

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 1008
Committee Substitute Favorable 6/8/22
PROPOSED SENATE COMMITTEE SUBSTITUTE H1008-PCS40811-CE-40

Short Title: Sex Offender/Probation/Victims Changes.

(Public)

Sponsors:

Referred to:

May 23, 2022

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING CHANGES TO THE SEX OFFENDER REGISTRATION PROCESS, TO ALLOW JUDGES TO DELEGATE TO PROBATION OFFICERS A LIMITED AMOUNT OF AUTHORITY TO REDUCE TERMS OF SUPERVISED PROBATION, TO ALLOW FOR WARRANTLESS SEARCHES OF INDIVIDUALS ON POST-RELEASE SUPERVISION, TO EXPAND RENTAL PROTECTIONS FOR VICTIMS OF CERTAIN CRIMES, TO CREATE A PRIVILEGE FOR CERTAIN COMMUNICATIONS WITH VICTIM ASSISTANCE CENTERS, TO REMOVE RESTRICTIONS FOR CERTAIN SHERIFF'S CONTRACTS, TO AMEND THE EFFECTIVE DATE FOR S.L. 2015-186, TO EXTEND A LIMITED DRIVING PRIVILEGE UNTIL REINSTATEMENT DETERMINATION, AND TO PROHIBIT THE IMPERSONATION OF TAXICAB DRIVERS.

The General Assembly of North Carolina enacts:

CLARIFYING CHANGES TO THE SEX OFFENDER REGISTRATION PROCESS

SECTION 1.(a) G.S. 14-208.9A(a) reads as rewritten:

"(a) The information in the county registry shall be verified semiannually for each registrant as follows:

- (1) Every year on the anniversary of a person's initial registration date, and again six months after that date, the Department of Public Safety shall mail a nonforwardable verification form to the last reported address of the person. If the person is serving a sentence of more than 24 months in the custody of the North Carolina Division of Adult Correction, the Department of Public Safety may deliver the verification form to the Division of Adult Correction in lieu of nonforwardable mail.

...."

SECTION 1.(b) G.S. 14-208.12A(a) reads as rewritten:

"(a) Ten years from the date of initial county registration, a person required to register under this Part may petition the superior court to terminate the 30-year registration requirement if the person has not been convicted of a subsequent offense requiring registration under this Article.

If the reportable conviction is for an offense that occurred in North Carolina, the petition shall be filed in the district where the person was convicted of the ~~offense-offense~~, regardless of the petitioner's current county or state of residence.



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1 If the reportable conviction is for an offense that occurred in another state, the petition shall
2 be filed in the district where the person resides. A person who petitions to terminate the
3 registration requirement for a reportable conviction that is an out-of-state offense shall also do
4 the following: (i) provide written notice to the sheriff of the county where the person was
5 convicted that the person is petitioning the court to terminate the registration requirement and (ii)
6 include with the petition at the time of its filing, an affidavit, signed by the petitioner, that verifies
7 that the petitioner has notified the sheriff of the county where the person was convicted of the
8 petition and that provides the mailing address and contact information for that sheriff.

9 Regardless of where the offense occurred, if the defendant was convicted of a reportable
10 offense in any federal court, the conviction will be treated as an out-of-state offense for the
11 purposes of this section."

12 **SECTION 1.(c)** This section becomes effective August 1, 2022, and applies to
13 verification forms sent and petitions filed on or after that date.
14

15 **COURTS MAY DELEGATE A LIMITED AMOUNT OF AUTHORITY TO** 16 **PROBATION OFFICERS TO REDUCE AN OFFENDER'S TERM OF SUPERVISED** 17 **PROBATION**

18 **SECTION 2.(a)** Article 82 of Chapter 15A of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 15A-1344.2. Delegation of authority to reduce a term of supervised probation.**

21 (a) In any instance under this Article that the court may reduce a term of supervised
22 probation, the court may delegate, by written order filed with the clerk of superior court, the
23 court's authority to reduce a term of supervised probation when a probation officer finds that an
24 offender (i) is currently in compliance with the terms of the offender's probation and (ii) has made
25 diligent progress regarding the offender's probation. The delegation of the court's authority may
26 be revoked by the court at any time by a written order filed with the clerk of superior court as
27 soon as practicable following the revocation. The clerk of superior court shall notify the probation
28 officer of this revocation of delegated authority as soon as practicably possible. Any order entered
29 pursuant to this section shall require that no term of supervision be reduced unless all restitution
30 ordered as part of the sentence has been paid in full.

