

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1896
Corrected Copy 5/17/06
Committee Substitute Favorable 6/12/06
Senate Judiciary I Committee Substitute Adopted 7/6/06

Short Title: Sex Offender Registration Changes.

(Public)

Sponsors:

Referred to:

May 11, 2006

A BILL TO BE ENTITLED

AN ACT TO (1) AMEND THE SEX OFFENDER AND PUBLIC PROTECTION
REGISTRATION PROGRAMS; (2) TO IMPLEMENT A SATELLITE-BASED
MONITORING SYSTEM TO ASSIST WITH THE SUPERVISION OF CERTAIN
SEX OFFENDERS AS RECOMMENDED BY THE CHILD FATALITY TASK
FORCE; (3) TO EXPAND THE DEFINITION OF 'SEXUAL CONTACT' AS IT
RELATES TO THE OFFENSE OF SEXUAL BATTERY; AND (4) TO
AUTHORIZE THE DEPARTMENT OF CORRECTION TO STUDY THE
MENTAL HEALTH TREATMENT PRACTICES OF SEX OFFENDERS.

The General Assembly of North Carolina enacts:

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

"(5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), or G.S. 14-202.3 (Solicitation of child

1 by computer to commit an unlawful sex act). The term also includes
2 the following: a solicitation or conspiracy to commit any of these
3 offenses; aiding and abetting any of these offenses."

4 **SECTION 1.(b)** This section becomes effective December 1, 2006, and
5 applies to offenses committed on or after that date.

6 **SECTION 2.(a)** G.S. 14-208.6A reads as rewritten:

7 "**§ 14-208.6A. Lifetime registration requirements for criminal offenders.**

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

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

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

27 **SECTION 2.(b)** This section becomes effective December 1, 2006.

28 **SECTION 3.(a)** 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 3.(b)** This section becomes effective December 1, 2006.

36 **SECTION 4.(a)** Part 2 of Article 27A of Chapter 14 of the General Statutes
37 is amended by adding a new section to read:

38 "**§ 14-208.8A. Notification requirement for out-of-county employment if**
39 **temporary residence established.**

40 (a) Notice Required. – A person required to register under G.S. 14-208.7 shall
41 notify the sheriff of the county with whom the person is registered of the person's place
42 of employment and temporary residence, which includes a hotel, motel, or other
43 transient lodging place, if the person meets both of the following conditions:

1 (1) Is employed or carries on a vocation in a county in the State other than
2 the county in which the person is registered for more than 10 business
3 days within a 30-day period, or for an aggregate period exceeding 30
4 days in a calendar year, on a part-time or full-time basis, with or
5 without compensation or government or educational benefit.

6 (2) Maintains a temporary residence, including in that county for more
7 than 10 business days within a 30-day period, or for an aggregate
8 period exceeding 30 days in a calendar year.

9 (b) Time Period. – The notice required by subsection (a) of this section shall be
10 provided within 48 hours after the person knows or should know that he or she will be
11 working and maintaining a temporary residence in a county other than the county in
12 which the person resides for more than 10 business days within a 30-day period, or
13 within 10 days after the person knows or should know that he or she will be working
14 and maintaining a temporary residence in a county other than the county in which the
15 person resides for an aggregate period exceeding 30 days in a calendar year.

16 (c) Notice to Division. – Upon receiving the notice required under subsection (a)
17 of this section, the sheriff shall immediately forward the information to the Division.
18 The Division shall notify the sheriff of the county where the person is working and
19 maintaining a temporary residence of the person's place of employment and temporary
20 address in that county."

21 **SECTION 4.(b)** This section becomes effective June 1, 2007.

