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SENATE BILL DRS15155-ND-74B

Short Title: Modify Victim and Sex Offense Registry Laws. (Public)

Sponsors: Senators Britt, Lazzara, and Mohammed (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY LAWS PROTECTING AND AIDING VICTIMS OF CRIME AND TO
3 CLARIFY CERTAIN REGISTRATION PROCESSES OF THE NORTH CAROLINA SEX
4 OFFENSE REGISTRY.

5 The General Assembly of North Carolina enacts:

6
7 **CLARIFYING CHANGES TO THE SEX OFFENDER REGISTRATION PROCESS**

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

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

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

18"

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

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

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

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



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

4 **SECTION 1.(c)** This section becomes effective August 1, 2023, and applies to
5 verification forms sent and petitions filed on or after that date.

6
7 **REMOVE TIME CONSTRAINTS IN CERTAIN CIRCUMSTANCES FOR**
8 **COMMUNICATIONS BETWEEN VICTIMS OF CRIME AND LAW ENFORCEMENT**
9 **AGENCIES**

10 **SECTION 2.(a)** G.S. 15A-831(a) reads as rewritten:

11 "(a) As soon as practicable ~~but within 72 hours~~ after identifying a victim covered by this
12 Article, the investigating law enforcement agency shall provide the victim with at least the
13 following information in writing, on a form created by the Conference of District Attorneys:

14"

15 **SECTION 2.(b)** G.S. 15B-11 reads as rewritten:

16 **"§ 15B-11. Grounds for denial of claim or reduction of award.**

17 (a) An award of compensation shall be denied ~~if~~under any of the following
18 circumstances:

- 19 (1) The claimant fails to file an application for an award within two years after
20 the date of the criminally injurious conduct that caused the injury or death for
21 which the claimant seeks the ~~award~~award.
- 22 (2) The economic loss is incurred after one year from the date of the criminally
23 injurious conduct that caused the injury or death for which the victim seeks
24 the award, except in the case where the victim for whom compensation is
25 sought was 10 years old or younger at the time the injury occurred. In that
26 case an award of compensation will be denied if the economic loss is incurred
27 after two years from the date of the criminally injurious conduct that caused
28 the injury or death for which the victim seeks the ~~award~~award.
- 29 ~~(3) The criminally injurious conduct was not reported to a law enforcement~~
30 ~~officer or agency within 72 hours of its occurrence, and there was no good~~
31 ~~cause for the delay;~~
- 32 (4) The award would benefit the offender or the offender's accomplice, unless a
33 determination is made that the interests of justice require that an award be
34 approved in a particular ~~ease~~case.
- 35 (5) The criminally injurious conduct occurred while the victim was confined in
36 any State, county, or city prison, correctional, youth services, or juvenile
37 facility, or local confinement facility, or half-way house, group home, or
38 similar ~~facility~~or facility.

39 ...

40 (b) A claim may be denied or an award of compensation may be reduced ~~if~~under any of
41 the following circumstances:

- 42 (1) The victim was participating in a nontraffic misdemeanor at or about the time
43 that the victim's injury ~~occurred~~occurred.

44"

45 **SECTION 2.(c)** Subsection (a) of this section is effective when it becomes law and
46 applies to the provision of information to victims identified before, on, or after that date.
47 Subsection (b) of this section is effective when it becomes law and applies to award
48 determinations made on or after that date. The remainder of this section is effective when it
49 becomes law.