31 (b) For the purpose of this section, proof of any one or more of the following,
32 demonstrated to the satisfaction of the probation officer, shall constitute diligent progress:

33 (1) The successful completion of a validated drug or mental health treatment
34 program, evidenced-based program, or any other vocational, or life skills
35 program.

36 (2) The successful completion of at least six months of active enrollment in an
37 education program in which the offender is seeking a trade certification, high
38 school diploma, General Educational Development (GED) degree, associate
39 degree, bachelor's degree, or graduate degree.

40 (3) The successful completion of at least six months of employment,
41 demonstrated by proof of wages.

42 (c) A reduction of a term of supervision pursuant to this section does not become effective
43 until all of the following occur:

44 (1) The probation officer files a written affidavit with the clerk of superior court
45 seeking a final order of the court confirming the probation officer's decision
46 to reduce the offender's term.

47 (2) Notification is given to the district attorney and the victim pursuant to
48 G.S. 15A-837, and if requested by either the district attorney or the victim, a
49 hearing and an opportunity to be heard is granted.

50 (3) The court approves the reduction.

1 (d) A probation officer may not reduce an offender's term of supervised probation
 2 pursuant to this section by more than one-fourth the amount of time the offender was originally
 3 required to serve on supervised probation. If a probation officer reduces an offender's term of
 4 supervised probation pursuant to this section on more than one occasion, the total reduction of
 5 the offender's term of supervised probation may not exceed one-fourth the amount of time the
 6 offender was originally required to serve on supervised probation."

7 **SECTION 2.(b)** This section becomes effective December 1, 2022, and applies to
 8 delegations of court authority entered on or after that date.

9
 10 **ALLOW WARRANTLESS SEARCHES OF INDIVIDUALS ON POST-RELEASE**
 11 **SUPERVISION**

12 **SECTION 3.(a)** G.S. 15A-1368.4(e), as amended by S.L. 2021-180, reads as
 13 rewritten:

14 "(e) Controlling Conditions. – Appropriate controlling conditions, violation of which may
 15 result in revocation of post-release supervision, are:

16 ...

- 17 (10) Submit at reasonable times to warrantless searches of the supervisee's person
 18 by a post-release supervision officer of the supervisee's person and of the
 19 supervisee's vehicle and premises while the supervisee is present for purposes
 20 reasonably related to the post-release supervision. The Commission shall not
 21 require as a condition of post-release supervision that the supervisee submit
 22 to any other searches that would otherwise be unlawful. Whenever the search
 23 consists of testing for the presence of illegal drugs, the supervisee may also
 24 be required to reimburse the Division of Community Supervision and Reentry
 25 of the Department of Adult Correction for the actual cost of drug testing and
 26 drug screening, if the results are positive.

27 "

28 **SECTION 3.(b)** This section is effective when it becomes law and applies to
 29 searches on or after that date.

30
 31 **EXPAND RENTAL PROTECTIONS FOR VICTIMS OF CERTAIN CRIMES**

32 **SECTION 4.(a)** G.S. 42-40 reads as rewritten:

33 **"§ 42-40. Definitions.**

34 For the purpose of this Article, the following definitions shall apply:

- 35 (1) ~~"Action"~~-Action. – The term includes recoupment, counterclaim, defense,
 36 setoff, and any other proceeding including an action for possession.
- 37 (2) ~~"Premises"~~means a Premises. – A dwelling unit, including mobile homes or
 38 mobile home spaces, and the structure of which it is a part and facilities and
 39 appurtenances therein and grounds, areas, and facilities normally held out for
 40 the use of residential tenants.
- 41 (3) ~~"Landlord"~~means any Landlord. – Any owner and any rental management
 42 company, rental agency, or any other person having the actual or apparent
 43 authority of an agent to perform the duties imposed by this Article.
- 44 (4) ~~"Protected tenant"~~means a Protected tenant. – A tenant or household member
 45 who is a-any of the following:
- 46 a. A victim of domestic violence under Chapter 50B of the General
 47 Statutes or sexual assault or stalking under Chapter 14 of the General
 48 Statutes.
- 49 b. A victim of attempted homicide or household member of a victim of
 50 homicide under G.S. 14-17, 14-18, 14-18.4, 14-23.2, 14-23.3, or
 51 14-23.4, where the premises was the location of the crime."

