

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

2

SENATE BILL 1080
Judiciary I Committee Substitute Adopted 6/1/05

Short Title: Sex Offender Registry/Criminal Law Changes.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTY FOR POSSESSION, SALE, OR
DELIVERY OF LARGE AMOUNTS OF MARIJUANA AND TO ENHANCE
REGULATORY PROVISIONS RELATING TO REGISTERED SEX
OFFENDERS.

The General Assembly of North Carolina enacts:

PART I. AGGRAVATE PENALTY FOR LARGE AMOUNTS OF MARIJUANA

SECTION 1. G.S. 90-95 is amended by adding a new subdivision to read:

"(b1) Notwithstanding any other provision of law, any person who sells, delivers, or possesses two pounds but less than 10 pounds of a substance classified in Schedule VI shall be punished as a Class H felon and shall be sentenced to a minimum term of 20 months and a maximum term of 24 months in the State's prison, and shall be fined not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000)."

SECTION 2. G.S. 90-95(b) reads as rewritten:

"(b) Except as provided in subsections (b1), (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:
...."

SECTION 3. G.S. 90-95(d) reads as rewritten:

"(d) Except as provided in subsections (b1), (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:
...."

PART II. ENHANCE SEXUAL OFFENDER REGISTRATION LAWS

SECTION 4. G.S. 14-208.5 reads as rewritten:

"§ 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.

1 The General Assembly also recognizes that persons who commit certain other types
2 of offenses against minors, such as kidnapping, pose significant and unacceptable
3 threats to the public safety and welfare of the children in this State and that the
4 protection of those children is of great governmental interest. Further, the General
5 Assembly recognizes that law enforcement officers' efforts to protect communities,
6 conduct investigations, and quickly apprehend offenders who commit sex offenses or
7 certain offenses against minors are impaired by the lack of information available to law
8 enforcement agencies about convicted offenders who live within the agency's
9 jurisdiction. Release of information about these offenders will further the governmental
10 interests of public safety so long as the information released is rationally related to the
11 furtherance of those goals.

12 Therefore, it is the purpose of this Article to assist law enforcement agencies' efforts
13 to protect communities by requiring persons who are convicted of sex offenses or of
14 certain other offenses committed against minors to register with law enforcement
15 agencies, to require the exchange of relevant information about those offenders among
16 law enforcement agencies, to ensure to the extent possible that the citizens of this State
17 are aware of those offenders that often pose a high risk of engaging in sex offenses even
18 after being released from incarceration, and to authorize the access to necessary and
19 relevant information about those offenders to others as provided in this Article."

20 **SECTION 5.** G.S. 14-208.7 reads as rewritten:

21 "**§ 14-208.7. Registration.**

22 (a) A person who is a State resident and who has a reportable conviction shall be
23 required to maintain registration with the sheriff of the county where the person resides.
24 If the person moves to North Carolina from outside this State, the person shall register
25 within 10 days of establishing residence in this State, or whenever the person has been
26 present in the State for 15 days, whichever comes first. If the person is a current resident
27 of North Carolina, the person shall register:

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

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

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

41 (a2) If a person is a resident of this State, and is convicted of an offense which is
42 a reportable conviction, the clerk of court for the court with jurisdiction shall notify the
43 Division, no later than five days following the entry of the conviction, with the
44 information set forth in subdivisions (b)(1) and (b)(2) of this section.

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

- 3 (1) The person's full name, each alias, date of birth, sex, race, height,
4 weight, eye color, hair color, drivers license number, and home
5 address;
- 6 (2) The type of offense for which the person was convicted, the date of
7 conviction, and the sentence imposed;
- 8 (3) A current photograph;
- 9 (4) The person's fingerprints;
- 10 (5) A statement indicating whether the person is a student or expects to
11 enroll as a student within a year of registering. If the person is a
12 student or expects to enroll as a student within a year of registration,
13 then the registration form shall also require the name and address of
14 the educational institution at which the person is a student or expects
15 to enroll as a student; and
- 16 (6) A statement indicating whether the person is employed or expects to
17 be employed at an institution of higher education within a year of
18 registering. If the person is employed or expects to be employed at an
19 institution of higher education within a year of registration, then the
20 registration form shall also require the name and address of the
21 educational institution at which the person is or expects to be
22 employed.

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

27 (c) When a person registers, the sheriff with whom the person registered shall
28 immediately send the registration information to the Division in a manner determined
29 by the Division. The sheriff shall retain the original registration form and other
30 information collected and shall compile the information that is a public record under
31 this Part into a county registry. (1995, c. 545, s. 1; 1997-516, s. 1; 2001-373, s. 4;
32 2002-147, s. 17.)"

