

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-220
SENATE BILL 1736**

AN ACT TO ADD FELONY CHILD ABUSE TO THE LIST OF SEX OFFENDER REGISTRY OFFENSES WHEN THE OFFENSE INVOLVES PROSTITUTION OF A JUVENILE OR THE COMMISSION OF A SEXUAL ACT UPON A JUVENILE, TO REQUIRE THAT A SEX OFFENDER REGISTER HIS OR HER ELECTRONIC MAIL ADDRESS OR OTHER ONLINE IDENTIFIER IN THE STATEWIDE SEX OFFENDER REGISTRY, TO ALLOW LIMITED RELEASE OF ONLINE IDENTIFIER INFORMATION IN THE SEX OFFENDER REGISTRY TO CERTAIN ENTITIES THAT PROVIDE ELECTRONIC MAIL SERVICES AND OTHER INTERNET SERVICES FOR THE PURPOSE OF SCREENING ONLINE USERS, TO DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP PROCEDURES TO ENSURE TIMELY NOTIFICATION OF THE DIVISION OF CRIMINAL INFORMATION AND SHERIFFS OF PERSONS REQUIRED TO REGISTER WHO ARE NOT SENTENCED TO ACTIVE TIME, AND TO AUTHORIZE FUNDS FOR THE GOVERNOR'S CRIME COMMISSION TO USE TO AWARD AS MATCHING GRANTS TO ELIGIBLE SHERIFFS' OFFICES TO ENHANCE AND SUPPORT THEIR EFFORTS TO ENFORCE THE STATE'S SEX OFFENDER LAWS.

The General Assembly of North Carolina enacts:

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

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.
- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.
- ~~(1d)~~(1e) "Employed" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (1f) "Entity" means a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or

chat services whether the business or organization is within or outside the State.

- (1g) "Instant Message" means a form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.
- ~~(4e)~~(1h) "Institution of higher education" means any postsecondary public or private educational institution, including any trade or professional institution, college, or university.
- (1i) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.
- ~~(4f)~~(1j) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.
- ~~(4g)~~(1k) "Nonresident student" means a person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.
- ~~(4h)~~(1l) "Nonresident worker" means a person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.
- ~~(4i)~~(1m) "Offense against a minor" means any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (1n) "Online identifier" means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.
- (2) "Penal institution" means:
- a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;
 - b. A detention facility operated under the jurisdiction of another state or the federal government; or
 - c. A detention facility operated by a local government in this State or another state.
- (2a) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.
- (2b) "Recidivist" means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).

- (3) "Release" means discharged or paroled.
- (4) "Reportable conviction" means:
- a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.
 - b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.
 - c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.
 - d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14-202(a), (a1), or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register.
- (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. 14-43.13 (subjecting or maintaining a person for sexual servitude), 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 by computer to commit an unlawful sex ~~act~~-act), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (6) "Sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.
- (7) "Sheriff" means the sheriff of a county in this State.

- (8) "Statewide registry" means the central registry compiled by the Division in accordance with G.S. 14-208.14.
- (9) "Student" means a person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education."

SECTION 2. G.S. 14-208.7(b) reads as rewritten:

"(b) The Division shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall ~~require~~require all of the following:

- (1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home ~~address~~address.
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence ~~imposed~~imposed.
- (3) A current ~~photograph~~photograph taken by the sheriff, without charge, at the time of registration.
- (4) The person's ~~fingerprints~~fingerprints taken by the sheriff, without charge, at the time of registration.
- (5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is a student or expects to enroll as a ~~student~~student.
- (6) A statement indicating whether the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.
- (7) Any online identifier that the person uses or intends to use.

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

SECTION 3. G.S. 14-208.8(a) reads as rewritten:

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

- (1) Inform the person of the person's duty to register under this Article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so ~~informed~~informed.
- (2) Obtain the registration information required under G.S. 14-208.7(b)(1), (2), (5), ~~and (6)~~, (6), and (7), as well as the address where the person expects to reside upon the person's ~~release~~and release.
- (3) Send the Division and the sheriff of the county in which the person expects to reside the information collected in accordance with subdivision (2) of this subsection."

SECTION 4. The catch line for G.S. 14-208.9 reads as rewritten:

"§ 14-208.9. **Change of address; change of academic status or educational employment status**~~status~~status; change of online identifier."

SECTION 5. G.S. 14-208.9 is amended by adding a new subsection to read:

"(e) If a person required to register changes an online identifier, or obtains a new online identifier, then the person shall, within 10 days, report in person to the sheriff of the county with whom the person registered to provide the new or changed online identifier information to the sheriff. The sheriff shall immediately forward this information to the Division."

SECTION 6. G.S. 14-208.9A(a)(3) reads as rewritten:

"(3) The verification form shall be signed by the person and shall indicate the following:

- a. ~~whether~~ Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.
- b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff."

