

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1204  
Judiciary I Committee Substitute Adopted 6/19/06

Short Title: Jessica's Law/Strengthen Sex Offender Laws.

(Public)

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Sponsors:

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Referred to:

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May 10, 2006

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE SEX OFFENDER AND PUBLIC PROTECTION  
2 REGISTRATION PROGRAMS AND TO APPROPRIATE FUNDS TO  
3 IMPLEMENT AN ACTIVE AND PASSIVE ELECTRONIC MONITORING  
4 SYSTEM TO ASSIST WITH THE SUPERVISION OF CERTAIN SEX  
5 OFFENDERS AS RECOMMENDED BY THE CHILD FATALITY TASK  
6 FORCE.  
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 14-208.6A reads as rewritten:

10 **"§ 14-208.6A. Lifetime registration requirements for criminal offenders.**

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

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

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

1           **SECTION 2.** G.S. 14-208.6B reads as rewritten:

2   "**§ 14-208.6B. Registration requirements for juveniles transferred to and convicted**  
3   **in superior court.**

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

8           **SECTION 3.** G.S. 14-208.7 reads as rewritten:

9   "**§ 14-208.7. Registration.**

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

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

20   Registration shall be maintained for a period of at least 10 years following release from  
21   a penal institution. If no active term of imprisonment was imposed, registration shall be  
22   maintained for a period of at least 10 years following each conviction for a reportable  
23   offense.

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

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

- 32           (1)   The person's full name, each alias, date of birth, sex, race, height,  
33           weight, eye color, hair color, drivers license number, and home  
34           address;  
35           (2)   The type of offense for which the person was convicted, the date of  
36           conviction, and the sentence imposed;  
37           (3)   A current photograph;  
38           (4)   The person's fingerprints;  
39           (5)   A statement indicating whether the person is a student or expects to  
40           enroll as a student within a year of registering. If the person is a  
41           student or expects to enroll as a student within a year of registration,  
42           then the registration form shall also require the name and address of  
43           the educational institution at which the person is a student or expects  
44           to enroll as a student; and

1 (6) A statement indicating whether the person is employed or expects to  
2 be employed at an institution of higher education within a year of  
3 registering. If the person is employed or expects to be employed at an  
4 institution of higher education within a year of registration, then the  
5 registration form shall also require the name and address of the  
6 educational institution at which the person is or expects to be  
7 employed.

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) When a person registers, the sheriff with whom the person registered shall  
13 immediately send the registration information to the Division in a manner determined  
14 by the Division. The sheriff shall retain the original registration form and other  
15 information collected and shall compile the information that is a public record under  
16 this Part into a county registry.

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

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

21 **"§ 14-208.9. Change of address; change of academic status or educational**  
22 **employment status.**

23 (a) If a person required to register changes address, the person shall report in  
24 person and provide written notice of the new address not later than the tenth day after  
25 the change to the sheriff of the county with whom the person had last registered. Upon  
26 receipt of the notice, the sheriff shall immediately forward this information to the  
27 Division. If the person moves to another county in this State, the Division shall inform  
28 the sheriff of the new county of the person's new residence.

29 (b) If a person required to register ~~moves~~ intends to move to another state, the  
30 person shall report in person to the sheriff of the county of current residence at least 10  
31 days before the date the person intends to leave this State to establish residence in  
32 another state or jurisdiction. ~~provide written notice of the new address not later than 10~~  
33 ~~days after the change to the sheriff of the county with whom the person had last~~  
34 ~~registered. Upon receipt of the notice, the~~ The person shall provide to the sheriff a  
35 written notification that includes all of the following information: the address,  
36 municipality, county, and state of intended residence.

37 (1) If it appears to the sheriff that the record photograph of the sex  
38 offender no longer provides a true and accurate likeness of the sex  
39 offender, then the sheriff shall take a photograph of the offender to  
40 update the registration.