1 **SECTION 4.(b)** G.S. 42-45.1 reads as rewritten:

2 "**§ 42-45.1. Early termination of rental agreement by ~~victims of domestic violence, sexual~~**
3 **~~assault, or stalking-protected tenants.~~**

4 (a) Any protected tenant may terminate ~~his or her~~ the protected tenant's rental agreement
5 for a dwelling unit by providing the landlord with a written notice of termination to be effective
6 on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The
7 notice to the landlord shall be accompanied by ~~either:~~ any of the following: (i) a copy of a valid
8 order of protection issued by a court pursuant to Chapter 50B or 50C of the General Statutes,
9 other than an ex parte order, (ii) a criminal order that restrains a person from contact with a
10 protected tenant, ~~or~~ (iii) a valid Address Confidentiality Program card issued pursuant to
11 G.S. 15C-4 to the victim or a minor member of the tenant's ~~household.~~ household, or (iv)
12 documentation from a law enforcement, court, or federal agency indicating that the protected
13 tenant is a victim of an attempted homicide or a household member of a victim of a homicide. A
14 victim of domestic violence or sexual assault must submit a copy of a safety plan with the notice
15 to terminate. The safety plan, dated during the term of the tenancy to be terminated, must be
16 provided by a domestic violence or sexual assault program which substantially complies with the
17 requirements set forth in G.S. 50B-9 and must recommend relocation of the protected tenant.

18 "

19 **SECTION 4.(c)** This section becomes effective August 1, 2022, and applies to rental
20 agreements entered into, amended, or renewed on or after that date.

21
22 **CREATE A PRIVILEGE FOR CERTAIN COMMUNICATIONS WITH VICTIM**
23 **ASSISTANCE CENTERS**

24 **SECTION 5.(a)** Article 7 of Chapter 8 of the General Statutes is amended by adding
25 a new section to read:

26 "**§ 8-53.12A. Communications with homicide victim advocates privileged.**

27 (a) Definitions. – The following definitions apply in this section:

28 (1) Agent. – An employee of a victim assistance center who has completed a
29 minimum of 30 hours of training as required by the center or a volunteer under
30 the direct supervision of the center who has completed a minimum of 30 hours
31 of training as required by the center.

32 (2) Family member. – A spouse, child, parent, guardian, legal custodian, sibling,
33 or grandparent of a person.

34 (3) Homicide. – A violation of any of the following: G.S. 14-17, 14-18, 14-18.4,
35 14-23.2, 14-23.3, and 14-23.4.

36 (4) Services. – The term includes assessment and intake, individual counseling,
37 court accompaniment, homicide support groups, outreach, and family support
38 services.

39 (5) Victim. – A person who does both of the following:

40 a. Alleges a homicide has been attempted against them or committed
41 against a family member or someone with whom they have a
42 significant relationship.

43 b. Consults an agent of a victim assistance center for the purpose of
44 obtaining for themselves services concerning mental, physical, or
45 emotional injuries suffered because of the homicide.

46 (6) Victim assistance center. – A nonprofit organization registered in this State
47 whose primary purpose is to provide support and services to surviving victims.

48 (b) Privileged Communications. – No agent of a victim assistance center shall be required
49 to disclose any information that the agent acquired during the provision of services to a victim
50 and that was necessary to enable the agent to render the services, unless the victim waives the

1 privilege conferred. The privilege afforded under this subsection terminates upon the death of
 2 the victim.

3 (c) Required Disclosure. – The court shall compel disclosure, either at the trial or prior
 4 to the trial, if the court finds, by a preponderance of the evidence, a good-faith, specific, and
 5 reasonable basis for all of the following:

6 (1) The records or testimony sought contain information that is relevant and
 7 material to factual issues to be determined in a civil proceeding or that is
 8 relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or
 9 sentencing in a criminal proceeding for the offense charged or any lesser
 10 included offense.

11 (2) The evidence is not sought merely for character impeachment purposes.

12 (3) The evidence sought is not merely cumulative of other evidence or
 13 information available or already obtained by the party seeking the disclosure.

14 (d) Duties of the Court Regarding Disclosure. – Before requiring production of records,
 15 the court shall find that the party seeking disclosure has made a sufficient showing that the
 16 records are likely to contain information subject to disclosure under this subsection. If the court
 17 finds a sufficient showing has been made, the court shall (i) order that the records be produced
 18 for the court under seal and (ii) examine the records in camera. The court shall allow disclosure
 19 only of those portions of the records that the court finds contain information subject to disclosure
 20 under this subsection. After all appeals in the action have been exhausted, any records received
 21 by the court under seal shall be returned to the victim assistance center, unless otherwise ordered
 22 by the court.

