

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

D

SENATE BILL 199
Judiciary Committee Substitute Adopted 4/4/19
Third Edition Engrossed 4/10/19
Judiciary Committee Substitute Adopted 5/2/19
PROPOSED HOUSE COMMITTEE SUBSTITUTE S199-PCS45323-TV-41

Short Title: Child Sex Abuse/Strengthen Laws.

(Public)

Sponsors:

Referred to:

March 7, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT CHILDREN FROM SEXUAL ABUSE BY INCREASING
3 PROSECUTORIAL OPTIONS FOR DELAYED REPORTS OF CHILD ABUSE, TO
4 EXPAND THE DUTY TO REPORT CHILD ABUSE, AND TO PROTECT CHILDREN
5 FROM ONLINE PREDATORS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. TITLE**

9 **SECTION 1.** This act shall be known and may be cited as "The Sexual Assault Fast
10 Reporting and Enforcement (Safe Child) Act of 2019."
11

12 **PART II. EXPAND DUTY TO REPORT CRIMES AGAINST JUVENILES**

13 **SECTION 2.(a)** Article 39 of Chapter 14 of the General Statutes is amended by
14 adding a new section to read:

15 **"§ 14-318.6. Failure to report crimes against juveniles; penalty.**

16 (a) Definitions. – As used in this section, the following definitions apply:

17 (1) Juvenile. – As defined in G.S. 7B-101. For the purposes of this section, the
18 age of the juvenile at the time of the abuse or offense governs.

19 (2) Serious bodily injury. – As defined in G.S. 14-318.4(d).

20 (3) Serious physical injury. – As defined in G.S. 14-318.4(d).

21 (4) Sexually violent offense. – An offense committed against a juvenile that is a
22 sexually violent offense as defined in G.S. 14-208.6(5). This term also
23 includes the following: an attempt, solicitation, or conspiracy to commit any
24 of these offenses; aiding and abetting any of these offenses.

25 (5) Violent offense. –Any offense that inflicts upon the juvenile serious bodily
26 injury or serious physical injury by other than accidental means. This term
27 also includes the following: an attempt, solicitation, or conspiracy to commit
28 any of these offenses; aiding and abetting any of these offenses.

29 (b) Requirement. – Any person 18 years of age or older who knows or should have
30 reasonably known that a juvenile has been or is the victim of a violent offense, sexual offense,
31 or misdemeanor child abuse under G.S. 14-318.2 shall immediately report the case of that
32 juvenile to the appropriate local law enforcement agency in the county where the juvenile resides
33 or is found. The report may be made orally or by telephone. The report shall include information



* S 1 9 9 - P C S 4 5 3 2 3 - T V - 4 1 *

1 as is known to the person making it, including the name, address, and age of the juvenile; the
2 name and address of the juvenile's parent, guardian, custodian, or caretaker; the name, address,
3 and age of the person who committed the offense against the juvenile; the location where the
4 offense was committed; the names and ages of other juveniles present or in danger; the present
5 whereabouts of the juvenile, if not at the home address; the nature and extent of any injury or
6 condition resulting from the offense or abuse; and any other information which the person making
7 the report believes might be helpful in establishing the need for law enforcement involvement.
8 The person making the report shall give their name, address, and telephone number.

9 (c) Penalty. – Any person 18 years of age or older, who knows or should have reasonably
10 known that a juvenile was the victim of a violent offense, sexual offense, or misdemeanor child
11 abuse under G.S. 14-318.2, and knowingly or willfully fails to report as required by subsection
12 (b) of this section, or who knowingly or willfully prevents another person from reporting as
13 required by subsection (b) of this section, is guilty of a Class 1 misdemeanor.

14 (d) Construction. – Nothing in this section shall be construed as relieving a person subject
15 to the requirement set forth in subsection (b) of this section from any other duty to report required
16 by law.

17 (e) Protection. – The identity of a person making a report pursuant to this section must
18 be protected and only revealed as provided in G.S. 132-1.4(c)(4).

