

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 1921

Short Title: Jessica Lunsford Act for NC. (Public)

Sponsors: Representatives Howard, Moore (Primary Sponsors); Almond, Blust, Brubaker, Clary, Cleveland, Current, England, Frye, Gillespie, Gulley, Hilton, Hollo, Holloway, Johnson, Justus, Kiser, Langdon, Parmon, Pate, Ray, Setzer, Sherrill, Stiller, Vinson, and Walend.

Referred to: Judiciary IV, if favorable, Appropriations.

May 15, 2006

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE SEX OFFENDER AND PUBLIC PROTECTION
3 REGISTRATION PROGRAMS, TO REQUIRE ACTIVE GPS ELECTRONIC
4 MONITORING OF CERTAIN SEX OFFENDERS, TO CREATE VARIOUS
5 CRIMINAL OFFENSES IMPOSING MORE SEVERE PENALTIES FOR
6 CERTAIN SEX OFFENSES, AND TO APPROPRIATE FUNDS TO BEGIN
7 IMPLEMENTING AN ACTIVE AND PASSIVE ELECTRONIC MONITORING
8 SYSTEM TO ASSIST WITH THE SUPERVISION OF CERTAIN SEX
9 OFFENDERS PLACED ON PROBATION, PAROLE, OR POST-RELEASE
10 SUPERVISION.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 14-208.6(5) reads as rewritten:

13 "(5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first
14 degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first
15 degree sexual offense), G.S. 14-27.5 (second degree sexual offense),
16 G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual
17 offense), G.S. 14-27.7 (intercourse and sexual offense with certain
18 victims), G.S. 14-27.7A (statutory rape or sexual offense of person
19 who is 13, 14, or 15 years old), G.S. 14-178 (incest between near
20 relatives), G.S. 14-190.6 (employing or permitting minor to assist in
21 offenses against public morality and decency), G.S. 14-190.9(a1)
22 (felonious indecent exposure), G.S. 14-190.16 (first degree sexual
23 exploitation of a minor), G.S. 14-190.17 (second degree sexual
24 exploitation of a minor), G.S. 14-190.17A (third degree sexual
25 exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a
26 minor), G.S. 14-190.19 (participating in the prostitution of a minor),

1 G.S. 14-202.1 (taking indecent liberties with children), or
2 G.S. 14-202.3 (Solicitation of child by computer to commit an
3 unlawful sex act), or G.S. 14-202.5 (Lewd or lascivious
4 molestation). The term also includes the following: a solicitation or
5 conspiracy to commit any of these offenses; aiding and abetting any of
6 these offenses."

7 **SECTION 2.** G.S. 14-208.6A reads as rewritten:

8 **"§ 14-208.6A. Lifetime registration requirements for criminal offenders.**

9 It is the objective of the General Assembly to establish a ~~10-year~~lifetime registration
10 requirement for persons convicted of certain offenses against minors or sexually violent
11 offenses. It is the further objective of the General Assembly to establish a more
12 stringent set of registration requirements for recidivists, persons who commit
13 aggravated offenses, and for a subclass of highly dangerous sex offenders who are
14 determined by a sentencing court with the assistance of a board of experts to be sexually
15 violent predators.

16 To accomplish this objective, there are established two registration programs: the
17 Sex Offender and Public Protection Registration Program and the Sexually Violent
18 Predator Registration Program. Any person convicted of an offense against a minor or
19 of a sexually violent offense as defined by this Article shall register in person as an
20 offender in accordance with Part 2 of this Article. Any person who is a recidivist, who
21 commits an aggravated offense, or who is determined to be a sexually violent predator
22 shall register in person as such in accordance with Part 3 of this Article.

23 The information obtained under these programs shall be immediately shared with the
24 appropriate local, State, federal, and out-of-state law enforcement officials and penal
25 institutions. In addition, the information designated under G.S. 14-208.10(a) as public
26 record shall be readily available to and accessible by the public. However, the identity
27 of the victim is not public record and shall not be released as a public record."

