

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 936  
Judiciary I Committee Substitute Adopted 4/16/01

Short Title: Sex Offender Reg/Conform W/Fed Law.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGARDING SEX OFFENDER  
REGISTRATION TO COMPLY WITH FEDERAL LAW IN ORDER TO  
MAINTAIN ELIGIBILITY FOR BYRNE GRANT FUNDING.

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 penile 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 penile penetration with a victim who is less than 12 years old.

~~(1a)~~(1b) 'County registry' means the information compiled by the sheriff of a county in compliance with this Article.

~~(1b)~~(1c) 'Division' means the Division of Criminal Statistics of the Department of Justice.

~~(1e)~~(1d) '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.

(1e) '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 full-time basis.

(1f) 'Nonresident worker' means a person who is not a resident of North Carolina but who has full-time or part-time employment in the State, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.

- 1           ~~(1d)~~(1g) 'Offense against a minor' means any of the following offenses if the  
2           offense is committed against a minor, and the person committing the  
3           offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41  
4           (abduction of children), and G.S. 14-43.3 (felonious restraint). The  
5           term also includes the following if the person convicted of the  
6           following is not the minor's parent: a solicitation or conspiracy to  
7           commit any of these offenses; aiding and abetting any of these  
8           offenses.
- 9           (2) 'Penal institution' means:
- 10           a.       A detention facility operated under the jurisdiction of the  
11           Division of Prisons of the Department of Correction;
- 12           b.       A detention facility operated under the jurisdiction of another  
13           state or the federal government; or
- 14           c.       A detention facility operated by a local government in this State  
15           or another state.
- 16           (2a) 'Personality disorder' means an enduring pattern of inner experience  
17           and behavior that deviates markedly from the expectations of the  
18           individual's culture, is pervasive and inflexible, has an onset in  
19           adolescence or early adulthood, is stable over time, and leads to  
20           distress or impairment.
- 21           (2b) 'Recidivist' means a person who has a prior conviction for an offense  
22           that is described in G.S. 14-208.6(4).
- 23           (3) 'Release' means discharged or paroled.
- 24           (4) 'Reportable conviction' means:
- 25           a.       A final conviction for an offense against a minor, a sexually  
26           violent offense, or an attempt to commit any of those offenses  
27           unless the conviction is for aiding and abetting. A final  
28           conviction for aiding and abetting is a reportable conviction  
29           only if the court sentencing the individual finds that the  
30           registration of that individual under this Article furthers the  
31           purposes of this Article as stated in G.S. 14-208.5.
- 32           b.       A final conviction in another state of an offense, which if  
33           committed in this State, would have been an offense against a  
34           minor or a sexually violent offense as defined by this section.
- 35           c.       A final conviction in a federal jurisdiction (including a court  
36           martial) of an offense, which is substantially similar to an  
37           offense against a minor or a sexually violent offense as defined  
38           by this section.
- 39           (5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first  
40           degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first  
41           degree sexual offense), G.S. 14-27.5 (second degree sexual offense),  
42           G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7

(intercourse and sexual offense with certain victims), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.16 (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 prostitution of a minor), or G.S. 14-202.1 (taking indecent liberties with children). 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."

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

**"§ 14-208.6A. Registration Lifetime registration requirements for criminal offenders and for criminal offenders determined to be sexually violent predators. offenders.**

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

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

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14-208.10(a) as public

1 record shall be readily available to and accessible by the public. However, the identity  
2 of the victim is not public record and shall not be released as a public record."

3 **SECTION 3.** G.S. 14-208.7 is amended by adding a new subsection to read:

4 "(a1) A person who is a nonresident student or a nonresident worker and who has a  
5 reportable conviction is required to maintain registration with the sheriff of the county  
6 where the person works or attends school. In addition to the information required under  
7 subsection (b) of this section, the person shall also provide information regarding the  
8 person's school or place of employment as appropriate and the person's address in his or  
9 her state of residence."

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

11 **"§ 14-208.9. Change of address.**

12 (a) If a person required to register changes address, the person shall provide  
13 written notice of the new address not later than the tenth day after the change to the  
14 sheriff of the county with whom the person had last registered. Upon receipt of the  
15 notice, the sheriff shall immediately forward this information to the Division. If the  
16 person moves to another county in this State, the Division shall inform the sheriff of the  
17 new county of the person's new residence.

18 (b) If a person required to register moves to another state, the person shall  
19 provide written notice of the new address not later than 10 days after the change to the  
20 sheriff of the county with whom the person had last registered. Upon receipt of the  
21 notice, the sheriff shall notify the person that the person must comply with the  
22 registration requirements in the new state of residence. The sheriff shall also  
23 immediately forward the change of address information to the Division, and the  
24 Division shall inform the appropriate state official in the state to which the registrant  
25 moves of the person's new address."