22 **SECTION 5.(a)** G.S. 14-208.7 reads as rewritten:

23 **"§ 14-208.7. Registration.**

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

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

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

34 Registration shall be maintained for a period of at least 10 years following the date of
35 initial county registration.~~release from a penal institution. If no active term of~~
36 ~~imprisonment was imposed, registration shall be maintained for a period of 10 years~~
37 ~~following each conviction for a reportable offense.~~

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

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

- 3 (1) The person's full name, each alias, date of birth, sex, race, height,
4 weight, eye color, hair color, drivers license number, and home
5 address;
- 6 (2) The type of offense for which the person was convicted, the date of
7 conviction, and the sentence imposed;
- 8 (3) A current photograph;
- 9 (4) The person's fingerprints;
- 10 (5) A statement indicating whether the person is a student or expects to
11 enroll as a student within a year of registering. If the person is a
12 student or expects to enroll as a student within a year of registration,
13 then the registration form shall also require the name and address of
14 the educational institution at which the person is a student or expects
15 to enroll as a student; and
- 16 (6) A statement indicating whether the person is employed or expects to
17 be employed at an institution of higher education within a year of
18 registering. If the person is employed or expects to be employed at an
19 institution of higher education within a year of registration, then the
20 registration form shall also require the name and address of the
21 educational institution at which the person is or expects to be
22 employed.

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

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

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

35 **SECTION 5.(b)** This section becomes effective December 1, 2006.

36 **SECTION 6.(a)** G.S. 14-208.9 reads as rewritten:

37 **"§ 14-208.9. Change of address; change of academic status or educational**
38 **employment status.**

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

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

9 (1) If it appears to the sheriff that the record photograph of the sex
10 offender no longer provides a true and accurate likeness of the sex
11 offender, then the sheriff shall take a photograph of the offender to
12 update the registration.

13 (2) The sheriff shall ~~notify~~ inform the person that the person must comply
14 with the registration requirements in the new state of residence. The
15 sheriff shall also immediately forward the ~~change of address~~
16 information included in the notification to the Division, and the
17 Division shall inform the appropriate state official in the state to which
18 the registrant moves of the person's notification and new address.

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

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

34 (d) If a person required to register changes his or her employment status either by
35 obtaining employment at an institution of higher education or by terminating
36 employment at an institution of higher education, then the person ~~shall~~ shall, within 10
37 days, report in person to the sheriff of the county with whom the person registered and
38 provide written notice of the person's new status not later than the tenth day after the
39 change to the sheriff of the county with whom the person registered. The written notice
40 shall include the name and address of the institution of higher education at which the
41 person is or was employed. ~~Upon receipt of the notice, the~~ The sheriff shall immediately
42 forward this information to the Division."

43 **SECTION 6.(b)** This section becomes effective December 1, 2006.

44 **SECTION 7.(a)** G.S. 14-208.9A reads as rewritten:

1 **"§ 14-208.9A. Verification of registration information.**

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

- 4 (1) Every year on the anniversary of a person's initial registration date, and
5 again six months after that date, the Division shall mail a
6 nonforwardable verification form to the last reported address of the
7 person.
- 8 (2) The person shall return the verification form in person to the sheriff
9 within 10 days after the receipt of the form.
- 10 (3) The verification form shall be signed by the person and shall indicate
11 whether the person still resides at the address last reported to the
12 sheriff. If the person has a different address, then the person shall
13 indicate that fact and the new address.
- 14 (3a) If it appears to the sheriff that the record photograph of the sex
15 offender no longer provides a true and accurate likeness of the sex
16 offender, then the sheriff shall take a photograph of the offender to
17 include with the verification form.
- 18 (4) If the person fails to return the verification form in person to the sheriff
19 within 10 days after receipt of the form, the person is subject to the
20 penalties provided in G.S. 14-208.11. ~~If the verification form is~~
21 ~~returned to the sheriff as undeliverable,~~ person fails to report in person
22 and provide the written verification as provided by this section, the
23 sheriff shall make a reasonable attempt to verify that the person is
24 residing at the registered address. If the person cannot be found at the
25 registered address and has failed to report a change of address, the
26 person is subject to the penalties provided in G.S. 14-208.11, unless
27 the person reports in person to the sheriff and proves that the person
28 has not changed his or her residential address."

29 **SECTION 7.(b)** This section becomes effective December 1, 2006.

30 **SECTION 8.(a)** G.S. 14-208.11(a) reads as rewritten:

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

- 33 (1) Fails to ~~register~~ register as required by this Article.
- 34 (2) Fails to notify the last registering sheriff of a change of
35 ~~address~~ address as required by this Article.
- 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 in the manner
5 required by G.S. 14-208.9.