41 (2) The sheriff shall ~~notify~~ inform the person that the person must comply  
42 with the registration requirements in the new state of residence. The  
43 sheriff shall also immediately forward the ~~change of address~~  
44 information included in the notification to the Division, and the

1 Division shall inform the appropriate state official in the state to which  
2 the registrant moves of the person's notification and new address.

3 (b1) A person who indicates his or her intent to reside in another state or  
4 jurisdiction and later decides to remain in this State shall, within 10 days after the date  
5 upon which the person indicated he or she would leave this State, report in person to the  
6 sheriff's office to which the person reported the intended change of residence, of his or  
7 her intent to remain in this State. If the sheriff is notified by the sexual offender that he  
8 or she intends to remain in this State, the sheriff shall promptly report this information  
9 to the Division.

10 (c) If a person required to register changes his or her academic status either by  
11 enrolling as a student or by terminating enrollment as a student, then the person ~~shall~~  
12 shall, within 10 days, report in person to the sheriff of the county with whom the person  
13 registered and provide written notice of the person's new status not later than the tenth  
14 day after the change to the sheriff of the county with whom the person registered.~~status.~~  
15 The written notice shall include the name and address of the institution of higher  
16 education at which the student is or was enrolled. ~~Upon receipt of the notice, the~~The  
17 sheriff shall immediately forward this information to the Division.

18 (d) If a person required to register changes his or her employment status either by  
19 obtaining employment at an institution of higher education or by terminating  
20 employment at an institution of higher education, then the person ~~shall~~shall, within 10  
21 days, report in person to the sheriff of the county with whom the person registered and  
22 provide written notice of the person's new status not later than the tenth day after the  
23 change to the sheriff of the county with whom the person registered. The written notice  
24 shall include the name and address of the institution of higher education at which the  
25 person is or was employed. Upon receipt of the notice, the~~The~~ sheriff shall immediately  
26 forward this information to the Division."

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

28 "**§ 14-208.9A. Verification of registration information.**

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

31 (1) Every year on the anniversary of a person's initial registration date, and  
32 again six months after that date, the Division shall mail a  
33 nonforwardable verification form to the last reported address of the  
34 person.

35 (2) The person shall return the verification form in person to the sheriff  
36 within 10 days after the receipt of the form.

37 (3) The verification form shall be signed by the person and shall indicate  
38 whether the person still resides at the address last reported to the  
39 sheriff. If the person has a different address, then the person shall  
40 indicate that fact and the new address.

41 (3a) If it appears to the sheriff that the record photograph of the sex  
42 offender no longer provides a true and accurate likeness of the sex  
43 offender, then the sheriff shall take a photograph of the offender to  
44 include with the verification form.

- 1 (4) If the person fails to return the verification form in person to the sheriff  
2 within 10 days after receipt of the form, the person is subject to the  
3 penalties provided in G.S. 14-208.11. If the ~~verification form is~~  
4 ~~returned to the sheriff as undeliverable,~~person fails to report in person  
5 and provide the written verification as provided by this section, the  
6 sheriff shall make a reasonable attempt to verify that the person is  
7 residing at the registered address. If the person cannot be found at the  
8 registered address and has failed to report a change of address, the  
9 person is subject to the penalties provided in G.S. 14-208.11, unless  
10 the person reports in person to the sheriff and proves that the person  
11 has not changed his or her residential address."

12 **SECTION 6.** G.S. 14-208.11(a) reads as rewritten:

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

- 15 (1) Fails to register.  
16 (2) Fails to notify the last registering sheriff of a change of address.  
17 (3) Fails to return a verification notice as required under G.S. 14-208.9A.  
18 (4) Forges or submits under false pretenses the information or verification  
19 notices required under this Article.  
20 (5) Fails to inform the registering sheriff of enrollment or termination of  
21 enrollment as a student.  
22 (6) Fails to inform the registering sheriff of employment at an institution  
23 of higher education or termination of employment at an institution of  
24 higher education.  
25 (7) Fails to report in person to the sheriff's office as required by  
26 G.S. 14-208.7, 14-208.9, and 14-208.9A.  
27 (8) Reports his or her intent to reside in another state or jurisdiction but  
28 remains in this State without reporting to the sheriff in the manner  
29 required by G.S. 14-208.9."

