

January 29, 2007

H 29. SEX OFFENDER GPS/DOC REQUESTS. Filed 1/29/07. *TO CLARIFY THE PROCEDURE FOR SATELLITE-BASED MONITORING OF SEX OFFENDERS AND TO MAKE OTHER CHANGES TO THE SEX OFFENDER LAWS.* Amends Part 5 (Sex Offender Monitoring) of Article 27A (Sex Offender and Public Protection Registration Programs) of GS Chapter 14 by enacting four new sections as follows:

Court Determination. Adds new GS 14-208.40A requiring that during the sentencing phase for an offense under GS 14-208.6(4), the District Attorney must present any evidence that (1) the offender is a recidivist, (2) the conviction offense was an aggravated offense, or (3) the offense involved physical, mental, or sexual abuse of a minor. If the court finds that the offender is in one of the categories requiring monitoring, the court must make a finding of fact specifying whether one or more of the three factors listed above are present. If the offender is a recidivist or has committed an aggravated offense, the court must order the offender to enroll in a satellite-based monitoring program for life; if the offense involved the physical, mental, or sexual abuse of a minor, a risk assessment must be conducted before the court determines the period of time, if any, the offender must be enrolled in a satellite-based monitoring program.

DOC Determination. Adds new GS 14-208.40B requiring the Department of Correction (DOC) to determine whether satellite-based monitoring is required for an offender when the court has not made a determination. Sets out the process for review of DOC's determination.

Enrollment. Adds new GS 14-208.40C requiring offenders subject to satellite-based monitoring to enroll as follows: (1) for offenders who receive an active sentence, before their release from the Division of Prisons; and (2) for offenders receiving intermediate sentences or community service sentences, immediately upon sentencing.

Notification. Adds a new GS 14-208.40D requiring DOC to use certified mail to notify an offender of the requirement to enroll if the offender is not under DOC supervision at the time the enrollment determination is made. Notification must include the date the offender must appear to enroll; if that date has passed when the offender receives the notification, the offender has ten days from receipt of the notification to appear.

Makes conforming changes to GS 14-208.40.

Unsupervised Probation. Amends GS 14-208.42 to require an offender to enroll in satellite-based monitoring (1) for life if the offender is classified as a sexually violent predator, is a recidivist, or is convicted of an aggravated offense; or (2) for a time period ordered by the court if the offender has committed an offense involving the physical, mental, or sexual abuse of a minor and, based on DOC's risk assessment, requires the highest possible level of supervision and monitoring. Also requires the defendant to remain on unsupervised probation unless (1) enrollment in the satellite-based monitoring is terminated under GS 14-208.36 or (2) the time period set by the court expires.

Device Tampering. Amends GS 14-208.44 to include intentionally interfering with the proper functioning of a satellite-based monitoring device as a Class E felony. Adds a definition of *enroll*.

Conditions of Probation. Amends GS 15A-1343(b) to provide that defendants placed on unsupervised provision pursuant to the monitoring program are not subject to the following regular conditions of probation: paying a supervision fee, notifying the probation officer of failure to retain employment, and visiting with their probation officer at a Division of Prisons facility. Amends GS 15A-1343(b2) to add as a special condition of probation that the defendant must submit to warrantless searches at reasonable times of the defendant's person, vehicle, and premises for purposes specified by the court and reasonably related to the probation supervision. When the warrantless search involves testing for illegal drugs and the results are positive, the probationer may be required to reimburse the costs of drug screening and testing.

Immediate Family. Amends GS 14-208.16 (Residential Restrictions) to expand the definition of immediate family members for the purposes of determining a registrant's residential address.

Effective Dates. Determination of monitoring provisions are effective for sentences entered on or after December 1, 2007; device tampering provisions are effective for offenses committed on or after December 1, 2007; conditions of probation changes are effective for persons placed on probation on or after December 1, 2007.

Intro. by Ray, Goforth.

GS 14, 15A

April 16, 2007

H 29. SEX OFFENDER GPS/DOC REQUESTS. Filed 1/29/07. House committee substitute makes the following changes to 1st edition. Modifies proposed GS 14-208.40A to include an offender classified as a sexually violent predator under GS 14-208.20 in those who must enroll in a satellite-based monitoring program for life. Also amends proposed language to require a finding that the offense is not an aggravated offense and that the offender is not a recidivist before ordering a risk assessment of the offender.

