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Short Title: Amend Sex Offender Certain Premises.

(Public)

Sponsors:

Referred to:

May 4, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING SEX OFFENDERS ON CERTAIN PREMISES
3 TO ADDRESS THE RULING IN *DOE V. COOPER*.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 14-208.18 reads as rewritten:

6 "**§ 14-208.18. Sex offender unlawfully on premises.**

7 (a) It shall be unlawful for any person required to register under this Article, if the offense
8 requiring registration is described in subsection (c) of this section, to knowingly be at any of the
9 following locations:

10 (1) On the premises of any place intended primarily for the use, care, or
11 supervision of minors, including, but not limited to, schools, children's
12 museums, child care centers, nurseries, and playgrounds.

13 (2) Within 300 feet of any location intended primarily for the use, care, or
14 supervision of minors when the place is located on premises that are not
15 intended primarily for the use, care, or supervision of minors, including, but not
16 limited to, places described in subdivision (1) of this subsection that are located
17 in malls, shopping centers, or other property open to the general public.

18 (3) At any place where minors ~~gather for regularly scheduled educational,~~
19 ~~recreational, or social programs~~ frequently congregate, including, but not
20 limited to, libraries, arcades, amusement parks, recreation parks, and swimming
21 pools, when minors are present.

22 (4) On the State Fairgrounds during the period of time each year that the State Fair
23 is conducted, on the Western North Carolina Agricultural Center grounds
24 during the period of time each year that the North Carolina Mountain State Fair
25 is conducted, and on any other fairgrounds during the period of time that an
26 agricultural fair is being conducted.

27 (b) Notwithstanding any provision of this section, a person subject to subsection (a) of this
28 section who is the parent or guardian of a minor may take the minor to any location that can
29 provide emergency medical care treatment if the minor is in need of emergency medical care.

30 (c) ~~Subsection~~ The subdivisions of subsection (a) of this section is are applicable only to
31 ~~persons required to register under this Article who have committed any of the following~~
32 ~~offenses:~~ as follows:



- 1 (1) Subdivisions (1), (3), and (4) of subsection (a) of this section apply to persons
2 required to register under this Article who have committed any of the following
3 offenses:
4 a. Any offense in Article 7B of this Chapter or any federal offense or
5 offense committed in another state, which if committed in this State, is
6 substantially similar to an offense in Article 7B of this Chapter.
7 ~~(2)~~b. Any offense where the victim of the offense was under the age of ~~16~~18
8 years at the time of the offense.
9 (2) Subdivision (2) of subsection (a) of this section applies to persons required to
10 register under this Article if either of the following applies:
11 a. The person has committed any offense in Article 7B of this Chapter or
12 any federal offense or offense committed in another state, which if
13 committed in this State is substantially similar to an offense in Article
14 7B of this Chapter, and a finding has been made in any criminal or civil
15 proceeding that the person presents, or may present, a danger to minors
16 under the age of 18.
17 b. The person has committed any offense where the victim of the offense
18 was under the age of 18 years at the time of the offense.
19 (d) A person subject to subsection (a) of this section who is a parent or guardian of a
20 student enrolled in a school may be present on school property if all of the following conditions
21 are met:
22 (1) The parent or guardian is on school property for the purpose for one of the
23 following:
24 a. To attend a conference at the school with school personnel to discuss
25 the academic or social progress of the parents' or guardians' child; or
26 b. The presence of the parent or guardian has been requested by the
27 principal or his or her designee for any other reason relating to the
28 welfare or transportation of the child.
29 (2) The parent or guardian complies with all of the following:
30 a. Notice: The parent or guardian shall notify the principal of the school of
31 the parents' or guardians' registration under this Article and of his or her
32 presence at the school unless the parent or guardian has permission to be
33 present from the superintendent or the local board of education, or the
34 principal has granted ongoing permission for regular visits of a routine
35 nature. If permission is granted by the superintendent or the local board
36 of education, the superintendent or chairman of the local board of
37 education shall inform the principal of the school where the parents' or
38 guardians' will be present. Notification includes the nature of the
39 parents' or guardians' visit and the hours when the parent or guardian
40 will be present at the school. The parent or guardian is responsible for
41 notifying the principal's office upon arrival and upon departure. Any
42 permission granted under this sub-subdivision shall be in writing.
43 b. Supervision: At all times that a parent or guardian is on school property,
44 the parent or guardian shall remain under the direct supervision of
45 school personnel. A parent or guardian shall not be on school property
46 even if the parent or guardian has ongoing permission for regular visits
47 of a routine nature if no school personnel are reasonably available to
48 supervise the parent or guardian on that occasion.
49 (e) A person subject to subsection (a) of this section who is eligible to vote may be present
50 at a location described in subsection (a) used as a voting place as defined by G.S. 163-165 only for
51 the purposes of voting and shall not be outside the voting enclosure other than for the purpose of

1 entering and exiting the voting place. If the voting place is a school, then the person subject to
2 subsection (a) shall notify the principal of the school that he or she is registered under this Article.

3 (f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378
4 to attend public school may be present on school property if permitted by the local board of
5 education pursuant to G.S. 115C-390.11(a)(2).

6 (g) A juvenile subject to subsection (a) of this section may be present at a location
7 described in that subsection if the juvenile is at the location to receive medical treatment or mental
8 health services and remains under the direct supervision of an employee of the treating institution
9 at all times.

10 (g1) Notwithstanding any provision of this section, a person subject to subsection (a) of this
11 section who is required to wear an electronic monitoring device shall wear an electronic
12 monitoring device that provides exclusion zones around the premises of all elementary and
13 secondary schools in North Carolina.

14 (h) A violation of this section is a Class H felony."

15 **SECTION 2.** The changes made in Section 1 of this act are effective unless either or
16 both of the decisions of the United States District Court for the Middle District of North Carolina
17 ruling G.S. 14-208.18(a)(2) and G.S. 14-408.18(a)(3) unconstitutional, as they existed prior to the
18 enactment of this act, are stayed or overturned by a higher court on appeal, in which case the
19 appropriate portion of the prior version of the statute to which the decision pertained is again
20 effective as follows:

21 (1) If the ruling enjoining enforcement of G.S. 14-208.18(a)(2) is stayed or
22 overturned, the changes made to subsection (c) of G.S. 14-208.18 by Section 1
23 of this act shall be repealed.

24 (2) If the ruling enjoining enforcement of G.S. 14-208.18(a)(3) is stayed or
25 overturned, the changes made to subdivision (3) of subsection (a) of
26 G.S. 14-208.18 by Section 1 of this act shall be repealed.

27 **SECTION 3.** This act becomes effective September 1, 2016, and applies to offenses
28 committed on or after that date.