6 (9) Fails to notify the registering sheriff of out-of-county employment if
7 temporary residence is established as required under G.S. 14-208.8A."

8 **SECTION 8.(b)** This section becomes effective June 1, 2007, and applies to
9 offenses committed on or after that date.

10 **SECTION 9.1.(a)** Article 27A of Chapter 14 of the General Statutes is
11 amended by adding a new section to read:

12 **"§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure**
13 **to report in certain circumstances.**

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

17 (1) Withhold information from, or fail to notify, a law enforcement agency
18 about the offender's noncompliance with the requirements of this
19 Article, and, if known, the whereabouts of the offender.

20 (2) Harbor, attempt to harbor, or assist another person in harboring or
21 attempting to harbor, the offender.

22 (3) Conceal or attempt to conceal, or assist another person in concealing
23 or attempting to conceal, the offender.

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

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

28 **SECTION 9.1.(b)** This section becomes effective December 1, 2006, and
29 applies to offenses committed on or after that date.

30 **SECTION 10.(a)** G.S. 14-208.12A reads as rewritten:

31 **"§ 14-208.12A. ~~Termination~~ Request for termination of registration requirement.**

32 (a) A person required to register under this Part who has served his or her
33 sentence may petition the superior court in the district where the person resides to
34 terminate the registration requirement~~The requirement that a person register under this~~
35 ~~Part automatically terminates~~ 10 years from the date of initial county registration if the
36 person has not been convicted of a subsequent offense requiring registration under this
37 Article.

38 (a1) The court may grant or deny the relief if:

39 (1) The petitioner demonstrates to the court that he or she has not been
40 arrested for any crime that would require registration under this Article
41 since completing the sentence,

42 (2) The requested relief complies with the provisions of the federal Jacob
43 Wetterling Act, as amended, and any other federal standards applicable

1 to the termination of a registration requirement or required to be met as
2 a condition for the receipt of federal funds by the State, and

3 (3) The court is otherwise satisfied that the petitioner is not a current or
4 potential threat to public safety.

5 (a2) The district attorney in the district in which the petition is filed shall be given
6 notice of the petition at least three weeks before the hearing on the matter. The district
7 attorney may present evidence in opposition to the requested relief or may otherwise
8 demonstrate the reasons why the petition should be denied.

9 (a3) If the court denies the petition, the person may again petition the court for
10 relief in accordance with this section one year from the date of the denial of the original
11 petition to terminate the registration requirement. If the court grants the petition to
12 terminate the registration requirement, the clerk of court shall forward a certified copy
13 of the order to the Division to have the person's name removed from the registry.

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

17 **SECTION 10.(b)** This section becomes effective December 1, 2006, and
18 applies to persons for whom the period of registration would terminate on or after that
19 date.

20 **SECTION 11.(a)** Part 3 of Article 27A of Chapter 14 of the General Statutes
21 is amended by adding a new section to read:

22 "**§ 14-208.24A. Sexual predator prohibited from working or volunteering for**
23 **child-involved activities; organizations.**

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

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

31 **SECTION 11.(b)** This section becomes effective December 1, 2006, and
32 applies to offenses on or after that date.

33 **SECTION 12.(a)** G.S. 14-27.1(5) reads as rewritten:

34 "(5) 'Sexual contact' means (i) touching the sexual organ, anus, breast,
35 groin, or buttocks of any person, ~~or~~(ii) a person touching another
36 person with their own sexual organ, anus, breast, groin, or
37 ~~buttocks.~~buttocks, or (iii) a person ejaculating, emitting, or placing
38 semen, urine, or feces upon any part of another person."

39 **SECTION 12.(b)** This section becomes effective December 1, 2006, and
40 applies to offenses committed on or after that date.

