

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS35208-LHf-168B* (3/6)

Short Title: Sex Offender/Register E-Mail Address.-AB

(Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO ADD FELONY CHILD ABUSE TO THE LIST OF SEX OFFENDER
3 REGISTRY OFFENSES WHEN THE OFFENSE INVOLVES PROSTITUTION
4 OF A JUVENILE OR THE COMMISSION OF A SEXUAL ACT UPON A
5 JUVENILE, TO REQUIRE THAT A SEX OFFENDER REGISTER HIS OR HER
6 ELECTRONIC MAIL ADDRESS OR OTHER ONLINE IDENTIFIER IN THE
7 STATEWIDE SEX OFFENDER REGISTRY, TO ALLOW LIMITED RELEASE
8 OF ONLINE IDENTIFIER INFORMATION IN THE SEX OFFENDER
9 REGISTRY TO CERTAIN ENTITIES THAT PROVIDE ELECTRONIC MAIL
10 SERVICES AND OTHER INTERNET SERVICES FOR THE PURPOSE OF
11 SCREENING ONLINE USERS, TO PROVIDE THAT THE COURT MAY
12 ORDER A CONVICTED SEX OFFENDER WHO FAILS TO REGISTER AS A
13 SEX OFFENDER TO FORFEIT CERTAIN LICENSING PRIVILEGES, TO
14 DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP
15 PROCEDURES TO ENSURE TIMELY NOTIFICATION OF THE DIVISION OF
16 CRIMINAL STATISTICS AND SHERIFFS OF PERSONS REQUIRED TO
17 REGISTER WHO ARE NOT SENTENCED TO ACTIVE TIME, AND TO
18 APPROPRIATE FUNDS FOR THE GOVERNOR'S CRIME COMMISSION TO
19 USE TO AWARD AS MATCHING GRANTS TO ELIGIBLE SHERIFFS'
20 OFFICES TO ENHANCE AND SUPPORT THEIR EFFORTS TO ENFORCE THE
21 STATE'S SEX OFFENDER LAWS.

22 The General Assembly of North Carolina enacts:

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

24 **"§ 14-208.6. Definitions.**

25 The following definitions apply in this Article:

26 (1a) "Aggravated offense" means any criminal offense that includes either
27 of the following: (i) engaging in a sexual act involving vaginal, anal,

- 1 or oral penetration with a victim of any age through the use of force or
2 the threat of serious violence; or (ii) engaging in a sexual act involving
3 vaginal, anal, or oral penetration with a victim who is less than 12
4 years old.
- 5 (1b) "County registry" means the information compiled by the sheriff of a
6 county in compliance with this Article.
- 7 (1c) "Division" means the Division of Criminal Statistics of the Department
8 of Justice.
- 9 (1d) "Electronic mail" means the transmission of information or
10 communication by the use of the Internet, a computer, a facsimile
11 machine, a pager, a cellular telephone, a video recorder, or other
12 electronic means sent to a person identified by a unique address or
13 address number and received by that person.
- 14 ~~(1d)~~(1e) "Employed" includes employment that is full-time or part-time for a
15 period of time exceeding 14 days or for an aggregate period of time
16 exceeding 30 days during any calendar year, whether financially
17 compensated, volunteered, or for the purpose of government or
18 educational benefit.
- 19 (1f) "Entity" means a business or organization that provides Internet
20 service, electronic communications service, remote computing service,
21 online service, electronic mail service or electronic instant message or
22 chat services whether the business or organization is within or without
23 the State.
- 24 (1g) "Instant Message or IM" means a form of real-time communication
25 between two or more people based on typed text. The text is conveyed
26 via computers connected over a network such as the Internet.
- 27 ~~(1e)~~(1h) "Institution of higher education" means any postsecondary public or
28 private educational institution, including any trade or professional
29 institution, college, or university.
- 30 (1i) "Internet" means the global information system that is logically linked
31 together by a globally unique address space based on the Internet
32 Protocol or its subsequent extensions; that is able to support
33 communications using the Transmission Control Protocol/Internet
34 Protocol suite, its subsequent extensions, or other Internet Protocol
35 compatible protocols; and that provides, uses, or makes accessible,
36 either publicly or privately, high-level services layered on the
37 communications and related infrastructure described in this
38 subdivision.
- 39 (1j) "Internet Protocol Address" means an IP address (Internet Protocol
40 Address) and is a unique address that devices use in order to identify
41 and communicate with each other on a computer network utilizing the
42 Internet Protocol standard (IP).
- 43 ~~(1f)~~(1k) "Mental abnormality" means a congenital or acquired condition of a
44 person that affects the emotional or volitional capacity of the person in

1 a manner that predisposes that person to the commission of criminal
2 sexual acts to a degree that makes the person a menace to the health
3 and safety of others.