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

32 "**§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure**  
33 **to report in certain circumstances.**

34 (a) It shall be unlawful and a Class H felony for any person who has reason to  
35 believe that an offender is in violation of the requirements of this Article, and who has  
36 the intent to assist the offender in eluding arrest, to do any of the following:

- 37 (1) Withhold information from, or fail to notify, a law enforcement agency  
38 about the offender's noncompliance with the requirements of this  
39 Article, and, if known, the whereabouts of the offender.  
40 (2) Harbor, attempt to harbor, or assist another person in harboring or  
41 attempting to harbor, the offender.  
42 (3) Conceal or attempt to conceal, or assist another person in concealing  
43 or attempting to conceal, the offender.

1           (4) Provide information to a law enforcement agency regarding the  
2           offender that the person knows to be false information.

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

5           **SECTION 8.** G.S. 14-208.12A reads as rewritten:

6 **"§ 14-208.12A. ~~Termination~~ Request for termination of registration requirement.**

7           (a) A person required to register under this Part who has served his or her  
8 sentence may petition the superior court in the district where the person resides to  
9 terminate the registration requirement~~The requirement that a person register under this~~  
10 ~~Part automatically terminates~~ 10 years from the date of initial county registration if the  
11 person has not been convicted of a subsequent offense requiring registration under this  
12 Article. The court may grant or deny the relief if the petitioner demonstrates to the court  
13 that he or she has not been arrested for any crime that would require registration under  
14 this Article since completing the sentence, the requested relief complies with the  
15 provisions of the federal Jacob Wetterling Act, as amended, and any other federal  
16 standards applicable to the termination of a registration requirement or required to be  
17 met as a condition for the receipt of federal funds by the State, and the court is  
18 otherwise satisfied that the petitioner is not a current or potential threat to public safety.  
19 The district attorney in the district in which the petition is filed shall be given notice of  
20 the petition at least three weeks before the hearing on the matter. The district attorney  
21 may present evidence in opposition to the requested relief or may otherwise demonstrate  
22 the reasons why the petition should be denied. If the court denies the petition, the person  
23 may again petition the court for relief in accordance with this section one year from the  
24 date of the denial of the original petition to terminate the registration requirement. If the  
25 court grants the petition to terminate the registration requirement, the clerk of court shall  
26 forward a certified copy of the order to the Division to have the person's name removed  
27 from the registry.

28           (b) If there is a subsequent offense, the county registration records shall be  
29 retained until the registration requirement for the subsequent offense is  
30 ~~terminated.~~terminated by the court under subsection (a) of this section."

31           **SECTION 9.** G.S. 14-208.28 reads as rewritten:

32 **"§ 14-208.28. Verification of registration information.**

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

35           (1) Every year on the anniversary of a juvenile's initial registration  
36 ~~date,~~date and six months after that date, the sheriff shall mail a  
37 verification form to the juvenile court counselor assigned to the  
38 juvenile.

39           (2) The juvenile court counselor for the juvenile shall return the  
40 verification form to the sheriff within 10 days after the receipt of the  
41 form.

42           (3) The verification form shall be signed by the juvenile court counselor  
43 and the juvenile and shall indicate whether the juvenile still resides at  
44 the address last reported to the sheriff. If the juvenile has a different

1 address, then that fact and the new address shall be indicated on the  
2 form."

3 **SECTION 10.** Part 3 of Article 27A of Chapter 14 of the General Statutes is  
4 amended by adding a new section to read:

5 **"§ 14-208.24A. Sexual predator prohibited from working or volunteering for**  
6 **child-involved activities; organizations.**

7 (a) It shall be unlawful for any person required to register under this Part because  
8 he or she is classified as a sexually violent predator, is a recidivist, or is a person  
9 convicted of an aggravated offense, to work for any person, with or without  
10 compensation, at any business, school, day care center, park, playground, or other place  
11 where the employer conducts any activity where a minor is present and the person's  
12 responsibilities include instruction, supervision, or care of a minor or minors.