41 **SECTION 13.** G.S. 14-208.28 reads as rewritten:

42 "**§ 14-208.28. Verification of registration information.**

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

- 1 (1) Every year on the anniversary of a juvenile's initial registration
2 ~~date, date and six months after that date,~~ the sheriff shall mail a
3 verification form to the juvenile court counselor assigned to the
4 juvenile.
- 5 (2) The juvenile court counselor for the juvenile shall return the
6 verification form to the sheriff within 10 days after the receipt of the
7 form.
- 8 (3) The verification form shall be signed by the juvenile court counselor
9 and the juvenile and shall indicate whether the juvenile still resides at
10 the address last reported to the sheriff. If the juvenile has a different
11 address, then that fact and the new address shall be indicated on the
12 form."

13 **SECTION 14.** G.S. 15A-1341 is amended by adding a new subsection to
14 read:

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

23 **SECTION 15.(a)** Article 27A of Chapter 14 of the General Statutes is
24 amended by adding a new Part to read:

25 "Part 5. Sex Offender Monitoring.

26 "§ 14-208.33. Establishment of program; creation of guidelines; duties.

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

- 31 (1) Any offender who is convicted of a reportable conviction as defined by
32 G.S. 14-208.6(4) and who is required to register under Part 3 of Article
33 27A of Chapter 14 of the General Statutes because the defendant is
34 classified as a sexually violent predator, is a recidivist, or was
35 convicted of an aggravated offense as those terms are defined in
36 G.S. 14-208.6. An offender in this category who is ordered by the
37 court to submit to satellite-based monitoring is subject to that
38 requirement for the person's natural life, unless the requirement is
39 terminated pursuant to G.S. 14-208.36.
- 40 (2) Any offender who satisfies all of the following criteria: (i) is
41 convicted of a reportable conviction as defined by G.S. 14-208.6(4),
42 (ii) is required to register under Part 2 of Article 27A of Chapter 14 of
43 the General Statutes, (iii) has committed an offense involving the
44 physical, mental, or sexual abuse of a minor, and (iv) based on the

1 Department's risk assessment program requires the highest possible
2 level of supervision and monitoring. An offender in this category who
3 is ordered by the court to submit to satellite-based monitoring is
4 subject to that requirement only for the period of time ordered by the
5 court and is not subject to a requirement of lifetime satellite-based
6 monitoring.

7 (b) In developing the guidelines for the program, the Department shall require
8 that any offender who is enrolled in the satellite-based program submit to an active
9 continuous satellite-based monitoring program, unless an active program will not work
10 as provided by this section. If the Department determines that an active program will
11 not work as provided by this section, then the Department shall require that the
12 defendant submit to a passive continuous satellite-based program that works within the
13 technological or geographical limitations.

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

- 16 (1) Time-correlated and continuous tracking of the geographic location of
17 the subject using a global positioning system based on satellite and
18 other location tracking technology.
- 19 (2) Reporting of subject's violations of prescriptive and proscriptive
20 schedule or location requirements. Frequency of reporting may range
21 from once a day (passive) to near real-time (active).

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

26 **§ 14-208.34. Enrollment in satellite-based monitoring programs mandatory;**
27 **length of enrollment.**

28 (a) Any person described by G.S. 14-208.33(a)(1) shall enroll in a satellite-based
29 monitoring program with the Division of Community Corrections office in the county
30 where the person resides. The person shall remain enrolled in the satellite-based
31 monitoring program for the registration period imposed under G.S. 14-208.23 which is
32 the person's life, unless the requirement to enroll in the satellite-based monitoring
33 program is terminated pursuant to G.S. 14-208.35.

34 (b) Any person described by G.S. 14-208.33(a)(2) who is ordered by the court to
35 enroll in a satellite-based monitoring program shall do so with the Division of
36 Community Corrections office in the county where the person resides. The person shall
37 remain enrolled in the satellite-based monitoring program for the period of time ordered
38 by the court.

