§ 14-208.8. Prerelease notification.**

20 (a) At least 10 days, but not earlier than 30 days, before a person who will be
21 subject to registration under this Article is due to be released from a penal institution, an
22 official of the penal institution shall:

- 23 (1) Inform the person of the person's duty to register under this Article and
24 require the person to sign a written statement that the person was so
25 informed or, if the person refuses to sign the statement, certify that the
26 person was so informed;
27 (2) Obtain the registration information required under G.S. 14-208.7 (b)(1)
28 and (2), as well as the address where the person expects to reside upon
29 the person's release; and
30 (3) Send the Division and the sheriff of the county in which the person
31 expects to reside the information collected in accordance with
32 subdivision (2) of this subsection.

33 (b) If a person who is subject to registration under this Article receives
34 probation, suspended sentence, or only a fine, the court pronouncing sentence shall
35 conduct the prerelease notification specified in subdivision (a)(1) of this section at the
36 time of sentencing.

37 **"§ 14-208.9. Change of address.**

38 If a person required to register changes address, the person shall provide written
39 notice not later than the tenth day after the change to the sheriff of the county with
40 whom the person had last registered. Not later than the third day after receipt of the
41 notice, the sheriff shall forward this information to the Division. If the person moves to
42 another county in this State, the Division shall inform the sheriff of the new county of
43 the person's residence.

44 **"§ 14-208.10. Access to registration information.**

1 (a) The information required for registration under this Article is not a matter of
2 public record except for use by a law enforcement officer or agency, except that a
3 sheriff shall verify, upon request, to an authorized requester as defined in subsection (b)
4 of this section, whether a person has registered as a sex offender in this State, the date of
5 conviction, and the offenses for which registration was required.

6 (b) In addition to the entities set forth in G.S. 114-19.2 and G.S. 114-19.3, any
7 employer planning to hire, or any organization planning to accept as a volunteer a
8 person for the education of minors, or the care of minor, elderly, or incapacitated
9 persons, shall be authorized to obtain verification of registration status from the sheriff,
10 upon completion of a request form, provided by the Division, verifying the uses of the
11 information and identifying the name, sex, race, birth date, and social security number if
12 available, of the person whose registration is being checked.

13 (c) Dissemination of registration information for unauthorized purposes is
14 prohibited. An unauthorized redissemination of registration information shall give rise
15 to a civil cause of action.

16 **"§ 14-208.11. Failure to register.**

17 A person required by this Article to register who fails to register shall be guilty of a
18 Class 3 misdemeanor for a first offense of a violation of this Article, and a Class I
19 felony for a subsequent conviction of a violation of this Article.

20 **"§ 14-208.12. Exemption and expungement.**

21 A person who has a reportable conviction may petition the district court in the
22 county where the person resides or intends to reside for an exemption from this Article.
23 The person shall serve a copy of the petition on the district attorney. If the person
24 shows for good cause, by clear and convincing evidence, that registration will not serve
25 the purposes of this Article, the court shall grant the exemption.

26 The sheriff, upon request by a registered person, shall expunge any registration
27 information obtained under this Article upon a showing by the registered person that the
28 person's conviction has been reversed on appeal.

29 **"§ 14-208.13. File with Police Information Network.**

30 The Division shall include the registration information in the Police Information
31 Network as set forth in G.S. 114-10.1."

32 Sec. 2. G.S. 114-10 reads as rewritten:

33 **"§ 114-10. Division of Criminal Statistics.**

34 The Attorney General shall set up in the Department of Justice a division to be
35 designated as the Division of Criminal Statistics. There shall be assigned to this
36 Division by the Attorney General duties as follows:

- 37 (1) To collect and correlate information in criminal law administration,
38 including crimes committed, arrests made, dispositions on preliminary
39 hearings, prosecutions, convictions, acquittals, punishment, appeals,
40 together with the age, race, and sex of the offender, and such other
41 information concerning crime and criminals as may appear significant
42 or helpful. To correlate such information with the operations of
43 agencies and institutions charged with the supervision of offenders on
44 probation, in penal and correctional institutions, on parole and pardon,

1 so as to show the volume, variety and tendencies of crime and
2 criminals and the workings of successive links in the machinery set up
3 for the administration of the criminal law in connection with the
4 arrests, trial, punishment, probation, prison parole and pardon of all
5 criminals in North Carolina.

- 6 (2) To collect, correlate, and maintain access to information that will assist
7 in the performance of duties required in the administration of criminal
8 justice throughout the State. This information may include, but is not
9 limited to, motor vehicle registration, drivers' licenses, wanted and
10 missing persons, stolen property, warrants, stolen vehicles, firearms
11 registration, sexual offender registration as provided under Article 27A
12 of Chapter 14, drugs, drug users and parole and probation histories. In
13 performing this function, the Division may arrange to use information
14 available in other agencies and units of State, local and federal
15 government, but shall provide security measures to insure that such
16 information shall be made available only to those whose duties,
17 relating to the administration of justice, require such information.
- 18 (3) To make scientific study, analysis and comparison from the
19 information so collected and correlated with similar information
20 gathered by federal agencies, and to provide the Governor and the
21 General Assembly with the information so collected biennially, or
22 more often if required by the Governor.
- 23 (4) To perform all the duties heretofore imposed by law upon the Attorney
24 General with respect to criminal statistics.
- 25 (5) To perform such other duties as may be from time to time prescribed
26 by the Attorney General."

27 Sec. 3. There is appropriated from the General Fund to the Department of
28 Justice for the 1994-95 fiscal year the sum of thirty-two thousand eight hundred ten
29 dollars (\$32,810) to implement the provisions of this act.

30 Sec. 4. This act becomes effective July 1, 1994, except that G.S. 14-208.7(a)
31 as enacted by Section 1 of this act becomes effective January 1, 1995. This act applies
32 to all persons convicted before, on, or after January 1, 1995. However, notwithstanding
33 G.S. 14-208.7(a), a person convicted prior to January 1, 1995, is not required to register
34 under Article 27A of Chapter 14 of the General Statutes until February 1, 1995.