50
51 **EXPAND RENTAL PROTECTIONS FOR VICTIMS OF CERTAIN CRIMES**

1 **SECTION 3.(a)** G.S. 42-40 reads as rewritten:

2 "**§ 42-40. Definitions.**

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

- 4 (1) ~~"Action"~~ Action. – The term includes recoupment, counterclaim, defense,
5 setoff, and any other proceeding including an action for possession.
- 6 (2) ~~"Premises" means a~~ Premises. – A dwelling unit, including mobile homes or
7 mobile home spaces, and the structure of which it is a part and facilities and
8 appurtenances therein and grounds, areas, and facilities normally held out for
9 the use of residential tenants.
- 10 (3) ~~"Landlord" means any~~ Landlord. – Any owner and any rental management
11 company, rental agency, or any other person having the actual or apparent
12 authority of an agent to perform the duties imposed by this Article.
- 13 (4) ~~"Protected tenant" means a~~ Protected tenant. – A tenant or household member
14 who is ~~a~~ any of the following:
- 15 a. A victim of domestic violence under Chapter 50B of the General
16 Statutes or sexual assault or stalking under Chapter 14 of the General
17 Statutes.
- 18 b. A victim of attempted homicide or household member of a victim of
19 homicide under G.S. 14-17, 14-18, 14-18.4, 14-23.2, 14-23.3, or
20 14-23.4, where the premises was the location of the crime."

21 **SECTION 3.(b)** G.S. 42-45.1 reads as rewritten:

22 "**§ 42-45.1. Early termination of rental agreement by ~~victims of domestic violence, sexual~~**
23 **~~assault, or stalking~~ protected tenants.**

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

38 "

39 **SECTION 3.(c)** This section becomes effective August 1, 2023, and applies to rental
40 agreements entered into, amended, or renewed on or after that date.

41
42 **CREATE A PRIVILEGE FOR CERTAIN COMMUNICATIONS WITH VICTIM**
43 **ASSISTANCE CENTERS**

44 **SECTION 4.(a)** Article 7 of Chapter 8 of the General Statutes is amended by adding
45 a new section to read:

46 "**§ 8-53.12A. Communications with homicide victim advocates privileged.**

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

- 48 (1) Agent. – An employee of a victim assistance center who has completed a
49 minimum of 30 hours of training as required by the center or a volunteer under
50 the direct supervision of the center who has completed a minimum of 30 hours
51 of training as required by the center.

- 1 (2) Family member. – A spouse, child, parent, guardian, legal custodian, sibling,
2 or grandparent of a person.
- 3 (3) Homicide. – A violation of any of the following: G.S. 14-17, 14-18, 14-18.4,
4 14-23.2, 14-23.3, and 14-23.4.
- 5 (4) Services. – The term includes assessment and intake, individual counseling,
6 court accompaniment, homicide support groups, outreach, and family support
7 services.
- 8 (5) Victim. – A person who does both of the following:
- 9 a. Alleges a homicide has been attempted against them or committed
10 against a family member or someone with whom they have a
11 significant relationship.
- 12 b. Consults an agent of a victim assistance center for the purpose of
13 obtaining for themselves services concerning mental, physical, or
14 emotional injuries suffered because of the homicide.
- 15 (6) Victim assistance center. – A nonprofit organization registered in this State
16 whose primary purpose is to provide support and services to surviving victims.
- 17 (b) Privileged Communications. – No agent of a victim assistance center shall be required
18 to disclose any information that the agent acquired during the provision of services to a victim
19 and that was necessary to enable the agent to render the services, unless the victim waives the
20 privilege conferred. The privilege afforded under this subsection terminates upon the death of
21 the victim.
- 22 (c) Required Disclosure. – The court shall compel disclosure, either at the trial or prior
23 to the trial, if the court finds, by a preponderance of the evidence, a good-faith, specific, and
24 reasonable basis for all of the following:
- 25 (1) The records or testimony sought contain information that is relevant and
26 material to factual issues to be determined in a civil proceeding or that is
27 relevant, material, and exculpatory upon the issue of guilt, degree of guilt, or
28 sentencing in a criminal proceeding for the offense charged or any lesser
29 included offense.
- 30 (2) The evidence is not sought merely for character impeachment purposes.
- 31 (3) The evidence sought is not merely cumulative of other evidence or
32 information available or already obtained by the party seeking the disclosure.
- 33 (d) Duties of the Court Regarding Disclosure. – Before requiring production of records,
34 the court shall find that the party seeking disclosure has made a sufficient showing that the
35 records are likely to contain information subject to disclosure under this subsection. If the court
36 finds a sufficient showing has been made, the court shall (i) order that the records be produced
37 for the court under seal and (ii) examine the records in camera. The court shall allow disclosure
38 only of those portions of the records that the court finds contain information subject to disclosure
39 under this subsection. After all appeals in the action have been exhausted, any records received
40 by the court under seal shall be returned to the victim assistance center, unless otherwise ordered
41 by the court.
- 42 (e) Duty in Case of Abuse or Neglect. – Nothing in this section shall be construed to
43 relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as
44 required by law."