4 ~~(1g)~~(1l) "Nonresident student" means a person who is not a resident of North
5 Carolina but who is enrolled in any type of school in the State on a
6 part-time or full-time basis.

7 ~~(1h)~~(1m) "Nonresident worker" means a person who is not a resident of North
8 Carolina but who has employment or carries on a vocation in the State,
9 on a part-time or full-time basis, with or without compensation or
10 government or educational benefit, for more than 14 days, or for an
11 aggregate period exceeding 30 days in a calendar year.

12 ~~(1i)~~(1n) "Offense against a minor" means any of the following offenses if the
13 offense is committed against a minor, and the person committing the
14 offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41
15 (abduction of children), and G.S. 14-43.3 (felonious restraint). The
16 term also includes the following if the person convicted of the
17 following is not the minor's parent: a solicitation or conspiracy to
18 commit any of these offenses; aiding and abetting any of these
19 offenses.

20 (1o) "Online identifier" includes all of the following: electronic mail
21 address and instant message, chat or other Internet communication
22 name or identity information and IP address.

23 (2) "Penal institution" means:

- 24 a. A detention facility operated under the jurisdiction of the
25 Division of Prisons of the Department of Correction;
26 b. A detention facility operated under the jurisdiction of another
27 state or the federal government; or
28 c. A detention facility operated by a local government in this State
29 or another state.

30 (2a) "Personality disorder" means an enduring pattern of inner experience
31 and behavior that deviates markedly from the expectations of the
32 individual's culture, is pervasive and inflexible, has an onset in
33 adolescence or early adulthood, is stable over time, and leads to
34 distress or impairment.

35 (2b) "Recidivist" means a person who has a prior conviction for an offense
36 that is described in G.S. 14-208.6(4).

37 (3) "Release" means discharged or paroled.

38 (4) "Reportable conviction" means:

- 39 a. A final conviction for an offense against a minor, a sexually
40 violent offense, or an attempt to commit any of those offenses
41 unless the conviction is for aiding and abetting. A final
42 conviction for aiding and abetting is a reportable conviction
43 only if the court sentencing the individual finds that the

- 1 registration of that individual under this Article furthers the
2 purposes of this Article as stated in G.S. 14-208.5.
- 3 b. A final conviction in another state of an offense, which if
4 committed in this State, is substantially similar to an offense
5 against a minor or a sexually violent offense as defined by this
6 section, or a final conviction in another state of an offense that
7 requires registration under the sex offender registration statutes
8 of that state.
- 9 c. A final conviction in a federal jurisdiction (including a court
10 martial) of an offense, which is substantially similar to an
11 offense against a minor or a sexually violent offense as defined
12 by this section.
- 13 d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g),
14 or (h), or a second or subsequent conviction for a violation of
15 G.S. 14-202(a), (a1), or (c), only if the court sentencing the
16 individual issues an order pursuant to G.S. 14-202(l) requiring
17 the individual to register.
- 18 (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first
19 degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first
20 degree sexual offense), G.S. 14-27.5 (second degree sexual offense),
21 G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual
22 offense), G.S. 14-27.7 (intercourse and sexual offense with certain
23 victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person
24 who is 13-, 14-, or 15-years-old where the defendant is at least six
25 years older), G.S. 14-43.13 (subjecting or maintaining a person for
26 sexual servitude), G.S. 14-178 (incest between near relatives),
27 G.S. 14-190.6 (employing or permitting minor to assist in offenses
28 against public morality and decency), G.S. 14-190.9(a1)(felonious
29 indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of
30 a minor), G.S. 14-190.17 (second degree sexual exploitation of a
31 minor), G.S. 14-190.17A (third degree sexual exploitation of a minor),
32 G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19
33 (participating in the prostitution of a minor), G.S. 14-202.1 (taking
34 indecent liberties with children), or G.S. 14-202.3 (Solicitation of child
35 by computer to commit an unlawful sex ~~act~~-act),
36 G.S. 14-318.4(a1)(parent or caretaker commit or permit act of
37 prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission
38 or allowing of sexual act upon a juvenile by parent or guardian). The
39 term also includes the following: a solicitation or conspiracy to
40 commit any of these offenses; aiding and abetting any of these
41 offenses.
- 42 (6) "Sexually violent predator" means a person who has been convicted of
43 a sexually violent offense and who suffers from a mental abnormality
44 or personality disorder that makes the person likely to engage in