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

14 **SECTION 11.** Article 33 of Chapter 14 of the General Statutes is amended  
15 by adding a new section to read:

16 **"§ 14-259A. Altering, tampering, or damaging electronic monitoring equipment**  
17 **used to monitor persons placed on house arrest, probation, post-release**  
18 **supervision or other types of release.**

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

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

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

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

33 **SECTION 13.(a)** Article 27A of Chapter 14 of the General Statutes is  
34 amended by adding a new Part to read:

35 "Part 5. Sex Offender Monitoring.

36 **"§ 14-208.33. Establishment of program; creation of guidelines; duties.**

37 (a) The Department of Correction shall establish a sex offender monitoring  
38 program that uses a continuous satellite-based monitoring system and shall create  
39 guidelines to govern the program. The program shall be designed to monitor two  
40 categories of offenders as follows:

41 (1) Any offender who is convicted of a reportable conviction and who is  
42 required to register under Part 3 of Article 27A of this Chapter because  
43 the defendant is classified as a sexually violent predator, is a recidivist,  
44 or was convicted of an aggravated offense. An offender in this

1 category who is ordered by the court to submit to satellite-based  
2 monitoring is subject to that requirement for the person's natural life,  
3 unless the requirement is terminated pursuant to G.S. 14-208.36.

4 (2) Any offender who satisfies all of the following criteria: (i) is  
5 convicted of a reportable conviction (ii) is required to register under  
6 Part 2 of Article 27A of this Chapter, (iii) has committed an offense  
7 involving the physical, mental, or sexual abuse of a minor, and (iv)  
8 requires the highest possible level of supervision and monitoring,  
9 based on the sex offender risk assessment program developed by the  
10 Division of Community Corrections, Department of Correction. An  
11 offender in this category who is ordered by the court to submit to  
12 satellite-based monitoring is subject to that requirement only for the  
13 period of time ordered by the court and is not subject to a requirement  
14 of lifetime satellite-based monitoring.

15 (b) In developing the guidelines for the program, the Department shall require  
16 that any offender who is enrolled in the satellite-based program submit to an active  
17 continuous satellite-based monitoring program, unless an active program will not work  
18 as provided by this section. If the Department determines that an active program will  
19 not work as provided by this section, then the Department shall require that the  
20 defendant submit to a passive continuous satellite-based program that works within the  
21 technological or geographical limitations.

22 (c) The satellite-based monitoring program shall use a system that provides all of  
23 the following:

24 (1) Time-correlated and continuous tracking of the geographic location of  
25 the subject using a global positioning system based on satellite and  
26 other location tracking technology.

27 (2) Reporting of subject's violations of prescriptive and proscriptive  
28 schedule or location requirements. Frequency of reporting may range  
29 from once a day (passive) to near real-time (active).

30 (d) The Department may contract with a single vendor for the hardware services  
31 needed to monitor subject offenders and correlate their movements to reported crime  
32 incidents. The contract may provide for services necessary to implement or facilitate  
33 any of the provisions of this Part.

34 **§ 14-208.34. Enrollment in satellite-based monitoring programs mandatory;**  
35 **length of enrollment.**

36 (a) Any person described by G.S. 14-208.33(a)(1) shall enroll in a satellite-based  
37 monitoring program with the Division of Community Corrections office in the county  
38 where the person resides. The person shall remain enrolled in the satellite-based  
39 monitoring program for the registration period imposed under G.S. 14-208.33 which is  
40 the person's life, unless the requirement to enroll in the satellite-based monitoring  
41 program is terminated pursuant to G.S. 14-208.36.

42 (b) Any person described by G.S. 14-208.33(a)(2) who is ordered by the court to  
43 enroll in a satellite-based monitoring program shall do so with the Division of  
44 Community Corrections office in the county where the person resides. The person shall

1 remain enrolled in the satellite-based monitoring program for the period of time ordered  
2 by the court.