19 (f) Good-Faith Immunity. – A person who makes a report in good faith under this Article,
20 cooperates with law enforcement in an investigation, or testifies in any judicial proceeding
21 resulting from a law enforcement report or investigation is immune from any civil or criminal
22 liability that might otherwise be incurred or imposed for that action, provided that person was
23 acting in good faith.

24 (g) Law Enforcement Duty to Report Evidence to the Department of Social Services. –
25 If any law enforcement officer, as the result of a report, finds evidence that a juvenile may be
26 abused, neglected, or dependent as defined in G.S. 7B-101, the law enforcement officer shall
27 make an oral report as soon as practicable and make a subsequent written report of the findings
28 to the director of the department of social services within 48 hours after discovery of the
29 evidence. When a report of abuse, neglect, or dependency is received, the director of the
30 department of social services shall make a prompt and thorough assessment, in accordance with
31 G.S. 7B-302, to determine whether protective services should be provided or the complaint filed
32 as a petition.

33 (h) Nothing in this section shall be construed as to require a person with a privilege under
34 G.S. 8-53.3, 8-53.7, 8-53.8, or 8-53.12 or with attorney-client privilege to report pursuant to this
35 section if that privilege would prevent them from doing so."

37 **PART III. EXPANDING THE STATUTE OF LIMITATIONS FOR MISDEMEANOR** 38 **CRIMES INVOLVING ABUSE AGAINST CHILDREN**

39 **SECTION 3.(a) G.S. 15-1 reads as rewritten:**

40 **"§ 15-1. Statute of limitations for misdemeanors.**

41 (a) The crimes of deceit and malicious mischief, and the crime of petit larceny where the
42 value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious
43 misdemeanors, shall be charged within two years after the commission of the same, and not
44 afterwards: Provided, that if any pleading shall be defective, so that no judgment can be given
45 thereon, another prosecution may be instituted for the same offense, within one year after the
46 first shall have been abandoned by the State.

47 (b) Notwithstanding subsection (a), the following misdemeanors shall be charged within
48 10 years of the commission of the crime:

49 (1) G.S. 7B-301(b).

50 (2) G.S. 14-27.33.

51 (3) G.S. 14-202.2.

1 (4) G.S. 14-318.2.

2 (5) G.S. 14-318.6."

3
4 **PART IV. PROTECTING CHILDREN ONLINE FROM HIGH-RISK SEX OFFENDERS**

5 **SECTION 4.(a) G.S. 14-202.5 reads as rewritten:**

6 **"§ 14-202.5. Ban use of commercial social networking Web sites by sex offenders. Ban online**
7 **conduct by high-risk sex offenders that endangers children.**

8 (a) Offense. – It is unlawful for a high-risk sex offender who is registered in accordance
9 with Article 27A of Chapter 14 of the General Statutes to access a commercial social networking
10 Web site where the sex offender knows that the site permits minor children to become members
11 or to create or maintain personal Web pages on the commercial social networking Web site. to do
12 any of the following online:

13 (1) To communicate with a person that the offender believes is under 16 years of
14 age.

15 (2) To contact a person that the offender believes is under 16 years of age.

16 (3) To pose falsely as a person under 16 years of age with the intent to commit an
17 unlawful sex act with a person the offender believes is under 16 years of age.

18 (4) To use a Web site to gather information about a person that the offender
19 believes is under 16 years of age.

20 (5) To use a commercial social networking Web site in violation of a policy,
21 posted in a manner reasonably likely to come to the attention of users,
22 prohibiting convicted sex offenders from using the site.

23 (b) Definition of Commercial Social Networking Web Site. – For the purposes of this
24 section, a "commercial social networking Web site" ~~is an~~ includes any Web site, application,
25 portal, or other means of accessing the Internet Web site ~~that meets all of the following~~
26 requirements:

27 (1) Is operated by a person who derives revenue from membership fees,
28 advertising, or other sources related to the operation of the Web site.

29 (2) ~~Facilitates the social introduction between two or more persons for the~~
30 ~~purposes of friendship, meeting other persons, or information exchanges.~~

31 (3) Allows users to create personal Web pages or personal profiles that contain
32 information such as the user's name or nickname of the user, nickname,
33 photographs placed on the personal Web page by the user, of the user, and
34 other personal information about the user, and links to other personal Web
35 pages on the commercial social networking Web site of friends or associates
36 of the user that may be accessed by other users or visitors to the Web
37 site. information.