1 sexually violent offenses directed at strangers or at a person with
2 whom a relationship has been established or promoted for the primary
3 purpose of victimization.

4 (7) "Sheriff" means the sheriff of a county in this State.

5 (8) "Statewide registry" means the central registry compiled by the
6 Division in accordance with G.S. 14-208.14.

7 (9) "Student" means a person who is enrolled on a full-time or part-time
8 basis, in any postsecondary public or private educational institution,
9 including any trade or professional institution, or other institution of
10 higher education."

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

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

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

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

19 (3) A current photograph;

20 (4) The person's fingerprints;

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

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

34 (7) Any online identifier that the person uses or intends to use. The
35 registration form shall also require that the person execute a consent
36 form consistent with applicable law that authorizes an entity to provide
37 to the sheriff and Division any information pertaining to that person
38 necessary to determine the veracity of the person's online identifier in
39 the registry. The executed consent form shall be submitted with the
40 registration form.

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

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

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

- 5 (1) Inform the person of the person's duty to register under this Article and
6 require the person to sign a written statement that the person was so
7 informed or, if the person refuses to sign the statement, certify that the
8 person was so informed;
- 9 (2) Obtain the registration information required under G.S. 14-208.7(b)(1),
10 (2), (5), ~~and (6), (6), and (7)~~, as well as the address where the person
11 expects to reside upon the person's release; and
- 12 (3) Send the Division and the sheriff of the county in which the person
13 expects to reside the information collected in accordance with
14 subdivision (2) of this subsection."

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

16 "**§ 14-208.9. Change of address; change of online identifier; change of academic**
17 **status or educational employment status.**"

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

19 "(e) A person required to register shall not use any online identifier to
20 communicate over the Internet that is not included in the registration information
21 provided pursuant to G.S. 14-208.7. If a person required to register changes or obtains a
22 new online identifier, the person shall report in person to the sheriff in the county where
23 the person is registered to provide the online identifier information to the sheriff before
24 using the online identifier. The person shall also execute a consent form consistent with
25 applicable law that authorizes an entity to provide to the sheriff and Division any
26 information pertaining to that person necessary to determine the veracity of the person's
27 changed or new online identifier in the registry."

28 **SECTION 6.** G.S. 14-208.9A is amended by adding a new subdivision to
29 read:

30 "(5) If the person has an online identifier, the person shall update the
31 person's consent form or execute a new consent form that authorizes
32 an entity to provide to the sheriff and Division any information
33 pertaining to that person necessary to determine the veracity of the
34 person's changed or new online identifier in the registry as necessary."

35 **SECTION 7.** G.S. 14-208.11(a) is amended by adding a new subdivision to
36 read:

37 "(10) Fails to provide an online identifier that the person uses or intends to
38 use as required by this Article."

39 **SECTION 8.** G.S. 14-208.14(a) is amended by adding a new subdivision to
40 read:

41 "(5) To maintain a system allowing an entity to compare the database of
42 registered users of that entity to the list of online identifiers of persons
43 in the central sex offender registry in accordance with this Article."

1 SECTION 9. Part 2 of Article 27A is amended by adding a new section to
2 read:

3 **"§ 14-208.15A. Release of online identifiers to entity; fee.**

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

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

17 (c) The Division may charge an entity that submits a request to access and
18 review the database of online identifiers of persons in the statewide registry a fee of one
19 hundred dollars (\$100.00). The fee shall be included with the request to access the
20 database. The fee may be charged for each request to access the database. Fees collected
21 under this section shall be credited to the Department of Justice and applied to the cost
22 of providing this service.