26 **SECTION 5.** G.S. 14-208.20 reads as rewritten:

27 **"§ 14-208.20. Sexually violent predator determination; notice of intent;**  
28 **presentence investigation.**

29 (a) When a person is charged by indictment or information with the commission  
30 of a sexually violent offense, the district attorney shall decide whether to seek  
31 classification of the offender as a sexually violent predator if the person is convicted. If  
32 the district attorney intends to seek the classification of a sexually violent predator, the  
33 district attorney shall within the time provided for the filing of pretrial motions under  
34 G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause  
35 shown allow late filing of the notice, grant additional time to the parties to prepare for  
36 trial, or make other appropriate orders.

37 (b) Prior to sentencing a person as a sexually violent predator, the court shall  
38 order a presentence investigation in accordance with G.S. 15A-1332(c). However, the  
39 study of the defendant and whether the defendant is a sexually violent predator shall be  
40 conducted by a board of experts selected by the Department of Correction. The board of  
41 experts shall be composed of at least ~~two people who are~~ four people. Two of the board  
42 members shall be experts in the field of the behavior and treatment of sexual offenders,

1 one of whom ~~is~~ shall be selected from a panel of experts in those fields provided by the  
2 North Carolina Medical Society and not employed with the Department of Correction or  
3 employed on a full-time basis with any other State agency. One of the board members  
4 shall be a victims' rights advocate, and one of the board members shall be a  
5 representative of law enforcement agencies.

6 (c) When the defendant is returned from the presentence commitment, the court  
7 shall hold a sentencing hearing in accordance with G.S. 15A-1334. At the sentencing  
8 hearing, the court shall, after taking the presentencing report under advisement, make  
9 written findings as to whether the defendant is classified as a sexually violent predator  
10 and the basis for the court's findings."

11 **SECTION 6.** G.S. 14-208.21 reads as rewritten:

12 "**§ 14-208.21. ~~Registration procedure for sexually violent predator; Lifetime~~**  
13 **registration procedure; application of Part 2 of this Article.**

14 ~~The~~ Unless provided otherwise by this Part, the provisions of Part 2 of this Article  
15 apply to a person classified as a sexually violent ~~predator unless provided otherwise by~~  
16 ~~this Part. predator, a person who is a recidivist, or a person who is convicted of an~~  
17 aggravated offense. The procedure for registering as a sexually violent ~~predator~~  
18 predator, a recidivist, or a person convicted of an aggravated offense is the same as  
19 under Part 2 of this Article."

20 **SECTION 7.** G.S. 14-208.22 reads as rewritten:

21 "**§ 14-208.22. Additional registration information required.**

22 (a) In addition to the information required by G.S. 14-208.7, the following  
23 information shall also be obtained in the same manner as set out in Part 2 of this Article  
24 from a person who is a recidivist, who is convicted of an aggravated offense, or who is  
25 classified as a sexually violent predator:

26 (1) Identifying factors.

27 (2) Offense history.

28 (3) Documentation of any treatment received by the person for the  
29 person's mental abnormality or personality disorder.

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

32 (c) The Department of Correction shall also obtain the additional information set  
33 out in subsection (a) of this section and shall include this information in the prerelease  
34 notice forwarded to the sheriff or other appropriate law enforcement agency."

35 **SECTION 8.** G.S. 14-208.23 reads as rewritten:

36 "**§ 14-208.23. Length of registration.**

37 ~~The requirement that a person who is classified as a sexually violent predator~~  
38 ~~maintain registration shall terminate only upon a determination, made in accordance~~  
39 ~~with this Part, that the person no longer suffers from a mental abnormality or~~  
40 ~~personality disorder that would make the person likely to engage in a predatory sexually~~  
41 ~~violent offense. A person who is a recidivist, who is convicted of an aggravated offense,~~  
42 or who is classified as a sexually violent predator shall maintain registration for the

1 person's life. The requirement of registration shall not be terminated under any  
2 circumstances."

3           **SECTION 9.** G.S. 14-208.24 reads as rewritten:

4 **"§ 14-208.24. Verification of registration information.**

5       (a) The information in the county registry shall be verified by the sheriff for each  
6 registrant who is a recidivist, who is convicted of an aggravated offense, or who is  
7 classified as a sexually violent predator every 90 days after the person's initial  
8 registration date.

9       (b) The procedure for verifying the information in the criminal offender registry  
10 is the same as under G.S. 14-208.9A, except that verification shall be every 90 days as  
11 provided by subsection (a) of this section."

12           **SECTION 10.** G.S. 14-208.25 is repealed.

13           **SECTION 11.** This act becomes effective December 1, 2001, and applies to  
14 offenses committed on or after that date.