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SENATE BILL 936
Judiciary I Committee Substitute Adopted 4/16/01
House Committee Substitute Favorable 5/22/01
House Committee Substitute # 2 Favorable 7/24/01

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, 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.

~~(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 part-time or full-time basis.

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

6 (1d)(1g) 'Offense against a minor' means any of the following offenses if the
7 offense is committed against a minor, and the person committing the
8 offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41
9 (abduction of children), and G.S. 14-43.3 (felonious restraint). The
10 term also includes the following if the person convicted of the
11 following is not the minor's parent: a solicitation or conspiracy to
12 commit any of these offenses; aiding and abetting any of these
13 offenses.

14 (2) 'Penal institution' means:

- 15 a. A detention facility operated under the jurisdiction of the
16 Division of Prisons of the Department of Correction;
- 17 b. A detention facility operated under the jurisdiction of another
18 state or the federal government; or
- 19 c. A detention facility operated by a local government in this State
20 or another state.

21 (2a) 'Personality disorder' means an enduring pattern of inner experience
22 and behavior that deviates markedly from the expectations of the
23 individual's culture, is pervasive and inflexible, has an onset in
24 adolescence or early adulthood, is stable over time, and leads to
25 distress or impairment.

26 (2b) 'Recidivist' means a person who has a prior conviction for an offense
27 that is described in G.S. 14-208.6(4).

28 (3) 'Release' means discharged or paroled.

29 (4) 'Reportable conviction' means:

- 30 a. A final conviction for an offense against a minor, a sexually
31 violent offense, or an attempt to commit any of those offenses
32 unless the conviction is for aiding and abetting. A final
33 conviction for aiding and abetting is a reportable conviction
34 only if the court sentencing the individual finds that the
35 registration of that individual under this Article furthers the
36 purposes of this Article as stated in G.S. 14-208.5.
- 37 b. A final conviction in another state of an offense, which if
38 committed in this State, ~~would have been~~ is substantially similar
39 to an offense against a minor or a sexually violent offense as
40 defined by this section.
- 41 c. A final conviction in a federal jurisdiction (including a court
42 martial) of an offense, which is substantially similar to an

1 offense against a minor or a sexually violent offense as defined
2 by this section.

3 (5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first
4 degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first
5 degree sexual offense), G.S. 14-27.5 (second degree sexual offense),
6 G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7
7 (intercourse and sexual offense with certain victims), G.S. 14-178
8 (incest between near relatives), G.S. 14-190.6 (employing or
9 permitting minor to assist in offenses against public morality and
10 decency), G.S. 14-190.16 (first degree sexual exploitation of a minor),
11 G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S.
12 14-190.17A (third degree sexual exploitation of a minor), G.S.
13 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19
14 (participating in prostitution of a minor), or G.S. 14-202.1 (taking
15 indecent liberties with children). The term also includes the following:
16 a solicitation or conspiracy to commit any of these offenses; aiding and
17 abetting any of these offenses.

18 (6) 'Sexually violent predator' means a person who has been convicted of a
19 sexually violent offense and who suffers from a mental abnormality or
20 personality disorder that makes the person likely to engage in sexually
21 violent offenses directed at strangers or at a person with whom a
22 relationship has been established or promoted for the primary purpose
23 of victimization.

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

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

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

28 "**§ 14-208.6A. ~~Registration~~Lifetime registration requirements for criminal**
29 **~~offenders and for criminal offenders determined to be sexually violent~~**
30 **~~predators.offenders.~~**

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

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

1 aggravated offense, or who is determined to be a sexually violent predator shall register
2 as such in accordance with Part 3 of this Article.

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

8 **SECTION 3.** Part 1 of Article 27A of Chapter 14 of the General Statutes is
9 amended by adding a new section to read:

10 **"§ 14-208.6C. Discontinuation of registration requirement.**

11 The period of registration required by any of the provisions of this Article shall be
12 discontinued only if the conviction requiring registration is reversed, vacated, or set
13 aside, or if the registrant has been granted an unconditional pardon of innocence for the
14 offense requiring registration."