23 (d) The Division shall develop criteria and adopt rules regarding the release and
24 use of online identifier information. The criteria shall include a requirement that the
25 information obtained from the statewide registry shall not be disclosed for any purpose
26 other than for prescreening its users or comparing the database of registered users of the
27 entity against the list of online identifiers of persons in the statewide registry to protect
28 children from online sexual predators and shall also require that the entity notify the
29 Division when a comparison of the online identifier information and the entity users
30 indicates that a registered offender's online identifier is being used on the entity's
31 system."

32 SECTION 10. Part 2 of Article 27A of Chapter 14 of the General Statutes is
33 amended by adding the following new section to read:

34 **"§ 14-208.18. Forfeiture of licensing privileges for failure to register on the sex**
35 **offender and public protection registry.**

36 (a) As used in this section, the term:

37 (1) 'Licensing board' means a department, division, agency, officer, board,
38 or other unit of State government that issues hunting, fishing, trapping,
39 drivers, or occupational licenses or licensing privileges.

40 (2) 'Licensing privilege' means the privilege of a person to be authorized
41 to engage in an activity as evidenced by hunting, fishing, or trapping
42 licenses, regular and commercial drivers licenses, and occupational,
43 professional, and business licenses.

1 (3) 'Occupational license' means a license, certificate, permit, registration,
2 or any other authorization issued by a licensing board that allows a
3 person to engage in an occupation or profession.

4 (b) Upon a finding by the sentencing judge that a person who has a reportable
5 conviction or is a recidivist has failed to register with the statewide sex offender and
6 public protection registry, and upon findings as to any specific licensing privileges held
7 by the person, the court may revoke some or all of the privileges until the person has
8 registered with the registry. Upon an order revoking the privileges of a person who has
9 failed to register, the clerk of superior court shall notify the appropriate licensing board
10 that the person has failed to register and that the person's licensing privileges are
11 revoked until the licensing board receives proof of certification by the clerk that the
12 person has registered.

13 (c) A person may file a request with the clerk of superior court for certification
14 that the person has registered with the statewide registry. A person whose licensing
15 privileges have been revoked under subsection (b) of this section because of a willful
16 failure to comply with the registration requirement may file a request with the clerk of
17 superior court for certification that the person has met the requirements of or is no
18 longer subject to the registry requirement. The clerk shall provide a form to be used for
19 a request for certification. If the clerk finds that the person whose licensing privileges
20 have been revoked under subsection (b) of this section for failure to comply with
21 registering on the statewide registry has complied with or is no longer subject to the
22 registry requirement, then the clerk shall certify that the person has met the
23 requirements of or is no longer subject to the requirements and shall provide a copy of
24 the certification to the person. Upon request of the person, the clerk shall mail a copy of
25 the certification to the appropriate licensing board.

26 (d) If licensing privileges are revoked under this section, the person may petition
27 the district court for a reinstatement of the person's privileges. The court may order the
28 privileges reinstated conditioned upon compliance with this Article. The court may
29 order the privileges reinstated if the person has complied with or is no longer subject to
30 the registry requirement. Upon reinstatement of the person whose licensing privileges
31 were revoked based on failure to comply with this Article, the clerk of superior court
32 shall certify that the person has complied with or is no longer subject to the
33 requirements of this Article and provide a copy of the certification to the person. Upon
34 request of the person whose licensing privileges are reinstated, the clerk shall mail a
35 copy of the certification to the appropriate licensing board.

36 (e) A person whose licensing privileges are reinstated under this section may
37 provide a copy of the certification set forth in either subsection (c) or (d) of this section
38 to each licensing agency to which the person applies for reinstatement of licensing
39 privileges. Upon request of the person, the clerk shall mail a copy of the certification to
40 the appropriate licensing board. Upon receipt of a copy of the certification, the licensing
41 board shall reinstate the license.

42 (f) Upon receipt of notification by the clerk that a person's licensing privileges
43 are revoked pursuant to this section, the board shall note the revocation on its records
44 and take all necessary steps to implement and enforce the revocation. These steps shall

1 not include the board's independent revocation process pursuant to Article 3A of
2 Chapter 150B of the General Statutes, the Administrative Procedure Act, which process
3 is replaced by the court process prescribed by this section. The revocation pertaining to
4 a person shall remain in full force and effect until the board receives certification under
5 this section that the person has complied with the requirements of this Article. The
6 revocation pertaining to the person whose licensing privileges were revoked on the basis
7 of failure to comply with this Article shall remain in full force and effect until the board
8 receives certification of reinstatement under subsection (d) of this section."