28 **SECTION 3.** G.S. 14-208.6B reads as rewritten:

29 **"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted**
30 **in superior court.**

31 A juvenile transferred to superior court pursuant to G.S. 7B-2200 who is convicted
32 of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6
33 shall register in person in accordance with this Article just as an adult convicted of the
34 same offense must register."

35 **SECTION 4.** G.S. 14-208.7 reads as rewritten:

36 **"§ 14-208.7. Registration.**

37 (a) A person who is a State resident and who has a reportable conviction shall be
38 required to maintain registration with the sheriff of the county where the person resides.
39 If the person moves to North Carolina from outside this State, the person shall register
40 within ~~10 days~~ 48 hours of establishing residence in this State, or whenever the person
41 has been present in the State for 15 days, whichever comes first. If the person is a
42 current resident of North Carolina, the person shall register:

- 43 (1) Within ~~10 days~~ 48 hours of release from a penal institution or arrival in
44 a county 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 Registration shall be maintained for a period of ~~10 years~~ at least 30 years following
4 release from a penal institution. If no active term of imprisonment was imposed,
5 registration shall be maintained for a period of ~~10 years~~ at least 30 years following each
6 conviction for a reportable offense.

7 (a1) A person who is a nonresident student or a nonresident worker and who has a
8 reportable conviction, or is required to register in the person's state of residency, is
9 required to maintain registration with the sheriff of the county where the person works
10 or attends school. In addition to the information required under subsection (b) of this
11 section, the person shall also provide information regarding the person's school or place
12 of employment as appropriate and the person's address in his or her state of residence.

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

15 (1) The person's full name, each alias, date of birth, sex, race, height,
16 weight, eye color, hair color, drivers license number, and home
17 address;

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

20 (3) A current photograph;

21 (4) The person's fingerprints;

22 (5) A statement indicating whether the person is a student or expects to
23 enroll as a student within a year of registering. If the person is a
24 student or expects to enroll as a student within a year of registration,
25 then the registration form shall also require the name and address of
26 the educational institution at which the person is a student or expects
27 to enroll as a student; and

28 (6) A statement indicating whether the person is employed or expects to
29 be employed at an institution of higher education within a year of
30 registering. If the person is employed or expects to be employed at an
31 institution of higher education within a year of registration, then the
32 registration form shall also require the name and address of the
33 educational institution at which the person is or expects to be
34 employed.

35 The sheriff shall photograph the individual at the time of registration and take
36 fingerprints from the individual at the time of registration both of which will be kept as
37 part of the registration form. The registrant will not be required to pay any fees for the
38 photograph or fingerprints taken at the time of registration.

39 (c) When a person registers, the sheriff with whom the person registered shall
40 immediately send the registration information to the Division in a manner determined
41 by the Division. The sheriff shall retain the original registration form and other
42 information collected and shall compile the information that is a public record under
43 this Part into a county registry.

1 (d) Any person required to register under this section shall report in person at the
2 appropriate sheriff's office to comply with the registration requirements set out in this
3 section."

4 **SECTION 5.** G.S. 14-208.9 reads as rewritten:

5 "**§ 14-208.9. Change of address; change of academic status or educational**
6 **employment status.**

7 (a) If a person required to register changes address, the person shall report in
8 person and provide written notice of the new address not later than ~~the tenth day~~⁴⁸
9 hours after the change to the sheriff of the county with whom the person had last
10 registered. Upon receipt of the notice, the sheriff shall immediately forward this
11 information to the Division. If the person moves to another county in this State, the
12 Division shall inform the sheriff of the new county of the person's new residence.

13 (b) If a person required to register ~~moves-intends to move~~ to another state, the
14 person shall report in person to the sheriff of the county of current residence at least 48
15 hours before the date the person intends to leave this State to establish residence in
16 another state or jurisdiction, provide written notice of the new address not later than 10
17 days after the change to the sheriff of the county with whom the person had last
18 registered. Upon receipt of the notice, the The person shall provide to the sheriff a
19 written notification that includes all of the following information: the address,
20 municipality, county, and state of intended residence. The sheriff shall ~~notify~~-inform the
21 person that the person must comply with the registration requirements in the new state
22 of residence. The sheriff shall also immediately forward the ~~change of address~~
23 information included in the notification to the Division, and the Division shall inform
24 the appropriate state official in the state to which the registrant moves of the person's
25 notification and new address.

