

February 13, 2007

S 132. PROTECT CHILDREN FROM SEXUAL PREDATORS ACT. Filed 2/13/07. *TO EXPAND THE SCOPE OF CERTAIN PORNOGRAPHY LAWS BY AMENDING THE DEFINITION OF SEXUAL ACTIVITY; TO INCREASE THE PENALTY FOR FIRST, SECOND, AND THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR; TO PROVIDE THAT IT SHALL BE ILLEGAL FOR THE OWNER OR OPERATOR OF A SOCIAL NETWORKING WEB SITE TO ALLOW A MINOR USING A PROTECTED COMPUTER TO CREATE OR MAINTAIN A PROFILE WEB PAGE ON A SOCIAL NETWORKING WEB SITE WITHOUT THE PERMISSION OF THE MINOR'S PARENT OR GUARDIAN AND WITHOUT PROVIDING SUCH PARENT OR GUARDIAN ACCESS TO SUCH PROFILE WEB PAGE AND TO PROVIDE FOR PENALTIES; TO PROVIDE THAT A FILM PROCESSOR, PHOTO FINISHER, OR COMPUTER TECHNICIAN WHO, IN THE COURSE OF WORK, ENCOUNTERS AN IMAGE OF A MINOR ENGAGING IN SEXUAL ACTIVITY MUST REPORT THE NAME OF THE CUSTOMER REQUESTING THE WORK TO THE APPROPRIATE AUTHORITIES; TO INCREASE THE PENALTY FOR CERTAIN OFFENSES OF SOLICITATION OF CHILD BY COMPUTER TO COMMIT AN UNLAWFUL SEX ACT; TO MAKE IT A FELONY TO LIE TO A SWORN SBI AGENT CONDUCTING AN OFFICIAL INVESTIGATION; TO PROVIDE THAT AN INVESTIGATIVE GRAND JURY MAY INVESTIGATE CERTAIN ALLEGED CRIMES IN ADDITION TO THOSE RELATING TO CONTROLLED SUBSTANCES AND TO AMEND THE PROCEDURE FOR CONVENING AN INVESTIGATIVE GRAND JURY.* Amends GS 14-190.13(S) to expand the definition of sexual activity to include lascivious exhibition of a person's pubic area. Amends GS 14-190.16(d) to increase the penalty for first degree sexual exploitation of a minor from a Class D to a Class C felony. Amends GS 14-190.17(d) to increase the penalty for second degree sexual exploitation of a minor from a Class F to a Class D felony. Amends GS 14-190.17A(d) to increase the penalty for third degree sexual exploitation of a minor from a Class I to Class E felony.

Enacts new GS 14-190.25, requiring film, digital image, video processor, photo finisher, and computer technicians to report images of minors engaging in sexual activity. Provides a person acting in compliance with the statute immunity from any civil or criminal liability. States that knowingly violating the section is punishable by a fine of \$250. Makes the definitions in GS 14-190.13 apply to the new section.

Amends GS 14-202.3(c) to make solicitation of a child by computer for an unlawful sex act a Class E felony (was, Class H) if the defendant or the person for whom the defendant was arranging the meeting physically appears at the meeting location. Amends GS 14-225 to make it a Class H felony to provide false information during an official inquiry by a sworn agent of the State Bureau of Investigation.

Enacts new GS 14-318.5 requiring parental permission for minors using a protected computer to become a member of or to create and maintain a profile web page on a social networking website. Requires that the social networking website provide the parent or guardian with access to the profile web page at all times. A first violation is a Class 3 misdemeanor; second and subsequent violations are Class 1 misdemeanors.

Enacts new GS 15A-632(a) to authorize the convening of a grand jury to investigate allegations of the commission of numerous listed crimes, and new subsection (b) to require that beginning December 1, 2007, and every two years thereafter, the Chief Justice must appoint a permanent panel of three superior court judges to decide all petitions to convene an investigative grand jury during the two-year period. Current law requires the appointment of a new three-judge panel upon receipt of each grand jury petition. Repeals GS 15A-622(h) and 15A-623(h) and incorporates these provisions into GS 15A-632(c) and (d), respectively, but deletes the requirements that grand jury petitions be approved by three members of the NC Conference of District Attorneys and that the Attorney General and the Clerk of the NC Supreme Court concur in the petition. Makes technical corrections and conforming changes. Effective for offenses committed on or after December 1, 2007.

Intro. by Dalton.

GS 14, 15A

May 17, 2007

S 132. PROTECT CHILDREN FROM SEXUAL PREDATORS ACT. Filed 2/13/07. Senate committee substitute makes the following changes to 1st edition. Deletes proposed GS 15A-632 which allowed an investigative grand jury to be convened. Amends GS 14-190.13 to remove GS 14-190.25 (film, digital image, video processor, or photo finisher or computer technician to report images containing pictures of a minor engaging in sexual activity) from those statutes to which the definitions apply. Replaces proposed GS 14-190.25 with proposed new GS 66-67.4 and makes the following changes: (1) adds definitions; (2) requires any photo processor or any computer technician who observes images of a minor engaged in a sexual act to report the name and address of the person requesting the image processing or the owner of the computer network or system to the Cyber Tip Line or to the appropriate law enforcement official (was, report to both); (3) provides that an employee of a photo processor or computer technician may satisfy the reporting requirements by reporting the information to a person designated by the employer, who must then make the required report; and (4) presumes good faith in any proceeding involving liability of any person who has complied with the reporting requirements. Replaces proposed GS 14-318.5 with proposed new GS 75-40 and make's the following changes: (1) adds findings by the General Assembly; (2) adds *an individual* to the definition of *person*; (3) replaces the term *social networking website* with *commercial social networking website*; (4) adds a definition of *hosting provider*; (5) requires the owner or operator of a social networking website to adopt and implement procedures to confirm the identity and age of the parent or guardian who provides permission for the minors to register by independently validating the accuracy of the personal identification information submitted (was, must verify the identity of the parent or guardian by comparing the information provided against information found in databases containing aggregated information about people); (6) makes violations an unfair and deceptive trade practice, with each day that the owner or operator of the site fails to adopt and implement the required procedures a separate and distinct violation (was, the first offense was a Class 3 misdemeanor and a second or subsequent offense was a Class 1 misdemeanor); and (7) excludes internet service or hosting providers, as long as the provider does not directly profit from the website's activities or intentionally aid and abet a violation. Enacts new GS 14-202.5 making it a Class G felony for a registered sex offender to access a commercial social networking site that permits minor children to become members or to create a personal web page on a commercial social networking web site. Enacts new GS 14-202.6 and GS 101-6(c) banning registered sex offenders from obtaining a name change. Adds a severability clause. Deletes the repeal of GS 15A-622(h) and GS 15A-623(h). Makes a conforming title change.