9 **SECTION 11.** Chapter 93B of the General Statutes is amended by adding a
10 new section to read:

11 **"§ 93B-13.1. Revocation when licensing privilege forfeited for failure to register on**
12 **the sex offender and public protection registry.**

13 (a) Upon receipt of a court order, pursuant to G.S. 14-208.18, revoking the
14 occupational license of a licensee under its jurisdiction, an occupational licensing board
15 shall note the revocation in its records, report the action within 30 days to the
16 Department of Justice, Division of Criminal Statistics, and follow the normal
17 post-revocation rules and procedures of the board as if the revocation had been ordered
18 by the board. The revocation shall remain in effect until the board receives certification
19 by the clerk of superior court or the Division of Criminal Statistics that the licensee has
20 complied with the registry requirements under Part 2 of Article 27A of Chapter 14 of
21 the General Statutes or is no longer subject to the registry requirements that were the
22 basis for the revocation.

23 (b) If at the time the court revokes a license pursuant to subsection (a) of this
24 section the occupational licensing board has revoked the same license under the
25 licensing board's disciplinary authority over licensees under its jurisdiction and that
26 revocation period is greater than the revocation period resulting from forfeiture pursuant
27 to G.S. 14-208.18, then the revocation period imposed by the occupational licensing
28 board applies.

29 (c) Immediately upon certification by the clerk of superior court that the licensee
30 whose license was revoked pursuant to subsection (a) of this section because of failure
31 to comply with the registry requirement is in compliance with or no longer subject to
32 the registry requirement, the occupational licensing board shall reinstate the license.
33 Reinstatement of a license pursuant to this section shall be made at no additional cost to
34 the licensee."

35 **SECTION 12.** By December 1, 2007, the Administrative Office of the
36 Courts, in consultation with the North Carolina Department of Justice, North Carolina
37 Department of Correction, and the North Carolina Sheriffs' Association shall develop a
38 procedure to ensure timely notification to the Division of Criminal Statistics,
39 Department of Justice, and to sheriffs regarding any person subject to registration under
40 Article 27A of Chapter 14 of the General Statutes who does not receive an active term
41 of imprisonment, as specified in G.S. 14-208.7(a).

42 **SECTION 13.(a)** There is appropriated from the General Fund to the
43 Department of Crime Control and Public Safety the sum of five hundred thousand
44 dollars (\$500,000) for fiscal year 2007-2008 to be allocated to the Governor's Crime

1 Commission to award as grants to eligible sheriffs' offices to assist with the enforcement
2 of the State's sex offender laws: The grants shall be awarded specifically to enhance
3 and support law efforts by sheriffs to do the following: (i) process and conduct
4 in-person sex offender registrations, (ii) monitor compliance of sex offenders as
5 required under Article 27A of Chapter 14 of the General Statutes, and (iii) conduct
6 activities to investigate and apprehend persons who commit reportable offenses as
7 defined under Article 27A of Chapter 14 of the General Statutes. The grants shall be
8 awarded on a matching basis of one State dollar (\$1.00) for every one non-State dollar
9 (\$1.00).

10 **SECTION 13.(b)** The Commission shall establish the criteria regarding the
11 eligibility and amount of the awards for the grants established pursuant to this section.
12 The grant criteria shall include consideration of all of the following:

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

22 **SECTION 13.(c)** Funds appropriated by this section shall not revert to the
23 General Fund but shall remain with the Commission for the purposes described in this
24 section.

25 **SECTION 13.(d)** The funds appropriated by this section shall supplement,
26 and not supplant, existing funds and services provided for the tracking of registered sex
27 offenders. The funds appropriated by this section shall be subject to established fiscal
28 controls, annual reporting, and accountability requirements specified by the
29 Commission.

30 **SECTION 14.** Section 12 of this act is effective when it becomes law.
31 Section 13 of this act becomes effective July 1, 2007. The remainder of this act
32 becomes effective December 1, 2007, and applies to offenses committed on or after that
33 date.