33 **SECTION 6.** G.S. 14-208.11 reads as rewritten:

34 "**§ 14-208.11. Failure to register; falsification of verification notice; failure to**
35 **return verification form; restricted activities; order for arrest.**

36 (a) A person required by this Article to register who does any of the following is
37 guilty of a Class F felony:

- 38 (1) Fails to register.
- 39 (2) Fails to notify the last registering sheriff of a change of address.
- 40 (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- 41 (4) Forges or submits under false pretenses the information or verification
42 notices required under this Article.
- 43 (5) Fails to inform the registering sheriff of enrollment or termination of
44 enrollment as a student.

1 (6) Fails to inform the registering sheriff of employment at an institution
2 of higher education or termination of employment at an institution of
3 higher education.

4 (7) If registered because of an offense involving sexual abuse of a minor,

5 a. Communicates with, is in the presence of, or is found in or on
6 the premises of the victim of the offense, or

7 b. Holds employment, or works as a volunteer, in any position that
8 involves daily or regular supervision, contact, or association
9 with minors.

10 (a1) If a person commits a violation of subsection (a) of this section, the probation
11 officer, parole officer, or any other law enforcement officer who is aware of the
12 violation shall immediately arrest the person in accordance with G.S. 15A-401, or seek
13 an order for the person's arrest in accordance with G.S. 15A-305.

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

20 **SECTION 7.** G.S. 20-7(b1) reads as rewritten:

21 "(b1) Application. – To obtain an identification card, learners permit, or drivers
22 license from the Division, a person shall complete an application form provided by the
23 Division, present at least two forms of identification approved by the Commissioner, be
24 a resident of this State, and, except for an identification card, demonstrate his or her
25 physical and mental ability to drive safely a motor vehicle included in the class of
26 license for which the person has applied. At least one of the forms of identification shall
27 indicate the applicant's residence address. The Division may copy the identification
28 presented or hold it for a brief period of time to verify its authenticity. To obtain an
29 endorsement, a person shall demonstrate his or her physical and mental ability to drive
30 safely the type of motor vehicle for which the endorsement is required.

31 The application form shall request all of the following information, and it shall
32 contain the disclosures concerning the request for an applicant's social security number
33 required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579:

34 (1) The applicant's full name.

35 (2) The applicant's mailing address and residence address.

36 (3) A physical description of the applicant, including the applicant's sex,
37 height, eye color, and hair color.

38 (4) The applicant's date of birth.

39 (5) The applicant's valid social security number.

40 (6) The applicant's signature.

41 (7) Whether the applicant is subject to registration under the State Sex
42 Offender and Public Protection Registration Program.

43 The application form, or such other form that shall be provided to every applicant, shall
44 provide notice of the requirements to register under the State Sex Offender and Public

1 Protection Registration Program, Article 27A of Chapter 14 of the General Statutes. The
2 telephone number of the local sheriff's office shall be included on the form so that an
3 applicant can make any necessary inquiry. If the application indicates that the applicant
4 is subject to registration, the Department will confirm with the sheriff's office that the
5 applicant is currently registered.

6 If an applicant does not have a valid social security number and is ineligible to
7 obtain one, the applicant shall swear to or affirm that fact under penalty of perjury. In
8 such case, the applicant may provide a valid Individual Taxpayer Identification Number
9 issued by the Internal Revenue Service to that person.

10 The Division shall not issue an identification card, learners permit, or drivers license
11 to an applicant who (i) fails to provide either the applicant's valid social security number
12 or the applicant's valid Individual Taxpayer Identification Number, or (ii) has
13 stated on their application that they are subject to registration but are not registered
14 under the State Sex Offender and Public Protection Registration Program."

15 **SECTION 8.** G.S. 20-7(n) reads as rewritten:

16 "(n) Format. – A drivers license issued by the Division must be tamperproof and
17 must contain all of the following information:

- 18 (1) An identification of this State as the issuer of the license.
- 19 (2) The license holder's full name.
- 20 (3) The license holder's residence address.
- 21 (4) A color photograph of the license holder, taken by the Division.
- 22 (5) A physical description of the license holder, including sex, height, eye
23 color, and hair color.
- 24 (6) The license holder's date of birth.
- 25 (7) An identifying number for the license holder assigned by the Division.
26 The identifying number may not be the license holder's social security
27 number.
- 28 (8) Each class of motor vehicle the license holder is authorized to drive
29 and any endorsements or restrictions that apply.
- 30 (9) The license holder's signature.
- 31 (10) The date the license was issued and the date the license expires.
- 32 (11) If applicable, an annotation that the license holder is registered under
33 the State Sex Offender and Public Protection Registration Program.

34 The Commissioner may waive the requirement of a color photograph on a license if
35 the license holder proves to the satisfaction of the Commissioner that taking the
36 photograph would violate the license holder's religious convictions. In taking
37 photographs of license holders, the Division must distinguish between license holders
38 who are less than 21 years old and license holders who are at least 21 years old by using
39 different color backgrounds or borders for each group. The Division shall determine the
40 different colors to be used.

41 At the request of an applicant for a drivers license, a license issued to the applicant
42 must contain the applicant's race."

43 **SECTION 9.** This act becomes effective December 1, 2005, and applies to
44 offenses committed on or after that date.