26 (b1) A person who indicates his or her intent to reside in another state or
27 jurisdiction and later decides to remain in this State shall, within 48 hours after the date
28 upon which the person indicated he or she would leave this State, report in person to the
29 sheriff's office to which the person reported the intended change of residence, of his or
30 her intent to remain in this State. If the sheriff is notified by the sexual offender that he
31 or she intends to remain in this State, the sheriff shall promptly report this information
32 to the Division.

33 (c) If a person required to register changes his or her academic status either by
34 enrolling as a student or by terminating enrollment as a student, then the person ~~shall~~
35 shall, within 48 hours, report in person to the sheriff of the county with whom the
36 person registered and provide written notice of the person's new status not later than the
37 tenth day after the change to the sheriff of the county with whom the person
38 registered-status. The written notice shall include the name and address of the institution
39 of higher education at which the student is or was enrolled. ~~Upon receipt of the notice,~~
40 the The sheriff shall immediately forward this information to the Division.

41 (d) If a person required to register changes his or her employment status either by
42 obtaining employment at an institution of higher education or by terminating
43 employment at an institution of higher education, then the person ~~shall~~ shall, within 48
44 hours, report in person to the sheriff of the county with whom the person registered and

1 provide written notice of the person's new status not later than the tenth day 48 hours
2 after the change to the sheriff of the county with whom the person registered. The
3 written notice shall include the name and address of the institution of higher education
4 at which the person is or was employed. ~~Upon receipt of the notice, the~~The sheriff shall
5 immediately forward this information to the Division."

6 **SECTION 6.** G.S. 14-208.9A reads as rewritten:

7 "**§ 14-208.9A. Verification of registration information.**

8 The information in the county registry shall be verified ~~annually~~ semiannually for
9 each registrant as follows:

- 10 (1) Every year on the anniversary of a person's initial registration date, and
11 again six months after that date, the Division shall mail a
12 nonforwardable verification form to the last reported address of the
13 person.
- 14 (2) The person shall return the verification form in person to the sheriff
15 within ~~10 days~~ 48 hours after the receipt of the form.
- 16 (3) The verification form shall be signed by the person and shall indicate
17 whether the person still resides at the address last reported to the
18 sheriff. If the person has a different address, then the person shall
19 indicate that fact and the new address.
- 20 (4) If the person fails to return the verification form in person to the sheriff
21 within ~~10 days~~ 48 hours after receipt of the form, the person is subject
22 to the penalties provided in G.S. 14-208.11. If the ~~verification form is~~
23 ~~returned to the sheriff as undeliverable,~~ person fails to report in person
24 and provide the written verification as provided by this section, the
25 sheriff shall make a reasonable attempt to verify that the person is
26 residing at the registered address. If the person cannot be found at the
27 registered address and has failed to report a change of address, the
28 person is subject to the penalties provided in G.S. 14-208.11, unless
29 the person reports in person to the sheriff and proves that the person
30 has not changed his or her residential address."

31 **SECTION 7.** G.S. 14-208.11(a) reads as rewritten:

32 "(a) A person required by this Article to register who does any of the following is
33 guilty of a Class F felony:

- 34 (1) Fails to register.
- 35 (2) Fails to notify the last registering sheriff of a change of address.
- 36 (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- 37 (4) Forges or submits under false pretenses the information or verification
38 notices required under this Article.
- 39 (5) Fails to inform the registering sheriff of enrollment or termination of
40 enrollment as a student.
- 41 (6) Fails to inform the registering sheriff of employment at an institution
42 of higher education or termination of employment at an institution of
43 higher education.

- 1 (7) Fails to report in person to the sheriff's office as required by
2 G.S. 14-208.7, 14-208.9, and 14-208.9A.
- 3 (8) Reports his or her intent to reside in another state or jurisdiction but
4 remains in this State without reporting to the sheriff or the department
5 in the manner required by G.S. 14-208.9."