Modifies proposed GS 14-208.40B to provide that when an offender is convicted of a reportable conviction and there has not been a determination by the court whether the offender must enroll in satellite-based monitoring, the Department of Corrections (DOC) must make an initial determination of whether the offenders falls into one of the categories in GS 14-208.40(a), and if so, schedule a hearing in the court in which the offender resides no sooner than 15 days from the date that notification is mailed to the offender. At the hearing if it is determined that the offender falls into one of the categories described in GS 14-208.40(a), the court must make findings of fact under GS 14-208.40A, and order the offender to enroll in satellite-based monitoring for life if it is found that the offender has been classified as a sexually violent predator or is a recidivist, or if the conviction offense was an aggravated offense. Also provides for ordering DOC to do a risk assessment of the offender to determine the level of supervision and monitoring necessary. Previously proposed language required DOC to make a determination to require satellite-based monitoring for an offender convicted of a reportable conviction defined by GS 14-208.6(4) and determined by DOC to fall into a category in GS 14-208.33(a), and allowed an offender to file a petition with the court after enrolling in satellite-based monitoring. If the court found that the offender did not fall into one of the categories in GS 14-208.33(a), the offender was released from the monitoring program.

Amends GS 14-208.42 to require an offender required to enroll in satellite-based monitoring under GS 14-208.40A or GS 14-208.40B to continue in the monitoring program for the period required unless the requirement is terminated, once the offender's sentence and any terms of

parole or post-release supervision are completed. Gives DOC the authority to have contact with the offender for purposes related to the monitoring program and requires the offender to cooperate with DOC. Previously proposed changes to GS 14-208.42 required offenders in a category described in GS 14-208.33(a) to enroll in satellite-based monitoring for life or for a period ordered by the court depending on the type of offense.

Amends GS 14-208.44 to make it a Class 1 misdemeanor for a person required to enroll in the satellite-based monitoring program to fail to provide necessary information or to fail to cooperate with DOC. Modifies proposed definition of *enroll*. Modifies proposed changes to the definition of *immediate family member* in GS 14-208.16(d).

Enacts new GS 14-208.43(d1) to provide that if the Post-Release Supervision and Parole Commission is notified by DOC that the offender has been released from the requirement to register as a sex offender, the commission must order the termination of the monitoring requirement upon request by the offender.

Amends GS 14-208.45 to specify that when a person is required to enroll in the monitoring program under GS 14-208.40A or GS 14-208.40B, DOC may exempt the person from the enrollment fee only when there is good cause and upon request by the enrollee. Makes technical changes.

Removes proposed GS 14-208.40D (notification of certain offenders) and proposed changes to GS15A-1343(b) (regular conditions of probation). Makes conforming changes to GS 15A-1374(b)(11) and GS 15A-1368.4(b1) concerning conditions of parole. Makes technical and conforming changes to GS 14-208.41 and GS 143B-266(e), and to effective dates.

June 25, 2007

H 29. SEX OFFENDER GPS/DOC REQUESTS. Filed 1/29/07. Senate committee substitute makes the following changes to 2nd edition. Effective December 1, 2007, amends GS 14-208.9(a) to provide that if a registered sex offender moves to another county, the offender must (1) report in person to the sheriff of the new county and (2) provide written notice of the change of address no later than the tenth day after the change. Directs the Division of Criminal Statistics of the Department of Justice, upon receipt of the notice from the previous county of residence that a registered offender is moving to another county in NC, to inform the sheriff of the new county of residence for the registered offender.

July 12, 2007

SL 2007-213 (H 29). SEX OFFENDER GPS/DOC REQUESTS. AN ACT TO CLARIFY THE PROCEDURE FOR SATELLITE-BASED MONITORING OF SEX OFFENDERS AND TO MAKE OTHER CHANGES TO THE SEX OFFENDER LAWS. Summarized in *Daily Bulletin* 1/29/07, 4/16/07, and 6/25/07. Enacted July 11, 2007. Sections 2, 6–9, and 9A are effective December 1, 2007. The remainder is effective July 11, 2007.