

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 545
SENATE BILL 53

AN ACT TO REQUIRE THE REGISTRATION OF PERSONS CONVICTED OF
CERTAIN CRIMINAL SEXUAL OFFENSES.

The General Assembly of North Carolina enacts:

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

"ARTICLE 27A.

"Sexual Offender Registration Program.

"§ 14-208.5. Purpose.

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

Therefore, it is the purpose of this Article to assist local law enforcement agencies' efforts to protect their communities by requiring sex offenders to register with local law enforcement agencies and to require the exchange of relevant information about sex offenders among law enforcement agencies and to authorize the access to necessary and relevant information about sex offenders to others as provided in this Article.

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1) 'Division' means the Division of Criminal Statistics of the Department of Justice.
- (2) 'Penal institution' means a detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction, or a county jail.
- (3) 'Release' means discharged or paroled.
- (4) 'Reportable conviction' means:
 - a. A final conviction for violation of G.S. 14-27.2 (first degree rape), 14-27.3 (second degree rape), 14-27.4 (first degree sexual offense), 14-27.5 (second degree sexual offense), 14-27.6

(attempted rape or sexual offense), 14-27.7 (intercourse and sexual offense with certain victims), 14-178 (incest between near relatives), 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), 14-190.16 (first degree sexual exploitation of a minor), 14-190.17 (second degree sexual exploitation of a minor), 14-190.17A (third degree sexual exploitation of a minor), 14-190.18 (promoting prostitution of a minor), 14-190.19 (participating in prostitution of a minor), or 14-202.1 (taking indecent liberties with children).

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

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

"§ 14-208.7. Registration.

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

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

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

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

- (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;
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence imposed;
- (3) A current photograph; and
- (4) The person's fingerprints.

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.

(c) Not later than the third day after a person registers, the sheriff with whom the person registered shall send the registration information to the Division in a manner

determined by the Division. The sheriff shall retain the original registration form and other information collected.

"§ 14-208.8. Prerelease notification.

(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:

- (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;
- (2) Obtain the registration information required under G.S. 14-208.7 (b)(1) and (2), as well as the address where the person expects to reside upon the person's release; and
- (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.

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

"§ 14-208.9. Change of address.

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

"§ 14-208.10. Access to registration information.

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

- (1) The individual's name and sex;
- (2) A physical description of the individual; and
- (3) Any other relevant information known to the requester concerning the individual.

Upon receipt of the information, the sheriff shall verify, in writing, to the requester whether the individual has registered as a sex offender in this State, the date of conviction, and the offenses for which registration was required. The registration information and the corresponding registry is a public record and shall be available for public inspection. The sheriff shall upon request, display any photograph provided in compliance with G.S. 14-208.7(b)(3); however, the sheriff shall not provide or allow a copy to be made of the photograph.

(b) Any person may obtain a copy of an individual's registration form, excluding the photograph, upon payment to the sheriff of a reasonable fee for the costs of duplicating the form.

(c) The sheriff of each county is authorized, upon written request, to provide a copy of the entire registry to any group, entity, organization, corporation, or school, that utilizes volunteers or employees in working with, caring for, supervising or protecting children or disabled or elderly persons. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate."

"§ 14-208.11. Failure to register.

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

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

"§ 14-208.12. Exemption.

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

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

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

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

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

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

"§ 114-10. Division of Criminal Statistics.

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

- (1) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, and such other

information concerning crime and criminals as may appear significant or helpful. To correlate such information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.

- (2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the Division may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.
- (3) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.
- (4) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics.
- (5) To perform such other duties as may be from time to time prescribed by the Attorney General.
- (6) To promulgate rules and regulations for the administration of this Article."

Sec. 3. Sections 1 and 2 of this act become effective January 1, 1996, and are applicable to all persons convicted on or after that date, and to all persons released from a penal institution on or after that date. This act shall be known as the "Amy Jackson Law".

In the General Assembly read three times and ratified this the 29th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives