

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

3

SENATE BILL 1398*
Judiciary I Committee Substitute Adopted 7/1/94
House Committee Substitute Favorable 7/7/94

Short Title: Sex Offender Registration/Funds.

(Public)

Sponsors:

Referred to:

May 25, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE REGISTRATION OF PERSONS CONVICTED OF
3 CERTAIN CRIMINAL SEXUAL OFFENSES AND TO APPROPRIATE FUNDS
4 TO IMPLEMENT THIS ACT.

5 The General Assembly of North Carolina enacts:

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

8 **"ARTICLE 27A.**

9 **"SEXUAL OFFENDER REGISTRATION PROGRAM.**

10 **"§ 14-208.5. Purpose.**

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

21 Therefore, it is the purpose of this Article to assist local law enforcement agencies'
22 efforts to protect their communities by requiring sex offenders to register with local law

1 enforcement agencies and to require the exchange of relevant information about sex
2 offenders among law enforcement agencies and to authorize the access to necessary and
3 relevant information about sex offenders to others as provided in this Article.

4 **"§ 14-208.6. Definitions.**

5 The following definitions apply in this Article:

6 (1) 'Division' means the Division of Criminal Statistics of the Department
7 of Justice.

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

11 (3) 'Reportable conviction' means:

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

25 b. A final conviction in another state of an offense, which if
26 committed in this State, would have been a sex offense as
27 defined by the sections of the General Statutes set forth in
28 paragraph a. of this subdivision.

29 (4) 'Sheriff' means the sheriff of a county in this State.

30 **"§ 14-208.7. Registration.**

31 (a) A person who is a resident and who has a reportable conviction shall be
32 required to maintain registration with the sheriff of the county where the person resides.
33 If the person moves to North Carolina from outside this State, the person shall register
34 within 10 days of establishing residence in this State. If the person is a current resident
35 of North Carolina, the person shall register:

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

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

40 Registration shall be maintained for a period of 10 years following release from a penal
41 institution. If no active term of imprisonment was imposed, registration shall be
42 maintained for a period of 10 years following each conviction for a reportable offense.

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, drivers license number, and home
3 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) The person's fingerprints.

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

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

16 **"§ 14-208.8. Prerelease notification.**

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

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

30 (b) If a person who is subject to registration under this Article does not receive an
31 active term of imprisonment, the court pronouncing sentence shall conduct, at the time
32 of sentencing, the notification procedures specified in subsection (a) of this section.

33 **"§ 14-208.9. Change of address.**

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

40 **"§ 14-208.10. Access to registration information.**

41 (a) To obtain information concerning an individual's registration status, a
42 requester shall submit to the sheriff the following:

- 43 (1) The individual's name and sex;
- 44 (2) A physical description of the individual; and

1 (3) Any other relevant information known to the requester concerning the
2 individual.

3 Upon receipt of the information, the sheriff shall verify, in writing, to the requester
4 whether the individual has registered as a sex offender in this State, the date of
5 conviction, and the offenses for which registration was required. Additionally, the
6 sheriff shall furnish to the requester any other information contained on the registration
7 form, with the exception of the registrant's photograph and fingerprints, upon demand of
8 the requester for such additional information. If the individual is registered as a sex
9 offender, the sheriff shall, upon demand of the requester, allow the requester to view the
10 photograph of the individual. The information provided by the sheriff shall be
11 accompanied by a statement that other persons may exist with the same name, that the
12 information is based upon data relating to persons released from prison or convicted on
13 or after March 1, 1995, and that no one should rely solely on this information in making
14 any decision about the person.

15 (b) A requester seeking information under subsection (a) of this section shall pay
16 to the sheriff a fee of five dollars (\$5.00) upon requesting the registration information.

17 **"§ 14-208.11. Failure to register.**

18 (a) A person required by this Article to register who, knowingly and with the
19 intent to violate the provisions of this Article, fails to register shall be guilty of a Class 3
20 misdemeanor for a first conviction of a violation of this Article, and a Class I felony for
21 a subsequent conviction of a violation of this Article.

22 (b) Before a person convicted of a violation of this Article is due to be released
23 from a penal institution, an official of the penal institution shall conduct the prerelease
24 notification procedures specified under G.S. 14-208.8(a)(2) and (3). If upon a
25 conviction for a violation of this Article, no active term of imprisonment is imposed, the
26 court pronouncing sentence shall, at the time of sentencing, conduct the notification
27 procedures specified under G.S. 14-208.8(a)(2) and (3).

28 **"§ 14-208.12. Exemption.**

29 (a) A person who has a reportable conviction may petition the superior court in
30 the county where the person resides for an exemption from this Article. The person
31 shall serve a copy of the petition on the district attorney. If the person shows for good
32 cause, by clear and convincing evidence, that registration will not serve any useful
33 purpose, the court shall grant the exemption.

34 (b) When a registered person presents the sheriff with a certified copy of the
35 court order showing that an exemption has been granted, the sheriff shall remove any
36 information from his records that was obtained pursuant to this Article. The sheriff shall
37 then notify the Division of the exemption by sending a copy of the exemption to the
38 Division within three days and the Division shall remove any information from its files
39 obtained pursuant to this Article. The Division shall notify the registered person of the
40 exemption by letter telling the registrant that the exemption has been accomplished.

41 **"§ 14-208.13. File with Police Information Network.**

42 (a) The Division shall include the registration information in the Police
43 Information Network as set forth in G.S. 114-10.1.

1 (b) Except as provided in G.S. 14-208.12(b), the Division shall maintain the
2 registration information permanently even after the registrant's reporting requirement
3 expires."

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

5 **"§ 114-10. Division of Criminal Statistics.**

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

9 (1) To collect and correlate information in criminal law administration,
10 including crimes committed, arrests made, dispositions on preliminary
11 hearings, prosecutions, convictions, acquittals, punishment, appeals,
12 together with the age, race, and sex of the offender, and such other
13 information concerning crime and criminals as may appear significant
14 or helpful. To correlate such information with the operations of
15 agencies and institutions charged with the supervision of offenders on
16 probation, in penal and correctional institutions, on parole and pardon,
17 so as to show the volume, variety and tendencies of crime and
18 criminals and the workings of successive links in the machinery set up
19 for the administration of the criminal law in connection with the
20 arrests, trial, punishment, probation, prison parole and pardon of all
21 criminals in North Carolina.

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

34 (3) To make scientific study, analysis and comparison from the
35 information so collected and correlated with similar information
36 gathered by federal agencies, and to provide the Governor and the
37 General Assembly with the information so collected biennially, or
38 more often if required by the Governor.

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

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

43 (6) To promulgate rules and regulations for the administration of this
44 Article."

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

4 Sec. 4. Sections 1 and 2 of this act become effective March 1, 1995, and are
5 applicable to all persons convicted on or after that date, and to all persons released from
6 a penal institution on or after that date. Section 3 of this act becomes effective July 1,
7 1994.