

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 170

Select Committee on Courts Committee Substitute Adopted 2/23/94

Short Title: Sex Offender Registration.

(Public)

Sponsors:

Referred to: Appropriations.

February 15, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE REGISTRATION OF PERSONS CONVICTED OF
3 CERTAIN CRIMINAL SEXUAL OFFENSES.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 27A.**

8 **"SEXUAL OFFENDER REGISTRATION PROGRAM.**

9 **"§ 14-208.5. Purpose.**

10 The General Assembly recognizes that sex offenders often pose a high risk of
11 engaging in sex offenses even after being released from incarceration or commitment
12 and that protection of the public from sex offenders is of paramount governmental
13 interest. Further, the General Assembly recognizes that local law enforcement officers'
14 efforts to protect their communities, conduct investigations, and quickly apprehend
15 offenders who commit sex offenses are impaired by the lack of information available to
16 law enforcement agencies about convicted sex offenders who live within the agency's
17 jurisdiction. Persons found to have committed a sex offense have a reduced expectation
18 of privacy because of the public's interest in public safety and in the effective operation
19 of government. Release of information about sex offenders to law enforcement
20 agencies and under limited circumstances to authorized requesters, will further the
21 governmental interests of public safety so long as the information released is rationally
22 related to the furtherance of those goals.

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

7 **"§ 14-208.6. Definitions.**

8 The following definitions apply in this Article:

9 (1) 'Division' means the Division of Criminal Statistics of the Department
10 of Justice.

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

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

15 (4) 'Reportable conviction' means:

16 a. A conviction for violation of G.S. 14-27.2 (first degree rape),
17 14-27.3 (second degree rape), 14-27.4 (first degree sexual
18 offense), 14-27.5 (second degree sexual offense), 14-27.6
19 (attempted rape or sexual offense), 14-27.7 (intercourse and
20 sexual offense with certain victims), 14-178 (incest between
21 near relatives), 14-179 (incest between uncle and niece, nephew
22 and aunt), 14-190.6 (employing or permitting minor to assist in
23 offenses against public morality and decency), 14-190.16 (first
24 degree sexual exploitation of a minor), 14-190.17 (second
25 degree sexual exploitation of a minor), 14-190.17A (third
26 degree sexual exploitation of a minor), 14-190.18 (promoting
27 prostitution of a minor), 14-190.19 (participating in prostitution
28 of a minor), or 14-202.1 (taking indecent liberties with
29 children).

30 b. The fourth conviction for a violation of G.S. 14-190.9
31 (indecent exposure).

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

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

37 **"§ 14-208.7. Registration.**

38 (a) A person who has a reportable conviction shall register with the sheriff of
39 the county where the person resides or intends to reside for more than seven days. The
40 person shall register within 30 days of establishing residence in this State, or if a current
41 resident, within 10 days of being convicted, released from a penal institution, or arriving
42 in a new county.

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

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

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

13 **"§ 14-208.8. Prerelease notification.**

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

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

27 (b) If a person who is subject to registration under this Article receives
28 probation, suspended sentence, or only a fine, the court pronouncing sentence shall
29 conduct the prerelease notification specified in subsection (a) of this section on the day
30 of sentencing, and the person shall register with the sheriff before being released.

31 **"§ 14-208.9. Change of address.**

32 If a person required to register changes address, the person shall provide written
33 notice not later than the tenth day after the change to the sheriff of the county with
34 whom the person had last registered. Not later than the third day after receipt of the
35 notice, the sheriff shall forward this information to the Division. If the person moves to
36 another county in this State, the Division shall inform the sheriff of the new county of
37 the person's residence.

38 **"§ 14-208.10. Access to registration information.**

39 (a) The information required for registration under this Article is not a matter of
40 public record except for use by a law enforcement officer or agency, except that a
41 sheriff shall verify, upon request, to an authorized requester as defined in subsection (b)
42 of this section, whether a person has registered as a sex offender in this State.

43 (b) Any person representing a public or private agency engaged on a regular
44 basis in the education or care of minors, or a facility licensed or registered with the State

1 as a nursing home, domiciliary care facility, or mental health facility shall be authorized
2 to obtain verification of registration status from the sheriff, upon approval of an
3 application filed with the Division as an authorized requester in accordance with rules
4 adopted by the Attorney General.

5 **"§ 14-208.11. Failure to register.**

6 A person required by this Article to register who fails to register shall be guilty of a
7 Class 1 misdemeanor for a first offense of violation of this Article, and a Class I felony
8 for a subsequent conviction of a violation of this Article.

9 **"§ 14-208.12. Exemption.**

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

15 **"§ 14-208.13. File with Police Information Network.**

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

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

19 **"§ 114-10. Division of Criminal Statistics.**

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

23 (1) To collect and correlate information in criminal law administration,
24 including crimes committed, arrests made, dispositions on preliminary
25 hearings, prosecutions, convictions, acquittals, punishment, appeals,
26 together with the age, race, and sex of the offender, and such other
27 information concerning crime and criminals as may appear significant
28 or helpful. To correlate such information with the operations of
29 agencies and institutions charged with the supervision of offenders on
30 probation, in penal and correctional institutions, on parole and pardon,
31 so as to show the volume, variety and tendencies of crime and
32 criminals and the workings of successive links in the machinery set up
33 for the administration of the criminal law in connection with the
34 arrests, trial, punishment, probation, prison parole and pardon of all
35 criminals in North Carolina.

36 (2) To collect, correlate, and maintain access to information that will assist
37 in the performance of duties required in the administration of criminal
38 justice throughout the State. This information may include, but is not
39 limited to, motor vehicle registration, drivers' licenses, wanted and
40 missing persons, stolen property, warrants, stolen vehicles, firearms
41 registration, sexual offender registration as provided under Article 27A
42 of Chapter 14, drugs, drug users and parole and probation histories. In
43 performing this function, the Division may arrange to use information
44 available in other agencies and units of State, local and federal

- 1 government, but shall provide security measures to insure that such
2 information shall be made available only to those whose duties,
3 relating to the administration of justice, require such information.
- 4 (3) To make scientific study, analysis and comparison from the
5 information so collected and correlated with similar information
6 gathered by federal agencies, and to provide the Governor and the
7 General Assembly with the information so collected biennially, or
8 more often if required by the Governor.
- 9 (4) To perform all the duties heretofore imposed by law upon the Attorney
10 General with respect to criminal statistics.
- 11 (5) To perform such other duties as may be from time to time prescribed
12 by the Attorney General."
- 13 Sec. 3. This act is effective upon ratification and applies to convictions
14 occurring on or after January 1, 1995, and persons released from a penal institution on
15 or after January 1, 1995.