

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 152  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40075-TV-1

Short Title: Registration Discretionary for Sexual Battery. (Public)

Sponsors: Representative John.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE THE REQUIREMENT THAT A PERSON CONVICTED OF SEXUAL  
3 BATTERY REGISTER AS A SEX OFFENDER DISCRETIONARY WITH THE COURT,  
4 AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 14-27.33 reads as rewritten:

7 "§ 14-27.33. Sexual battery.

8 (a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal,  
9 sexual gratification, or sexual abuse, engages in sexual contact with another person:

10 (1) By force and against the will of the other person; or

11 (2) Who has a mental disability or who is mentally incapacitated or physically  
12 helpless, and the person performing the act knows or should reasonably know  
13 that the other person has a mental disability or is mentally incapacitated or  
14 physically helpless.

15 (b) Any person who commits the offense defined in this section is guilty of a Class A1  
16 misdemeanor.

17 (c) When a person is convicted of a violation of this section, the sentencing court shall  
18 consider whether the person is a danger to the community and whether requiring the person to  
19 register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of  
20 that Article as stated in G.S. 14-208.5. At sentencing, the State shall provide all appropriate and  
21 competent evidence of the person's danger to the community. Evidence to be considered may  
22 include, but is not limited to, age, criminal record, relationship to victim, and a risk assessment  
23 conducted by the Division of Adult Correction. If the sentencing court finds that the person is a  
24 danger to the community and that the person shall register, then an order shall be entered  
25 requiring the person to register."

26 SECTION 2. G.S. 14-202(l) reads as rewritten:

27 (l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is  
28 convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the  
29 sentencing court shall consider whether the person is a danger to the community and whether  
30 requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would  
31 further the purposes of that Article as stated in G.S. 14-208.5. At sentencing, the State shall  
32 provide all appropriate and competent evidence of the person's danger to the community.  
33 Evidence to be considered may include, but is not limited to, age, criminal record, relationship  
34 to victim, and a risk assessment conducted by the Division of Adult Correction. If the sentencing  
35 court rules that the person is a danger to the community and that the person shall register, then  
36 an order shall be entered requiring the person to register."



**SECTION 3.** G.S. 14-208.6(4) reads as rewritten:

"(4) Reportable conviction. – Any of the following:

- a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.
- b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.
- c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.
- d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14-202(a), (a1), or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register.
- e. A final conviction for a violation of G.S. 14-43.14, only if the court sentencing the individual issues an order pursuant to G.S. 14-43.14(e) requiring the individual to register.
- f. A final conviction for a violation of G.S. 14-27.33, only if the court sentencing the individual issues an order pursuant to G.S. 14-27.33(c) requiring the individual to register."

**SECTION 4.** G.S. 14-208.6(5) reads as rewritten:

"(5) Sexually violent offense. – A violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), ~~G.S. 14-27.33 (sexual battery)~~, G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking

1 indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a  
2 prostitute who is a minor or has a mental disability), G.S. 14-205.3(b)  
3 (promoting prostitution of a minor or a person who has a mental disability),  
4 G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution  
5 with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual  
6 act upon a juvenile by parent or guardian). The term also includes the  
7 following: a solicitation or conspiracy to commit any of these offenses; aiding  
8 and abetting any of these offenses."

9 **SECTION 5.** G.S. 50-13.1(a1) reads as rewritten:

10 "(a1) Notwithstanding any other provision of law, any person instituting an action or  
11 proceeding for custody ex parte who has been convicted of a sexually violent offense as defined  
12 in G.S. 14-208.6(5) or who has been convicted of an offense under G.S. 14-27.33 and ordered to  
13 register under Article 27A of Chapter 14 of the General Statutes shall disclose the conviction in  
14 the pleadings."

15 **SECTION 6.** This act becomes effective December 1, 2019, and applies to offenses  
16 committed on or after that date.