45 **SECTION 4.(b)** This section is effective when it becomes law and applies to
46 communications and proceedings commenced on or after that date.

47
48 **ALLOW MAGISTRATE EX PARTE ORDERS TO BE EXTENDED IN DURATION**
49 **UPON THE APPROVAL OF A DISTRICT COURT JUDGE**

50 **SECTION 5.(a)** G.S. 50B-2(c1) reads as rewritten:

1 "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may
2 authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to
3 the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex
4 parte the district court is not in session and a district court judge is not and will not be available
5 to hear the motion for a period of four or more hours, the motion may be heard by the magistrate.
6 When the office of the clerk is closed and a magistrate has been authorized under this section to
7 hear a motion for emergency relief ex parte, an authorized magistrate shall accept for filing a
8 complaint alleging domestic violence and motion for emergency relief ex parte, note thereon the
9 filing date, and the magistrate shall issue a summons. Any endorsement or alias and pluries
10 summons pursuant to G.S. 1A-1, Rule 4(d) shall be issued by the clerk, assistant clerk, or deputy
11 clerk of the court in the county in which the action is commenced. Any complaint and motion for
12 emergency relief ex parte and any other documents accepted for filing under this section and any
13 order entered by the magistrate shall be delivered to the clerk's office for processing as soon as
14 that office is open for business. If it clearly appears to the magistrate from specific facts shown
15 that there is a danger of acts of domestic violence against the aggrieved party or a minor child,
16 the magistrate may enter orders as it deems necessary to protect the aggrieved party or minor
17 children from those acts, except that a temporary order for custody ex parte and prior to service
18 of process and notice shall not be entered unless the magistrate finds that the child is exposed to
19 a substantial risk of physical or emotional injury or sexual abuse. If the magistrate finds that the
20 child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request
21 of the aggrieved party, the magistrate shall consider and may order the other party to stay away
22 from a minor child, or to return a minor child to, or not remove a minor child from, the physical
23 care of a parent or person in loco parentis, if the magistrate finds that the order is in the best
24 interest of the minor child and is necessary for the safety of the minor child. If the magistrate
25 determines that it is in the best interest of the minor child for the other party to have contact with
26 the minor child or children, the magistrate shall issue an order designed to protect the safety and
27 well-being of the minor child and the aggrieved party. The order shall specify the terms of contact
28 between the other party and the minor child and may include a specific schedule of time and
29 location of exchange of the minor child, supervision by a third party or supervised visitation
30 center, and any other conditions that will ensure both the well-being of the minor child and the
31 aggrieved party. ~~An ex parte order entered under this subsection shall expire and the magistrate
32 shall schedule an ex parte hearing before a district court judge by the end of the next day on
33 which the district court is in session in the county in which the action was filed. Ex parte orders
34 entered by the district court judge pursuant to this subsection shall be entered and scheduled in
35 accordance with subsection (c) of this section.~~ Upon the issuance of an ex parte order under this
36 subsection, a hearing shall be held by a district court judge within 10 days from the date of
37 issuance of the order or within seven days from the date of service of process on the other party,
38 whichever occurs later. A continuance shall be limited to one extension of no more than 10 days
39 unless all parties consent or good cause is shown. The hearing shall have priority on the court
40 calendar."

41 **SECTION 5.(b)** This section becomes effective October 1, 2023, and applies to ex
42 parte orders issued on or after that date.

43
44 **EFFECTIVE DATE**

45 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
46 law.