3 **"§ 14-208.35. Lifetime registration offenders required to submit to satellite-based**  
4 **monitoring for life and to continue on unsupervised probation upon**  
5 **completion of sentence.**

6 Notwithstanding any other provision of law, when the court sentences an offender  
7 who is in the category described by G.S. 14-208.33(a)(1) for a reportable conviction,  
8 and orders the offender to enroll in a satellite-based monitoring program, the court shall  
9 also order that the offender, upon completion of the offender's sentence and any term of  
10 parole, post-release supervision, intermediate punishment, or supervised probation that  
11 follows the sentence, continue to be enrolled in the satellite-based monitoring program  
12 for the offender's life and be placed on unsupervised probation unless the requirement  
13 that the person enroll in a satellite-based monitoring program is terminated pursuant to  
14 G.S. 14-208.36.

15 **"§ 14-208.36. Request for termination of satellite-based monitoring requirement.**

16 (a) An offender described by G.S. 14-208.33(a)(1) who is required to submit to  
17 satellite-based monitoring for the offender's life may file a request for termination of  
18 monitoring requirement with the Post-Release Supervision and Parole Commission. The  
19 request to terminate the satellite-based monitoring requirement and to terminate the  
20 accompanying requirement of unsupervised probation may not be submitted until at  
21 least one year after the offender: (i) has served his or her sentence for the offense for  
22 which the satellite-based monitoring requirement was imposed, and (ii) has also  
23 completed any period of probation, parole, or post-release supervision imposed as part  
24 of the sentence.

25 (b) Upon receipt of the request for termination, the Commission shall review  
26 documentation contained in the offender's file and the statewide registry to determine  
27 whether the person has complied with the provisions of this Article. In addition, the  
28 Commission shall conduct fingerprint-based state and federal criminal history record  
29 checks to determine whether the person has been convicted of any additional reportable  
30 convictions.

31 (c) If it is determined that the person has not received any additional reportable  
32 convictions during the period of satellite-based monitoring and the person has  
33 substantially complied with the provisions of this Article, the Commission may  
34 terminate the monitoring requirement if the Commission finds that the person is not  
35 likely to pose a threat to the safety of others.

36 (d) If it is determined that the person has received any additional reportable  
37 convictions during the period of satellite-based monitoring or has not substantially  
38 complied with the provisions of this Article, the Commission shall not order the  
39 termination of the monitoring requirement.

40 (e) The Commission shall not consider any request to terminate a monitoring  
41 requirement except as provided by this section. The Commission has no authority to  
42 consider or terminate a monitoring requirement for an offender described in  
43 G.S. 14-208.33(a)(2).

44 **"§ 14-208.37. Failure to enroll; tampering with device.**

1       (a) Any person required to enroll in a satellite-based monitoring program who  
2 fails to enroll shall be guilty of a Class E felony.

3       (b) Any person who intentionally tampers with, removes, or vandalizes a device  
4 issued pursuant to a satellite-based monitoring program to a person duly enrolled in the  
5 program shall be guilty of a Class C felony.

6 **"§ 14-208.38. Fees.**

7       (a) There shall be a onetime fee of ninety dollars (\$90.00) assessed to each  
8 person required to enroll pursuant to this Part. The court may exempt a person from  
9 paying the fee only for good cause and upon motion of the person placed on  
10 satellite-based monitoring. The court may require that the fee be paid in advance or in a  
11 lump sum or sums, and a probation officer may require payment by those methods if the  
12 officer is authorized by subsection (c) of this section to determine the payment schedule.  
13 This fee is intended to offset only the costs associated with the time-correlated tracking  
14 of the geographic location of subjects using the location tracking crime correlation  
15 system.

16       (b) The fee shall be payable to the clerk of superior court, and the fees shall be  
17 remitted quarterly to the Department.

18       (c) If a person placed on supervised probation, parole, or post-release supervision  
19 is required as a condition of that probation, parole, or post-release supervision to pay  
20 any moneys to the clerk of superior court, the court may delegate to a probation officer  
21 the responsibility to determine the payment schedule."