6 **SECTION 8.** Article 27A of Chapter 14 of the General Statutes is amended
7 by adding a new section to read:

8 **"§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure**
9 **to report in certain circumstances.**

10 (a) Any person who has reason to believe that an offender required to register
11 under this Article is not complying, or has not complied with the requirements of this
12 Article and who, with the intent to assist the offender in eluding a law enforcement
13 agency that is seeking to find the offender to question the offender about, or to arrest the
14 offender for his or her noncompliance with the requirements of this Article and who
15 does any of the following is guilty of a Class H felony:

- 16 (1) Withholds information from, or does not notify, the law enforcement
17 agency about the offender's noncompliance with the requirements of
18 this Article and, if known, the whereabouts of the offender.
- 19 (2) Harbors, or attempts to harbor, or assists another person in harboring,
20 or attempting to harbor, the offender.
- 21 (3) Conceals, or attempts to conceal, or assist another person in
22 concealing, or attempting to conceal, the offender.
- 23 (4) Provides information to the law enforcement agency regarding the
24 offender that the person knows to be false information.

25 (b) This section does not apply if the offender is incarcerated in or is in the
26 custody of a local, State, private, or federal correctional facility."

27 **SECTION 9.** G.S. 14-208.12A reads as rewritten:

28 **"§ 14-208.12A. Termination-Request for termination of registration requirement.**

29 (a) A person required to register under this Part must maintain registration for the
30 duration of his or her life, unless the person successfully petitions the court to terminate
31 the registration requirement as provided by this section. A person who has served his or
32 her sentence may petition the superior court in the district court where the person
33 resides to terminate the registration requirement~~The requirement that a person register~~
34 ~~under this Part automatically terminates 10 years~~30 years from the date of initial county
35 registration if the person has not been convicted of a subsequent offense requiring
36 registration under this Article. The court may grant or deny the relief if the petitioner
37 demonstrates to the court that he or she has not been arrested for any crime that would
38 require registration under this Article since completing the sentence, the requested relief
39 complies with the provisions of the federal Jacob Wetterling Act, as amended, and any
40 other federal standards applicable to the termination of a registration requirement or
41 required to be met as a condition for the receipt of federal funds by the State, and the
42 court is otherwise satisfied that the petitioner is not a current or potential threat to public
43 safety. The district attorney in the district in which the petition is filed shall be given
44 notice of the petition at least three weeks before the hearing on the matter. The district

1 attorney may present evidence in opposition to the requested relief or may otherwise
2 demonstrate the reasons why the petition should be denied. If the court denies the
3 petition, the court may set a future date at which the person may again petition the court
4 for relief in accordance with this section. If the court grants the petition to terminate the
5 registration requirement, the petitioner shall forward a certified copy of the order to the
6 Division to have the person's name removed from the registry.

7 (b) If there is a subsequent offense, the county registration records shall be
8 retained until the registration requirement for the subsequent offense is terminated."

9 **SECTION 10.** Article 27A of Chapter 14 of the General Statutes is amended
10 by adding a new section to read:

11 "**§ 14-208.25A. Community and public notification.**

12 (a) Law enforcement agencies shall inform members of the community and the
13 public of the presence of any person required to register under this Part as a recidivist,
14 as a sexually violent predator, or because the person has committed an aggravated
15 offense. Upon notification of the presence of a registrant under this Part, the sheriff of
16 the county where the registrant establishes or maintains a permanent or temporary
17 residence shall notify members of the community and the public of the presence of the
18 registrant in a manner deemed appropriate by the sheriff. Within 48 hours after
19 receiving notification of the presence of a registrant under this Part, the sheriff of the
20 county where the registrant temporarily or permanently resides shall notify each
21 licensed day care center, elementary school, middle school, and high school within a
22 one-mile radius of the registrant's temporary or permanent residence of the registrant's
23 presence. The information to be provided under this section shall not include the name
24 of any victim of the registrant but shall include all of the following:

25 (1) The name of the registrant.

26 (2) A description of the registrant, including a photograph.

27 (3) The registrant's current address, including the name of the county or
28 municipality, if known.

29 (4) The circumstances of the registrant's offense.