39 **§ 14-208.35. Lifetime registration offenders required to submit to satellite-based**
40 **monitoring for life and to continue on unsupervised probation upon**
41 **completion of sentence.**

42 Notwithstanding any other provision of law, when the court sentences an offender
43 who is in the category described by G.S. 14-208.33(a)(1) for a reportable conviction as
44 defined by G.S. 14-208.6(4), and orders the offender to enroll in a satellite-based

1 monitoring program, the court shall also order that the offender, upon completion of the
2 offender's sentence and any term of parole, post-release supervision, intermediate
3 punishment, or supervised probation that follows the sentence, continue to be enrolled
4 in the satellite-based monitoring program for the offender's life and be placed on
5 unsupervised probation unless the requirement that the person enroll in a satellite-based
6 monitoring program is terminated pursuant to G.S. 14-208.36.

7 **"§ 14-208.36. Request for termination of satellite-based monitoring requirement.**

8 (a) An offender described by G.S. 14-308.33(a)(1) who is required to submit to
9 satellite-based monitoring for the offender's life may file a request for termination of
10 monitoring requirement with the Post-Release Supervision and Parole Commission. The
11 request to terminate the satellite-based monitoring requirement and to terminate the
12 accompanying requirement of unsupervised probation may not be submitted until at
13 least one year after the offender: (i) has served his or her sentence for the offense for
14 which the satellite-based monitoring requirement was imposed, and (ii) has also
15 completed any period of probation, parole, or post-release supervision imposed as part
16 of the sentence.

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

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

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

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

36 **"§ 14-208.37. Failure to enroll; tampering with device.**

37 (a) Any person required to enroll in a satellite-based monitoring program who
38 fails to enroll shall be guilty of a Class F felony.

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

42 **"§ 14-208.38. Fees.**

43 (a) There shall be a one-time fee of ninety dollars (\$90.00) assessed to each
44 person required to enroll pursuant to this Part. The court may exempt a person from

1 paying the fee only for good cause and upon motion of the person placed on
2 satellite-based monitoring. The court may require that the fee be paid in advance or in a
3 lump sum or sums, and a probation officer may require payment by those methods if the
4 officer is authorized by subsection (c) of this section to determine the payment schedule.
5 This fee is intended to offset only the costs associated with the time-correlated tracking
6 of the geographic location of subjects using the location tracking crime correlation
7 system.

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

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

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

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

- 20 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
21 conviction as defined by G.S. 14-208.6(4).
- 22 (2) Participate in such evaluation and treatment as is necessary to
23 complete a prescribed course of psychiatric, psychological, or other
24 rehabilitative treatment as ordered by the court.
- 25 (3) Not communicate with, be in the presence of, or found in or on the
26 premises of the victim of the offense.
- 27 (4) Not reside in a household with any minor child if the offense is one in
28 which there is evidence of sexual abuse of a minor.
- 29 (5) Not reside in a household with any minor child if the offense is one in
30 which there is evidence of physical or mental abuse of a minor, unless
31 the court expressly finds that it is unlikely that the defendant's harmful
32 or abusive conduct will recur and that it would be in the minor child's
33 best interest to allow the probationer to reside in the same household
34 with a minor child.
- 35 (6) Satisfy any other conditions determined by the court to be reasonably
36 related to his rehabilitation.
- 37 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
38 of Chapter 14 of the General Statutes, if the defendant is described by
39 G.S. 14-208.33(a)(1).
- 40 (8) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
41 of Chapter 14 of the General Statutes, if the defendant is in the
42 category described by G.S. 14-208.33(a)(2), and the Department of
43 Correction, based on the Department's risk assessment program,

1 recommends that the defendant submit to the highest possible level of
2 supervision and monitoring.

3 Defendants subject to the provisions of this subsection shall not be placed on
4 unsupervised ~~probation~~.probation, except as provided in G.S. 14-208.35."

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

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

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

14 "(5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
15 of Chapter 14 of the General Statutes, if the defendant is described by
16 G.S. 14-208.33(a)(2)."

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

19 "(e2) Mandatory Satellite-Based Monitoring Required for Extension of Probation
20 in Response to Violation by Certain Sex Offenders. – If a defendant who is in the
21 category described by G.S. 14-208.33(a)(1) or G.S. 14-208.33(a)(2) violates probation
22 and if the court extends the probation as a result of the violation, then the court shall
23 order satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the
24 General Statutes as a condition of the extended probation."