SECTION 7. G.S. 14-208.11(a) is amended by adding a new subdivision to

read:

"(10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use."

SECTION 8. G.S. 14-208.14(a) is amended by adding a new subdivision to

read:

"(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry."

SECTION 9. Part 2 of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.15A. Release of online identifiers to entity; fee.

(a) The Division may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.

(b) An entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the statewide registry may apply to the Division to access the information. An entity that complies with the criteria developed by the Division regarding the release and use of the online identifier information and pays the fee may screen new users or compare its database of registered users to the list of online identifiers of persons in the statewide registry as frequently as the Division may allow for the purpose of identifying a registered user associated with an online identifier contained in the statewide registry.

(c) The Division may charge an entity that submits a request for the online identifiers of persons in the statewide registry an annual fee of one hundred dollars (\$100.00). Fees collected under this section shall be credited to the Department of Justice and applied to the cost of providing this service.

(d) The Division shall develop criteria and adopt rules regarding the release and use of online identifier information. The criteria shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

(e) An entity that receives:

- (1) A complaint from a user of the entity's services that a person uses its service to solicit a minor by computer to commit an unlawful sex act as defined in G.S. 14-202.3, or
- (2) A report that a user may be violating G.S. 14-190.17 or G.S. 14-190.17A by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity.

shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(f) An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

- (1) The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.
- (2) A person's criminal or tortious acts against a minor with whom the person had communicated on the entity's system."

SECTION 10. By December 1, 2008, the Administrative Office of the Courts, in consultation with the North Carolina Department of Justice, the North Carolina Department of Correction, and the North Carolina Sheriffs' Association shall develop a procedure to ensure timely notification to the Division of Criminal Information, Department of Justice, and to sheriffs regarding any person subject to registration under Article 27A of Chapter 14 of the General Statutes who does not receive an active term of imprisonment, as specified in G.S. 14-208.7(a).

SECTION 11.(a) Funds are authorized to be allocated to the Governor's Crime Commission for award as grants to eligible sheriffs' offices to assist with the enforcement of the State's sex offender laws. The grants shall be awarded specifically to enhance and support law efforts by sheriffs to do the following: (i) process and conduct in-person sex offender registrations, (ii) monitor compliance of sex offenders as required under Article 27A of Chapter 14 of the General Statutes, and (iii) conduct activities to investigate and apprehend persons who commit reportable offenses as defined under Article 27A of Chapter 14 of the General Statutes. Eligible sheriffs' offices are required to provide non-State matching funds equal to fifty percent (50%) of the grant amount awarded under this section, one-half of which may be in in-kind contributions.

SECTION 11.(b) The Commission shall establish the criteria regarding the eligibility and amount of the awards for the grants described in this section. The grant criteria shall include consideration of all of the following:

- (1) The number of convicted sex offenders in the county of the applicant.
- (2) The level of community support for the grant award.
- (3) Whether the application identifies a problem that is consistent with the purposes of this initiative.
- (4) The applicant's development and maintenance of a process to regularly exchange information and intelligence with other public safety agencies.
- (5) Whether the application articulates clearly the jurisdiction's goals, outcomes, and objectives and describes the accountability system and performance measures to determine progress towards achieving them.

SECTION 11.(c) Any grants allocated shall not revert to the General Fund but shall remain with the Commission for the purposes described in this section.

SECTION 11.(d) The grant funds described by this section shall supplement, and not supplant, existing funds and services provided for the tracking of registered sex offenders. The grants shall be subject to established fiscal controls, annual reporting, and accountability requirements specified by the Commission.

SECTION 11.(e) There is appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of two hundred fifty thousand dollars (\$250,000) for fiscal year 2008-2009 to be allocated to the Governor's Crime

Commission to award as grants of up to twenty-five thousand dollars (\$25,000) each to eligible sheriffs' offices to assist with the enforcement of the State's sex offender laws.

SECTION 12. Sections 10 and 12 of this act are effective when they become law. Section 11 of this act becomes effective July 1, 2008. The provision in Section 1 of this act amending G.S. 14-208.6(5) becomes effective December 1, 2008, and applies to all persons convicted on or after that date, and to all persons released from a penal institution on or after that date. The remainder of this act becomes effective May 1, 2009, and applies to persons who are required to be registered under Article 27A of Chapter 14 of the General Statutes on or after that date. The requirements related to online identifiers apply to persons whose initial registration under Article 27A of Chapter 14 of the General Statutes occurs on or after May 1, 2009, and to persons who are registered under Article 27 of Chapter 14 of the General Statutes prior to May 1, 2009, and continue to be registered on May 1, 2009. However, any person registered under Article 27 of Chapter 14 of the General Statutes prior to May 1, 2009, and continuing to be registered on May 1, 2009, shall not be in violation of the online identifier requirements if they provide the required information at the first verification of information that occurs on or after May 1, 2009.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:56 a.m. this 16th day of August, 2008