30 (5) Whether the victim of the offense was, at the time of the offense, a
31 minor or an adult.

32 (b) The sheriff may coordinate the community and public notification efforts
33 with the Division. Statewide notification to the public is authorized, as deemed
34 appropriate by local law enforcement personnel and the Division.

35 (c) The Division shall notify the public of all registrants under this Part through
36 the Internet. The Internet notice shall include the information required by subsection (a)
37 of this section.

38 (d) The Division shall adopt a protocol to assist law enforcement agencies in
39 their efforts to notify the community and public of the presence of persons required to
40 register under this Part."

41 **SECTION 11.** G.S. 14-208.27 reads as rewritten:

42 "**§ 14-208.27. Change of address.**

43 If a juvenile who is adjudicated delinquent and required to register changes address,
44 the juvenile court counselor for the juvenile shall provide written notice of the new

1 address not later than ~~the tenth day~~ 48 hours after the change to the sheriff of the county
2 with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall
3 immediately forward this information to the Division. If the juvenile moves to another
4 county in this State, the Division shall inform the sheriff of the new county of the
5 juvenile's new residence."

6 **SECTION 12.** G.S. 14-208.28 reads as rewritten:

7 "**§ 14-208.28. Verification of registration information.**

8 The information provided to the sheriff shall be verified ~~annually~~ semiannually for
9 each juvenile registrant as follows:

- 10 (1) Every year on the anniversary of a juvenile's initial registration
11 ~~date, date and six months after that date~~ the sheriff shall mail a
12 verification form to the juvenile court counselor assigned to the
13 juvenile.
14 (2) The juvenile court counselor for the juvenile shall return the
15 verification form to the sheriff within ~~10 days~~ 48 hours after the receipt
16 of the form.
17 (3) The verification form shall be signed by the juvenile court counselor
18 and the juvenile and shall indicate whether the juvenile still resides at
19 the address last reported to the sheriff. If the juvenile has a different
20 address, then that fact and the new address shall be indicated on the
21 form."

22 **SECTION 13.** Part 3 of Article 27A of Chapter 14 of the General Statutes is
23 amended by adding a new section to read:

24 "**§ 14-208.24A. Sexually violent predator prohibited from working or volunteering**
25 **at any place where children regularly congregate.**

26 (a) Any person required to register under this Part because he or she is classified
27 as a sexually violent predator, is a recidivist as defined by G.S. 14-208.6, or is a person
28 convicted of an aggravated offense as defined by G.S. 14-208.6 shall not work, for
29 compensation or as a volunteer, at any business, school, day care center, park,
30 playground, or other place where children regularly congregate.

31 (b) A violation of this section is a Class F felony.

32 **SECTION 14.** Article 26 of Chapter 14 of the General Statutes is amended
33 by adding a new section to read:

34 "**§ 14-202.5. Lewd or lascivious molestation.**

35 (a) Offense. – Any person who is 18 years of age or older who intentionally
36 touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or
37 the clothing covering them of a person less than 12 years of age, or forces or entices a
38 person under 12 years of age to so touch the perpetrator, is guilty of a Class B1 felony
39 punishable as provided in subsection (b) of this section.

40 (b) Penalty. – Notwithstanding G.S. 15A-1340.17, the court shall impose either
41 of the following sentences for a violation of subsection (a) of this section:

42 (1) Life imprisonment without parole; or

43 (2) A split sentence that is a minimum term of 25 years of active
44 punishment and a maximum term of life imprisonment of active

1 punishment, followed by post-release supervision with electronic
2 monitoring for the duration of the defendant's natural life."

3 **SECTION 15.** Article 33 of Chapter 14 of the General Statutes is amended
4 by adding a new section to read:

5 **"§ 14-259A. Altering, tampering, or damaging electronic monitoring equipment**
6 **used to monitor persons placed on house arrest, probation, post-release**
7 **supervision, or other types of release.**

8 (a) It is unlawful to alter, tamper with, damage, or destroy any electronic
9 monitoring equipment used to monitor a person who has been placed on probation,
10 house arrest, post-release supervision, parole, study release, or work release.