22 **SECTION 13.(b) 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 satellite-based monitoring pursuant to Part 5 of Article 27A  
2 of Chapter 14 of the General Statutes, if the defendant is described by  
3 G.S. 14-208.33(a)(1).

4           (8) Submit to electronic monitoring pursuant to Part 5 of Article 27A of  
5 Chapter 14 of the General Statutes, if the defendant is in the category  
6 described by G.S. 14-208.33(a)(2), and the Department of Correction,  
7 based on the Department's risk assessment program, recommends that  
8 the defendant submit to the highest possible level of supervision and  
9 monitoring.

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

12           **SECTION 13.(c)** G.S. 15A-1343.2 is amended by adding a new subsection  
13 to read:

14           "(f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders.  
15 – Notwithstanding any other provision of this section, the court shall impose  
16 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the  
17 General Statutes as a condition of probation on any offender who is described by  
18 G.S. 14-208.33(a)(1)."

19           **SECTION 13.(d)** G.S. 15A-1343.2(f) is amended by adding a new  
20 subdivision to read:

21           "(5) Submit to electronic monitoring pursuant to Part 5 of Article 27A of  
22 Chapter 14 of the General Statutes, if the defendant is described by  
23 G.S. 14-208.33(a)(2)."

24           **SECTION 13.(e)** G.S. 15A-1344 is amended by adding a new subsection to  
25 read:

26           "(e2) Mandatory Satellite-Based Monitoring Required for Extension of Probation  
27 in Response to Violation by Certain Sex Offenders. – If a defendant who is in the  
28 category described by G.S. 14-208.33(a)(1) violates probation and if the court extends  
29 the probation as a result of the violation, then the court shall order satellite-based  
30 monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a  
31 condition of the extended probation."

32           **SECTION 13.(f)** G.S. 15A-1368.2 is amended by adding a new subsection  
33 to read:

34           "(c1) Notwithstanding subsection (c) of this section, a person required to submit to  
35 satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to  
36 participate in satellite-based monitoring beyond the period of post-release supervision  
37 until the Commission releases the person from that requirement pursuant to  
38 G.S. 15A-1368.4A."

39           **SECTION 13.(g)** G.S. 15A-1368.4(b1) reads as rewritten:

40           "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of  
41 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the  
42 required condition set forth in subsection (b) of this section, ~~for~~a supervisee who has  
43 been convicted of an offense which is a reportable conviction as defined in  
44 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor,

1 ~~controlling conditions, violations of which may result in revocation of post release~~  
2 ~~supervision, are:~~must:

- 3 (1) Register as required by G.S. 14-208.7 if the offense is a reportable  
4 conviction as defined by G.S. 14-208.6(4).
- 5 (2) Participate in such evaluation and treatment as is necessary to  
6 complete a prescribed course of psychiatric, psychological, or other  
7 rehabilitative treatment as ordered by the Commission.
- 8 (3) Not communicate with, be in the presence of, or found in or on the  
9 premises of the victim of the offense.
- 10 (4) Not reside in a household with any minor child if the offense is one in  
11 which there is evidence of sexual abuse of a minor.
- 12 (5) Not reside in a household with any minor child if the offense is one in  
13 which there is evidence of physical or mental abuse of a minor, unless  
14 a court of competent jurisdiction expressly finds that it is unlikely that  
15 the defendant's harmful or abusive conduct will recur and that it would  
16 be in the child's best interest to allow the supervisee to reside in the  
17 same household with a minor child.
- 18 (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A  
19 of Chapter 14 of the General Statutes, if the offense is a reportable  
20 conviction as defined by G.S. 14-208.6(4) and the supervisee is in the  
21 category described by G.S. 14-208.33(a)(1).
- 22 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A  
23 of Chapter 14 of the General Statutes, if the offense is a reportable  
24 conviction as defined by G.S. 14-208.6(4) and the supervisee is in the  
25 category described by G.S. 14-208.33(a)(2)."