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

27 "(c1) Notwithstanding subsection (c) of this section, a person required to submit to
28 satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to
29 participate in satellite-based monitoring beyond the period of post-release supervision
30 until the Commission releases the person from that requirement pursuant to
31 G.S. 14-208.36."

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

33 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
34 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
35 required condition set forth in subsection (b) of this section, for a supervisee who has
36 been convicted of an offense which is a reportable conviction as defined in
37 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor,
38 controlling conditions, violations of which may result in revocation of post-release
39 supervision, are:

40 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
41 conviction as defined by G.S. 14-208.6(4).

42 (2) Participate in such evaluation and treatment as is necessary to
43 complete a prescribed course of psychiatric, psychological, or other
44 rehabilitative treatment as ordered by the Commission.

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

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

21 "(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for
22 Certain Offenders. – If a parolee is in a category described by G.S. 14-208.33(a)(1) or
23 G.S. 14-208.33(a)(2), the Commission must require as a condition of parole that the
24 parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
25 Chapter 14 of the General Statutes."

26 **SECTION 15.(i)** G.S. 143B-266 is amended by adding a new subsection to
27 read:

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

32 **SECTION 15.(j)** The Department of Correction shall have the program
33 enacted by subsection (a) of this section established by January 1, 2007.

34 **SECTION 15.(k)** This subsection is effective on July 1, 2006. Of the funds
35 appropriated by Senate Bill 1741 as enacted by the 2005 General Assembly, Regular
36 Session 2006, to the Department of Correction for the 2006-2007 fiscal year the sum of
37 one million three hundred seven thousand two hundred eighteen dollars (\$1,307,218)
38 shall be used to implement the sex offender monitoring program established pursuant to
39 this section. Notwithstanding G.S. 143-23(a2), the Department of Correction may use
40 available funds to implement this program during the 2006-2007 fiscal year if
41 expenditures are anticipated to exceed the amount appropriated by this act. Prior to
42 exceeding the amount appropriated for this program by this act, the Department of
43 Correction shall report to the Joint Legislative Commission on Governmental
44 Operations.

1 **SECTION 15.(I)** Unless otherwise provided in the section, this section is
2 effective when it becomes law and applies to offenses committed on or after that date.
3 This section also applies to any person sentenced to intermediate punishment on or after
4 that date and to any person released from prison by parole or post-release supervision on
5 or after that date. This section also applies to any person who completes his or her
6 sentence on or after the effective date of this section who is not on post-release
7 supervision or parole. However, the requirement to enroll in a satellite-based program
8 is not mandatory until January 1, 2007, when the program is established.

9 **SECTION 16.** 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, 2006, 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 17.** 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 18.** The Department of Correction shall study and develop a plan
37 for offering mental health treatment for incarcerated sex offenders designed to reduce
38 the likelihood of recidivism. The Department shall study appropriate and effective
39 mental health treatment techniques and alternatives. Services must be best practices, as
40 determined by the Department. The Department will consult various stakeholders from
41 organizations dedicated to the prevention of sexual assault, victims' advocacy
42 organizations, and experts in the field of treatment of sexual offenders. The Department
43 shall consider the fiscal impact, if any, of implementing the plan developed pursuant to
44 this study.

1 The Department shall make a preliminary report to the Joint Legislative
2 Oversight Committee on Mental Health, Developmental Disabilities, and Substance
3 Abuse Services no later than January 15, 2007, and a final report to the Joint Legislative
4 Oversight Committee on Mental Health, Developmental Disabilities, and Substance
5 Abuse Services and the General Assembly on or before October 1, 2007.

6 **SECTION 19.** The provisions of this act are severable. If any provision is
7 held invalid by a court of competent jurisdiction, the invalidity does not affect other
8 provisions of the act that can be given effect without the invalid provision.

9 **SECTION 20.** Section 15 of this act is effective as provided therein.
10 Sections 14, 16, 17, 18, and 19 are effective when this act becomes law. Section 20 of
11 this act becomes effective July 1, 2006. Except as otherwise provided in this act, the
12 remainder of this act becomes effective December 1, 2006, and applies to offenses
13 committed on or after that date.