11 (b) A violation of this section is a Class F felony."

12 **SECTION 16.** G.S. 15A-1341 is amended by adding a new subsection to
13 read:

14 "(d) Search of Sex Offender Registration Information Required When Placing a
15 Defendant on Probation. – When the court places a defendant on probation, the
16 probation officer assigned to the defendant shall conduct a search of the defendant's
17 name or other identifying information against the registration information regarding sex
18 offenders compiled by the Division of Criminal Statistics of the Department of Justice
19 in accordance with Article 27A of Chapter 14 of the General Statutes. The probation
20 officer may conduct the search using the Internet site maintained by the Division of
21 Criminal Statistics."

22 **SECTION 17.** G.S. 15A-1343(b2) reads as rewritten:

23 "(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of
24 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special
25 conditions of probation, a defendant who has been convicted of an offense which is a
26 reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical,
27 mental, or sexual abuse of a minor, must:

- 28 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
29 conviction as defined by G.S. 14-208.6(4).
30 (2) Participate in such evaluation and treatment as is necessary to
31 complete a prescribed course of psychiatric, psychological, or other
32 rehabilitative treatment as ordered by the court.
33 (3) Not communicate with, be in the presence of, or found in or on the
34 premises of the victim of the offense.
35 (4) Not reside in a household with any minor child if the offense is one in
36 which there is evidence of sexual abuse of a minor.
37 (5) Not reside in a household with any minor child if the offense is one in
38 which there is evidence of physical or mental abuse of a minor, unless
39 the court expressly finds that it is unlikely that the defendant's harmful
40 or abusive conduct will recur and that it would be in the minor child's
41 best interest to allow the probationer to reside in the same household
42 with a minor child.
43 (6) Satisfy any other conditions determined by the court to be reasonably
44 related to his rehabilitation.

1 (7) Submit to electronic monitoring if (i) the defendant is required to
2 register under Part 3 of Chapter 14 of the General Statutes because the
3 defendant is classified as a sexually violent predator, is a recidivist, or
4 was convicted of an aggravated offense as those terms are defined in
5 G.S.14-208.6, or (ii) the defendant committed an offense that is a
6 reportable conviction as defined by G.S. 14-208.6 against a victim who
7 was 15 years of age or younger at the time of the offense.

8 Defendants subject to the provisions of this subsection shall not be placed on
9 unsupervised probation."

10 **SECTION 18.** G.S. 15A-1343(c2) reads as rewritten:

11 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
12 electronic monitoring under subsection (b1) of this section or who has electronic
13 monitoring imposed as a condition of probation under subsection (b2) of this section
14 shall pay a fee of ninety dollars (\$90.00) for the electronic monitoring device. The court
15 may exempt a person from paying the fee only for good cause and upon motion of the
16 person placed on house arrest with electronic ~~monitoring.~~ monitoring or upon motion of
17 the person who has electronic monitoring imposed as a condition of probation under
18 subsection (b2) of this section. The court may require that the fee be paid in advance or
19 in a lump sum or sums, and a probation officer may require payment by those methods
20 if the officer is authorized by subsection (g) of this section to determine the payment
21 schedule. The fee must be paid to the clerk of court for the county in which the
22 judgment was entered or the deferred prosecution agreement was filed. Fees collected
23 under this subsection shall be transmitted to the State for deposit into the State's General
24 Fund."

25 **SECTION 19.** G.S. 15A-1344 is amended by adding a new subsection to
26 read:

27 "(e2) Mandatory Electronic Monitoring Required for Extension of Probation in
28 Response to Violation by Certain Sex Offenders. – If a defendant who violates
29 probation is either (i) classified as a sexually violent predator, is a recidivist, or was
30 convicted of an aggravated offense as those terms are defined in G.S.14-208.6, or (ii)
31 committed a reportable conviction as defined by G.S. 14-208.6 against a victim who
32 was 15 years of age or younger at the time of the offense, and if the court extends the
33 probation as a result of the violation, then the court shall order electronic monitoring as
34 a condition of the extended probation."