38 (4) Provides users or visitors to the commercial social networking Web site
39 mechanisms a mechanism to communicate with other users, others, such as a
40 message board, chat room, electronic mail, or instant messenger.

41 (c) Exclusions from Commercial Social Networking Web Site Definition. – A
42 commercial social networking Web site does not include ~~an Internet a~~ a Web site that either: meets
43 either of the following requirements:

44 (1) ~~Provides only one of the following discrete services: photo-sharing, electronic~~
45 ~~mail, instant messenger, or chat room or message board platform; or~~

46 (2) Has as its primary purpose the facilitation of commercial transactions
47 involving goods or services between its members or visitors. transactions, the
48 dissemination of news, the discussion of political or social issues, or
49 professional networking.

50 (3) Is a Web site owned or operated by a local, State, or federal governmental
51 entity.

1 (c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term
2 "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter
3 14 of the General Statutes that meets any of the following requirements:

4 (1) Was convicted of an aggravated offense, as that term is defined in
5 G.S. 14-208.6, against a person under 18 years of age.

6 (2) Is a recidivist, as that term is defined in G.S. 14-208.6, and one offense is
7 against a person under 18 years of age.

8 (3) Was convicted of an offense against a minor, as that term is defined in
9 G.S. 14-208.6.

10 (4) Was convicted of a sexually violent offense, as that term is defined in
11 G.S. 14-208.6, against a person under 18 years of age.

12 (5) Was found by a court to be a sexually violent predator, as that term is defined
13 in G.S. 14-208.6, based on a conviction of a sexually violent offense
14 committed against a minor.

15 (d) Jurisdiction. – The offense is committed in the State for purposes of determining
16 jurisdiction, if the transmission that constitutes the offense either originates in the State or is
17 received in the State.

18 (e) Punishment. – A violation of this section is a Class ~~I~~H felony.

19 (f) Severability. – If any provision of this section or its application is held invalid, the
20 invalidity does not affect other provisions or applications of this section that can be given effect
21 without the invalid provisions or application, and, to this end, the provisions of this section are
22 severable."

23 **SECTION 4.(b)** G.S. 14-202.5A reads as rewritten:

24 **"§ 14-202.5A. Liability of commercial social networking sites.**

25 (a) A commercial social networking site, as defined in G.S. 14-202.5, that complies with
26 G.S. 14-208.15A or makes other reasonable efforts to prevent a ~~high-risk sex offender who is~~
27 ~~registered in accordance with Article 27A of Chapter 14 of the General Statutes from accessing~~
28 ~~its Web site shall not be held civilly liable for damages arising out of a person's communications~~
29 ~~on the social networking site's system or network regardless of that person's status as a registered~~
30 ~~sex offender in North Carolina or any other jurisdiction-offender, as defined in G.S. 14-202.5,~~
31 from using its Web site to endanger children shall not be held civilly liable for damages arising
32 out of the sex offender's communications on the social networking site's system or network.

33 (b) ~~For the purposes of this section, "access" is defined as allowing the sex offender to~~
34 ~~do any of the activities or actions described in G.S. 14-202.5(b)(2) through G.S. 14-202.5(b)(4)~~
35 ~~by utilizing the Web site."~~

37 **PART V. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE**

38 **SECTION 5.(a)** If any provision of this act or its application is held invalid, the
39 invalidity does not affect other provisions or applications of this act that can be given effect
40 without the invalid provisions or application, and, to this end, the provisions of this act are
41 severable.

42 **SECTION 5.(b)** Prosecutions for offenses committed before the effective date of
43 this act are not abated or affected by this act, and the statutes that would be applicable but for
44 this act remain applicable to those prosecutions.

45 **SECTION 5.(c)** Parts I, II, III, and IV of this act become effective December 1, 2019,
46 and apply to offenses committed on or after that date. The remainder of this act is effective when
47 it becomes law.