26 **SECTION 13.(h)** G.S. 15A-1374 is amended by adding a new subsection to  
27 read:

28 "(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for  
29 Certain Offenders. – If a parolee is in a category described by G.S. 14-208.33(a)(1), the  
30 Commission must require as a condition of parole that the parolee submit to  
31 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the  
32 General Statutes. If a parolee is in a category described by G.S. 14-208.33(a)(2), the  
33 Commission may require as a condition of parole that the parolee submit to  
34 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the  
35 General Statutes."

36 **SECTION 13.(i)** G.S. 143B-266 is amended by adding a new subsection to  
37 read:

38 "(e) The Commission may accept and review requests from persons placed on  
39 probation, parole, or post-release supervision to terminate a mandatory condition of  
40 satellite-based monitoring as provided by G.S. 14-208.35. The Commission may grant  
41 or deny those requests in compliance with G.S. 14-208.35."

42 **SECTION 13.(j)** The Department of Correction shall have the program  
43 enacted by subsection (a) of this section established by January 1, 2007.

1           **SECTION 13.(k)** This section is effective when it becomes law and applies  
2 to offenses committed on or after that date. This section also applies to any person  
3 sentenced to intermediate punishment on or after that date and to any person released  
4 from prison by parole or post-release supervision on or after that date. This section also  
5 applies to any person who completes his or her sentence on or after the effective date of  
6 this section who is not on post-release supervision or parole. However, the requirement  
7 to enroll in a satellite-based program is not mandatory until January 1, 2007, when the  
8 program is established.

9           **SECTION 14.** The Department of Correction shall issue a Request for  
10 Proposal (RFP) for electronic monitoring equipment and monitoring services for the  
11 Division of Community Corrections' electronic house arrest and electronic monitoring  
12 programs. The RFP shall require separate bids: one for equipment, maintenance, and  
13 technical support, and one for the aforementioned items plus monitoring services. The  
14 Department shall design the RFP to use the most recent, cost-effective technology  
15 available; the Department shall not restrict vendors to the specifications of the  
16 equipment currently utilized by the Department.

17           The Department of Correction shall issue a RFP for passive and active Global  
18 Positioning Systems for use as an intermediate sanction and to help supervise certain  
19 sex offenders who are placed on probation, parole, or post-release supervision. The RFP  
20 shall require separate bids: one for equipment, maintenance, and technical support, and  
21 one for the aforementioned items plus monitoring services.

22           No less than 30 days prior to issuing these RFPs, the Department shall  
23 provide the Fiscal Research Division with copies of the draft RFPs. The RFPs shall be  
24 issued by August 1, 2006, for contract terms to begin January 1, 2007.

25           The Department of Correction shall report by October 1, 2007, to the Chairs  
26 of the House of Representatives and Senate Appropriations Committees and the Chairs  
27 of the House of Representatives and Senate Appropriations Subcommittees on Justice  
28 and Public Safety on the responses to the RFPs.

29           **SECTION 15.** No later than January 1, 2007, the Department of Correction  
30 shall develop a graduated risk assessment program that identifies, assesses, and closely  
31 monitors a high-risk sex offender who, while not classified as a sexually violent  
32 predator, a recidivist, or convicted of an aggravated offense as those terms are defined  
33 in G.S. 14-208.6, may still require extraordinary supervision and may be placed on  
34 probation, parole, or post-release supervision only on the conditions provided in  
35 G.S. 15A-1343(b2) or G.S. 15A-1368.4(b1).

36           **SECTION 16.** There is appropriated from the General Fund to the  
37 Department of Correction the sum of one million seven hundred seven thousand two  
38 hundred eighteen dollars (\$1,707,218) for the 2006-2007 fiscal year to implement the  
39 active and passive electronic monitoring systems required by this act.

40           **SECTION 17.** Section 13 of this act is effective as provided therein.  
41 Sections 12, 14, and 15 are effective when this act becomes law. Section 16 of this act  
42 becomes effective July 1, 2006. The remainder of this act becomes effective December  
43 1, 2006, and applies to offenses committed on or after that date.