35 **SECTION 20.** G.S. 15A-1345(b) reads as rewritten:

36 "(b) Bail Following Arrest for Probation Violation. – If at any time during the
37 period of probation the probationer is arrested for a violation of any of the conditions of
38 probation, he must be taken without unnecessary delay before a judicial official to have
39 conditions of release pending a revocation hearing set in the same manner as provided
40 in G.S. 15A-534. If the probationer has been convicted of an offense at any time that
41 requires registration under Article 27A of Chapter 14 of the General Statutes or an
42 offense that would have required registration but for the effective date of either the law
43 establishing the Sex Offender and Public Protection Registration Programs, the court

1 must make a finding that the probationer is not a danger to the public prior to release
2 with or without bail."

3 **SECTION 21.** G.S. 15A-1368.2(c) reads as rewritten:

4 "(c) A supervisee's period of post-release supervision shall be for a period of nine
5 months, unless the offense is an offense for which registration is required pursuant to
6 Article 27A of Chapter 14 of the General Statutes. For offenses subject to the
7 registration requirement of Article 27A of Chapter 14 of the General Statutes, the period
8 of post-release supervision is five ~~years~~-years, unless the offense is G.S. 14-202.5. For
9 the offense of G.S. 14-202.5, the period of post-release supervision for a person
10 sentenced to a split sentence is the duration of the person's natural life. The conditions
11 of post-release supervision are as authorized in G.S. 15A-1368.5."

12 **SECTION 22.** G.S. 15A-1368.3 is amended by adding a new subsection to
13 read:

14 "(b1) Bail following arrest for violation of post-release supervision if releasee is a
15 sex offender. Notwithstanding subsection (b) of this section, if the releasee has been
16 convicted of an offense that requires registration under Article 27A of Chapter 14 of the
17 General Statutes and is arrested for a violation in accordance with this section, the
18 releasee shall be detained without bond until the preliminary hearing is conducted."

19 **SECTION 23.** G.S. 15A-1368.4 is amended by adding two new subsections
20 to read:

21 "(b2) Mandatory Electronic Monitoring for Life for a Person Convicted of Lewd or
22 Lascivious Molestation. – If a person convicted of a violation of G.S. 14-202.5 is
23 sentenced to a split sentence rather than life imprisonment without parole, the
24 Commission shall impose as a condition that the person be electronically monitored for
25 the duration of the person's natural life.

26 (b3) Mandatory Electronic Monitoring for Certain Other Sex Offenders. – In
27 addition to the other required conditions set forth in this section, the Commission shall
28 also impose electronic monitoring as a condition for a supervisee who is either (i)
29 required to register under Part 3 of Chapter 14 of the General Statutes because the
30 person is classified as a sexually violent predator, is a recidivist, or was convicted of an
31 aggravated offense as those terms are defined in G.S.14-208.6, or (ii) who committed a
32 reportable conviction as defined by G.S. 14-208.6 against a victim who was 15 years of
33 age or younger at the time of the offense."

34 **SECTION 24.** Chapter 15A of the General Statutes is amended by adding a
35 new Article to read:

36 "Article 85C.

37 "Electronic Monitoring Devices.

38 **§ 15A-1380.6. Electronic monitoring devices.**

39 If electronic monitoring is imposed as a condition of probation, parole, or
40 post-release supervision on an offender, and the offender has a current or prior
41 conviction for an offense that requires registration under Article 27A of Chapter 14 of
42 the General Statutes, the Department of Correction shall use an electronic monitoring
43 system that actively monitors the offender, identifies the offender's location, and timely
44 reports or records the offender's presence near or within a crime scene or in a prohibited

1 area or the offender's departure from specified geographic limitations, unless such a
2 system will not work due to technological or geographical limitations. If an electronic
3 monitoring system that actively monitors the offender will not work as provided by this
4 section, then the Department of Correction shall use a passive electronic system that
5 works within the technological or geographical limitations."

6 **SECTION 25.** Part 6 of Article 22 of Chapter 115C of the General Statutes
7 is amended by adding a new section to read:

8 **"§ 115C-332A. Background screening requirements for certain contractual**
9 **personnel.**

10 (a) For purposes of this section, the term "contractual personnel" includes any
11 vendor, individual, or entity under contract with the local board of education. The term
12 also includes any other vendor, individual, or entity designated as contractual personnel
13 by the local school board or the other party to the contract.