May 23, 2007

S 132. PROTECT CHILDREN FROM SEXUAL PREDATORS ACT. Filed 2/13/07. Senate amendment makes the following changes to 2nd edition. Amends proposed new GS 14-225(c)(1) to provide that any person who willfully falsifies by any trick, scheme, or device a material fact in response to an official inquiry by a sworn agent of the State Bureau of Investigation is guilty of a Class H felony (was, falsifies or conceals a material fact).

July 31, 2007

S 132. PROTECT CHILDREN FROM SEXUAL PREDATORS ACT. Filed 2/13/07. House committee substitute makes the following changes to 3rd edition. Modifies proposed amendments to GS 14-190.17(d) and GS 14-190.17A(d) to change the proposed felony penalties for sexual exploitation of a minor from Class D to Class E (2nd degree violation, currently class E), and from Class E to Class H (3rd degree violation, currently Class I). Modifies proposed new GS 14-202.5 to include knowledge by the sex offender that a commercial social networking site permits minor children to become members or have personal web pages on the site as an element of the offense. Makes the punishment for a violation of the section a Class I felony (was, Class G).

Deletes the following: proposed new GS 66-67.4 (requiring photographic images processors or computer technicians to report images that contain pictures of minors engaging in sexual activity), proposed amendments to GS 14-202.3(c) (punishment for solicitation of a child via computer to commit an unlawful sex act), proposed amendments to GS 14-225 (false reports to

law enforcement agencies or officers), and proposed new GS 75-40 (requiring parental permission for minors to access commercial social networking Web sites).

Makes conforming changes to the title.

July 18, 2008

S 132. PROTECT CHILDREN FROM SEXUAL PREDATORS ACT. Filed 2/13/07. Conference report recommends the following changes to 4th edition to reconcile matters in controversy.

Under current law, using a computer to solicit an unlawful sex act with a child or a person that the defendant believes to be a child is a Class H felony. Amends GS 14-202.3(c) to provide an exception, making the offense a Class G felony if the defendant or any other person for whom the defendant was arranging the unlawful meeting actually appears at the meeting location.

Amends proposed new GS 14-202.5 to include a definition for the term *commercial social networking web site* (was, as defined in GS 75-40). Defines it as an Internet web site that meets the following requirements: (1) is operated by a person who derives revenue membership fees, advertising, or other sources related to the operation of the web site; (2) facilitates social introductions between two or more people; (3) allows users to create web pages or personal profiles that contain additional personal information and photographs; and (4) provides users or visitors to the site with mechanisms to communicate with others such as a chat room or electronic mail. Provides that a site is not considered to be a commercial social networking web site if it (1) provides only one of the following discrete services: photo-sharing, electronic mail, instant messenger, chat room, or message board platform or (2) has as its primary purpose the facilitation of commercial transactions involving goods or services between its members or visitors.

Enacts new GS 14-205.5A to provide that a commercial social networking site may be held civilly liable for damages if it fails to make reasonable efforts to prevent a registered sex offender from accessing its web site. Defines *access* as allowing a registered sex offender to engage in any of the activities defining commercial social networking site in proposed new GS 14-202.5. Effective May 1, 2009, and applies to acts occurring on or after that date.

Except as otherwise indicated, this act becomes effective December 1, 2008 (was, December 1, 2007), and applies to offenses committed on or after that date.

Makes conforming changes to the title.

August 20, 2008

SL 2008-218 (S 132). PROTECT CHILDREN FROM SEXUAL PREDATORS ACT. AN ACT TO EXPAND THE SCOPE OF CERTAIN PORNOGRAPHY LAWS BY AMENDING THE DEFINITION OF SEXUAL ACTIVITY; TO INCREASE THE PENALTY FOR FIRST, SECOND, AND THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR; TO INCREASE THE PENALTY IN CERTAIN CIRCUMSTANCES WHERE THERE IS A SOLICITATION BY COMPUTER TO COMMIT AN UNLAWFUL SEX ACT AND TO PROVIDE FOR CIVIL LIABILITY; TO MAKE IT A FELONY FOR A REGISTERED SEX OFFENDER TO ACCESS A COMMERCIAL SOCIAL NETWORKING WEB SITE; AND TO PROHIBIT A REGISTERED SEX OFFENDER FROM OBTAINING A NAME CHANGE. Summarized in *Daily Bulletin* 2/13/07, 5/17/07, 5/23/07, 7/31/07, and 7/18/08. Enacted August 16, 2008. Section 7 is effective May 1, 2009. The remainder is effective December 1, 2008.