

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

S

3

SENATE BILL 170

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

Appropriations Committee Substitute No. 2 Adopted 3/9/94

Short Title: Sex Offender Registration.

(Public)

Sponsors:

Referred to:

February 15, 1994

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REGISTRATION OF PERSONS CONVICTED OF CERTAIN CRIMINAL SEXUAL OFFENSES.

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 governmental interests of public safety so long as the information released is rationally 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 second conviction for a violation of G.S. 14-
31 190.9 (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 subdivision.
- 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 10 days. If the
40 person moves to North Carolina from outside this State, the person shall register within
41 10 days of establishing residence in this State. If the person is a current resident of
42 North Carolina, the person shall register:

- 43 (1) Within 10 days of release from a penal institution or arrival in a county
44 to live outside a penal institution; or

1 (2) Immediately upon conviction for a reportable offense where an active
2 term of imprisonment was not imposed.

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

5 (1) The person's full name, each alias, date of birth, sex, race, height,
6 weight, eye color, hair color, social security number, drivers license
7 number, and home address;

8 (2) The type of offense for which the person was convicted, the date of
9 conviction, and the sentence imposed;

10 (3) A current photograph; and

11 (4) Any other information required by the Division, including fingerprints
12 or other corroborative information.

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

17 **"§ 14-208.8. Prerelease notification.**

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

21 (1) Inform the person of the person's duty to register under this Article and
22 require the person to sign a written statement that the person was so
23 informed or, if the person refuses to sign the statement, certify that the
24 person was so informed;

25 (2) Obtain the registration information required under G.S. 14-208.7 (b)(1)
26 and (2), as well as the address where the person expects to reside upon
27 the person's release; and

28 (3) Send the Division and the sheriff of the county in which the person
29 expects to reside the information collected in accordance with
30 subdivision (2) of this subsection.

31 (b) If a person who is subject to registration under this Article receives
32 probation, suspended sentence, or only a fine, the court pronouncing sentence shall
33 conduct the prerelease notification specified in subsection (a) of this section on the day
34 of sentencing.

35 **"§ 14-208.9. Change of address.**

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

42 **"§ 14-208.10. Access to registration information.**

43 (a) The information required for registration under this Article is not a matter of
44 public record except for use by a law enforcement officer or agency, except that a

1 sheriff shall verify, upon request, to an authorized requester as defined in subsection (b)
2 of this section, whether a person has registered as a sex offender in this State, the date of
3 conviction, and the offenses for which registration was required.

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

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

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

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

18 **"§ 14-208.12. Exemption and expungement.**

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

24 The sheriff, upon request by a registered person, shall expunge the record upon a
25 showing by the registered person that the person's conviction has been reversed on
26 appeal.

27 **"§ 14-208.13. File with Police Information Network.**

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

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

31 **"§ 114-10. Division of Criminal Statistics.**

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

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

1 for the administration of the criminal law in connection with the
2 arrests, trial, punishment, probation, prison parole and pardon of all
3 criminals in North Carolina.

4 (2) To collect, correlate, and maintain access to information that will assist
5 in the performance of duties required in the administration of criminal
6 justice throughout the State. This information may include, but is not
7 limited to, motor vehicle registration, drivers' licenses, wanted and
8 missing persons, stolen property, warrants, stolen vehicles, firearms
9 registration, sexual offender registration as provided under Article 27A
10 of Chapter 14, drugs, drug users and parole and probation histories. In
11 performing this function, the Division may arrange to use information
12 available in other agencies and units of State, local and federal
13 government, but shall provide security measures to insure that such
14 information shall be made available only to those whose duties,
15 relating to the administration of justice, require such information.

16 (3) To make scientific study, analysis and comparison from the
17 information so collected and correlated with similar information
18 gathered by federal agencies, and to provide the Governor and the
19 General Assembly with the information so collected biennially, or
20 more often if required by the Governor.

21 (4) To perform all the duties heretofore imposed by law upon the Attorney
22 General with respect to criminal statistics.

23 (5) To perform such other duties as may be from time to time prescribed
24 by the Attorney General."

25 Sec. 3. This act is effective upon ratification, except that registration referred
26 to under Section 1 of this act becomes effective October 1, 1994. This act applies to all
27 persons convicted before, on, or after October 1, 1994.