23 (e) Duty in Case of Abuse or Neglect. – Nothing in this section shall be construed to
 24 relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as
 25 required by law."

26 **SECTION 5.(b)** This section is effective when it becomes law and applies to
 27 communications and proceedings commenced on or after that date.

29 REMOVE RESTRICTIONS FOR CERTAIN SHERIFF'S CONTRACTS

30 **SECTION 6.** G.S. 143-131.1 reads as rewritten:

31 "**§ 143-131.1. Exception for contracts for the purchase of food and supplies for county**
 32 **detention facilities by ~~the sheriffs of certain counties,~~sheriffs.**

33 **(a)** A county sheriff's office may contract for the purchase of food and food services
 34 supplies for that county's detention facility without being subject to the requirements of
 35 G.S. 143-129 and G.S. 143-131(a).

36 **(b)** ~~This section applies only to the following counties: Alamance, Anson, Beaufort,~~
 37 ~~Caswell, Catawba, Cherokee, Chowan, Cleveland, Craven, Cumberland, Currituck, Dare,~~
 38 ~~Davidson, Duplin, Gaston, Granville, Guilford, Haywood, Henderson, Iredell, Jones, Lincoln,~~
 39 ~~Madison, Onslow, Orange, Pamlico, Pasquotank, Randolph, Rockingham, Sampson, Stanly,~~
 40 ~~Transylvania, Wake, Washington, and Yancey."~~

42 AMEND EFFECTIVE DATE FOR S.L. 2015-186

43 **SECTION 7.(a)** Section 7 of S.L. 2015-186, as amended by Section 86 of S.L.
 44 2015-264, reads as rewritten:

45 "**SECTION 7.** This act becomes effective December 1, 2015, and applies to offenses
 46 committed ~~on~~on, before, or after that date. ~~Prosecutions for offenses committed before the~~
 47 ~~effective date of this act are not abated or affected by this act, and the statutes that would be~~
 48 ~~applicable but for this act remain applicable to those prosecutions."~~

49 **SECTION 7.(b)** This section is effective when it becomes law.

EXTEND LIMITED DRIVING PRIVILEGE UNTIL REINSTATEMENT DETERMINATION

SECTION 8. G.S. 20-20.1(j) reads as rewritten:

"(j) Term and Reinstatement. – The term of a limited driving privilege issued under this section is the shorter of one year or the length of time remaining in the revocation period imposed under G.S. 20-28(a) or G.S. 20-28.1. When the term of the limited driving privilege expires, the Division must reinstate the person's license if the person meets all of the conditions listed in this subsection. The term of the limited driving privilege may be extended until the date set by the Division to determine whether the person meets conditions for reinstatement. The Division may impose restrictions or conditions on the new license in accordance with G.S. 20-7(e). The conditions are:

- (1) Payment of the restoration fee as required under G.S. 20-7(i1).
- (2) Providing proof of financial responsibility as required under G.S. 20-7(c1).
- (3) Providing the proof required for reinstatement of a license under G.S. 20-28(c1)."

PROHIBIT THE IMPERSONATION OF TAXICAB DRIVERS

SECTION 9.(a) G.S. 14-401.27 reads as rewritten:

"§ 14-401.27. Impersonation of a transportation network company ~~driver~~driver or taxicab driver.

It shall be unlawful for any person to impersonate a transportation network company (TNC) driver, as defined in G.S. 20-280.1, or a taxicab driver by a false statement, false display of distinctive signage or emblems known as a trade dress, trademark, branding, or logo of the ~~TNC,~~ TNC or a taxicab operator, or any other act which falsely represents that the person has a current connection with a transportation network company or taxicab operator or falsely represents that the person is responding to a passenger ride request for a transportation network ~~company-~~ company or taxicab operator. A violation of this section is a Class H felony if the person impersonates a TNC driver or taxicab driver during the commission of a separate felony offense. Any other violation of this section is a Class 2 misdemeanor."

SECTION 9.(b) This section becomes effective December 1, 2022, and applies to offenses committed on or after that date.

EFFECTIVE DATE

SECTION 10. Except as otherwise provided, this act is effective when it becomes law.