14 (b) Each local school board shall require, as a term of any contract the local
15 school board enters, that a person who is contractual personnel undergo a criminal
16 history check that has been reviewed and approved by the local school board or other
17 party to the contract as appropriate before the person is allowed to do any of the
18 following:

- 19 (1) Is permitted on school grounds when students are present.
- 20 (2) Has direct contact with students.
- 21 (3) Has access to or control of school funds.

22 (c) The criminal history check required to comply with this section is a security
23 background investigation that satisfies the same criteria set out in G.S. 115C-332."

24 **SECTION 26.** No later than January 1, 2007, the Department of Correction
25 shall establish a sex offender monitoring program that includes a component that uses a
26 system that actively monitors and identifies the offender's location and timely reports or
27 records the offender's presence near or within a crime scene or in a prohibited area or
28 the offender's departure from specified geographic limitation. The program shall
29 include criteria to be considered in determining when to use active electronic
30 monitoring and when to use passive electronic monitoring.

31 **SECTION 27.(a)** No later than January 1, 2007, the Department of
32 Correction shall develop a graduated risk assessment program that identifies, assesses,
33 and closely monitors a high-risk sex offender who is placed on probation, parole,
34 post-release supervision, or any other type of conditional release such as work-release
35 or study release and who also has done all of the following:

- 36 (1) Has previously been placed on probation or has been sentenced to
37 community punishment and has a history of committing multiple
38 violations of community supervision in this State or in any other
39 jurisdiction or has previously been incarcerated in this State or any
40 other jurisdiction.
- 41 (2) Has experienced more than one of the following risk factors that could
42 potentially make the offender more likely to pose a danger to others:
 - 43 a. Previous conviction for domestic violence.
 - 44 b. History of substance abuse.

- 1 c. Unemployment or substantial financial difficulties.
2 d. Previous conviction for violence or sex acts against children,
3 particularly involving strangers.
4 e. Any other risk factor identified by the Department of
5 Correction.

6 **SECTION 27.(b)** The Department of Correction in cooperation with the
7 Administrative Office of the Courts shall develop a computer program to facilitate the
8 information available to the court at first appearance hearings and at all subsequent
9 hearings for high-risk sex offenders. The Department of Correction shall, no later than
10 March 1, 2007, provide to the Division of Criminal Statistics a cumulative chronology
11 of the sex offender's prior terms of State probation and community punishment as
12 defined in G.S. 15A-1340.11, including all substantive or technical violations of State
13 probation or community punishment. The sheriff in the county where the arrested
14 person is booked shall ensure that State and national criminal history information and
15 all criminal justice information available through the North Carolina Criminal Justice
16 Information System and the National Crime Information Center is provided to the court
17 at the time of the first appearance. The courts shall assist the sheriff's dissemination of
18 critical information by creating and maintaining an automated system to provide the
19 information as specified in this subsection and by providing the necessary technology in
20 the courtroom to deliver the information.

21 **SECTION 27.(c)** In monitoring the location of high-risk sex offenders as
22 determined in accordance with the risk assessment program described in subsection (a)
23 of this section, the Department of Correction shall, no later than October 1, 2007, have
24 fingerprint-reading equipment and capability that will immediately identify the
25 probationer or person sentenced to intermediate punishment when he or she reports to
26 his or her designated probation officer and alert department probation officials when
27 probationers and persons sentenced to intermediate punishment are subsequently
28 rearrested.

29 **SECTION 28.** There is appropriated from the General Fund to the
30 Department of Correction the sum of one million three hundred seven thousand two
31 hundred eighteen dollars (\$1,307,218) for the 2006-2007 fiscal year to begin
32 implementing the active and passive electronic monitoring systems required by this act
33 to supervise up to 300 offenders.

34 **SECTION 29.** Section 28 of this act becomes effective July 1, 2006. The
35 remainder of this act becomes effective December 1, 2006, and applies to offenses
36 committed on or after that date.