15 **SECTION 4.** G.S. 14-208.7 is amended by adding a new subsection to read:

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

22 **SECTION 5.** G.S. 14-208.9 reads as rewritten:

23 **"§ 14-208.9. Change of address.**

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

30 (b) If a person required to register moves to another state, the person shall
31 provide written notice of the new address not later than 10 days after the change to the
32 sheriff of the county with whom the person had last registered. Upon receipt of the
33 notice, the sheriff shall notify the person that the person must comply with the
34 registration requirements in the new state of residence. The sheriff shall also
35 immediately forward the change of address information to the Division, and the
36 Division shall inform the appropriate state official in the state to which the registrant
37 moves of the person's new address."

38 **SECTION 6.** G.S. 14-208.20 reads as rewritten:

39 **"§ 14-208.20. Sexually violent predator determination; notice of intent;**
40 **presentence investigation.**

41 (a) When a person is charged by indictment or information with the commission
42 of a sexually violent offense, the district attorney shall decide whether to seek

1 classification of the offender as a sexually violent predator if the person is convicted. If
2 the district attorney intends to seek the classification of a sexually violent predator, the
3 district attorney shall within the time provided for the filing of pretrial motions under
4 G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause
5 shown allow late filing of the notice, grant additional time to the parties to prepare for
6 trial, or make other appropriate orders.

7 (b) Prior to sentencing a person as a sexually violent predator, the court shall
8 order a presentence investigation in accordance with G.S. 15A-1332(c). However, the
9 study of the defendant and whether the defendant is a sexually violent predator shall be
10 conducted by a board of experts selected by the Department of Correction. The board of
11 experts shall be composed of at least ~~two people who are~~ four people. Two of the board
12 members shall be experts in the field of the behavior and treatment of sexual offenders,
13 one of whom is ~~shall be~~ selected from a panel of experts in those fields provided by the
14 North Carolina Medical Society and not employed with the Department of Correction or
15 employed on a full-time basis with any other State agency. One of the board members
16 shall be a victims' rights advocate, and one of the board members shall be a
17 representative of law enforcement agencies.

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

23 **SECTION 7.** G.S. 14-208.21 reads as rewritten:

24 "**§ 14-208.21. ~~Registration procedure for sexually violent predator;~~ Lifetime**
25 **registration procedure; application of Part 2 of this Article.**

26 ~~The~~ Unless provided otherwise by this Part, the provisions of Part 2 of this Article
27 apply to a person classified as a sexually violent predator unless provided otherwise by
28 this Part. predator, a person who is a recidivist, or a person who is convicted of an
29 aggravated offense. The procedure for registering as a sexually violent ~~predator~~ predator,
30 a recidivist, or a person convicted of an aggravated offense is the same as under Part 2
31 of this Article."

32 **SECTION 8.** G.S. 14-208.22 reads as rewritten:

33 "**§ 14-208.22. Additional registration information required.**

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

- 38 (1) Identifying factors.
- 39 (2) Offense history.
- 40 (3) Documentation of any treatment received by the person for the
- 41 person's mental abnormality or personality disorder.

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

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

6 **SECTION 9.** G.S. 14-208.23 reads as rewritten:

7 "**§ 14-208.23. Length of registration.**

8 ~~The requirement that a person who is classified as a sexually violent predator~~
9 ~~maintain registration shall terminate only upon a determination, made in accordance~~
10 ~~with this Part, that the person no longer suffers from a mental abnormality or~~
11 ~~personality disorder that would make the person likely to engage in a predatory sexually~~
12 ~~violent offense.~~ A person who is a recidivist, who is convicted of an aggravated offense,
13 or who is classified as a sexually violent predator shall maintain registration for the
14 person's life. The requirement of registration shall not be terminated under any
15 circumstances."

16 **SECTION 10.** G.S. 14-208.24 reads as rewritten:

17 "**§ 14-208.24. Verification of registration information.**

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

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

25 **SECTION 11.** G.S. 14-208.25 is repealed.

26 **SECTION 12.** This act becomes effective October 1, 2001, and applies to
27 offenses committed on or after that date.