

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 748
Committee Substitute Favorable 4/26/23
PROPOSED SENATE COMMITTEE SUBSTITUTE H748-PCS30399-CK-22

Short Title: Child Abuse and Other Criminal Law Changes.

(Public)

Sponsors:

Referred to:

April 19, 2023

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT IT IS FELONY CHILD ABUSE FOR ANY PERSON PROVIDING CARE TO OR SUPERVISION OF A CHILD LESS THAN SIXTEEN YEARS OF AGE TO COMMIT OR ALLOW THE COMMISSION OF A SEXUAL ACT UPON THE CHILD, TO PROVIDE THAT IT IS FELONY CHILD ABUSE FOR ANY PERSON PROVIDING CARE TO OR SUPERVISION OF A CHILD LESS THAN SIXTEEN YEARS OF AGE TO INTENTIONALLY AND ROUTINELY INFLICT PHYSICAL INJURY ON THAT CHILD, TO MAKE A TECHNICAL CHANGE; TO CLARIFY CERTAIN REGISTRATION PROCESSES OF THE NORTH CAROLINA SEX OFFENSE REGISTRY, TO REMOVE TIME CONSTRAINTS FOR COMMUNICATIONS BETWEEN CRIME VICTIMS AND LAW ENFORCEMENT AGENCIES, TO EXPAND RENTAL PROTECTIONS FOR CERTAIN CRIME VICTIMS, TO CREATE A PRIVILEGE FOR CERTAIN COMMUNICATIONS WITH VICTIM ASSISTANCE CENTERS, TO ALLOW MAGISTRATE EX PARTE ORDERS TO BE EXTENDED IN DURATION UPON THE APPROVAL OF A DISTRICT COURT JUDGE; AND TO CREATE NEW CRIMINAL OFFENSES FOR EXPOSING A CHILD TO A CONTROLLED SUBSTANCE.

The General Assembly of North Carolina enacts:

CLARIFYING CHANGES TO FELONY CHILD ABUSE LAWS

SECTION 1.(a) G.S. 14-318.4 reads as rewritten:

"§ 14-318.4. Child abuse a felony.

(a) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury to the child is guilty of a Class D felony, except as otherwise provided in subsection (a3) of this section.

(a1) ~~Any~~A parent or any other person providing care to or supervision of a child less than 16 years of age, or any other person providing care to or supervision of the child, ~~age~~ who commits, permits, or encourages any act of prostitution with or by the child is guilty of child abuse and shall be punished as a Class D felon.

(a2) ~~Any~~A parent or ~~legal guardian of~~any other person providing care to or supervision of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child is guilty of a Class D felony.



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1 (a3) A parent or any other person providing care to or supervision of a child less than 16
2 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally
3 commits an assault upon the child which results in any serious bodily injury to the child, or which
4 results in permanent or protracted loss or impairment of any mental or emotional function of the
5 child, is guilty of a Class B2 felony.

6 (a4) A parent or any other person providing care to or supervision of a child less than 16
7 years of age who, for the purpose of causing fear, emotional injury, or deriving sexual
8 gratification, intentionally and routinely (i) inflicts physical injury on that child and (ii) deprives
9 that child of necessary food, clothing, shelter, or proper physical care is guilty of a Class B2
10 felony.

11 ~~(a4)~~(a5) A parent or any other person providing care to or supervision of a child less than
12 16 years of age whose willful act or grossly negligent omission in the care of the child shows a
13 reckless disregard for human life is guilty of a Class E felony if the act or omission results in
14 serious bodily injury to the child.

15 ~~(a5)~~(a7) A parent or any other person providing care to or supervision of a child less than
16 16 years of age whose willful act or grossly negligent omission in the care of the child shows a
17 reckless disregard for human life is guilty of a Class G felony if the act or omission results in
18 serious physical injury to the child.

19 ~~(a6) For purposes of this section, a "grossly negligent omission" in providing care to or~~
20 ~~supervision of a child includes the failure to report a child as missing to law enforcement as~~
21 ~~provided in G.S. 14-318.5(b).~~

22 (b) The felony of child abuse is an offense additional to other civil and criminal
23 provisions and is not intended to repeal or preclude any other sanctions or remedies.

24 (c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may
25 be treated as a mitigating factor in sentencing for a conviction under this section involving that
26 infant.

27 (d) The following definitions apply in this section:

28 (1) Grossly negligent omission. – In the context of providing care to or
29 supervision of a child, this term includes the failure to report a child as missing
30 to law enforcement as provided in G.S. 14-318.5(b).

31 (2) Serious bodily injury. – Bodily injury that creates a substantial risk of death
32 or that causes serious permanent disfigurement, coma, a permanent or
33 protracted condition that causes extreme pain, or permanent or protracted loss
34 or impairment of the function of any bodily member or organ, or that results
35 in prolonged hospitalization.

36 ~~(2)~~(3) Serious physical injury. – Physical injury that causes great pain and suffering.
37 The term includes serious mental injury."

38 **SECTION 1.(b)** This section becomes effective December 1, 2023, and applies to
39 offenses committed on or after that date.
40

41 **CLARIFYING CHANGES TO THE SEX OFFENDER REGISTRATION PROCESS**

42 **SECTION 2.(a)** G.S. 14-208.9A(a) reads as rewritten:

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

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

1 "

2 **SECTION 2.(b)** G.S. 14-208.12A(a) reads as rewritten:

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

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

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

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

21 **SECTION 2.(c)** This section becomes effective August 1, 2023, and applies to
22 verification forms sent and petitions filed on or after that date.

23
24 **REMOVE TIME CONSTRAINTS IN CERTAIN CIRCUMSTANCES FOR**
25 **COMMUNICATIONS BETWEEN VICTIMS OF CRIME AND LAW ENFORCEMENT**
26 **AGENCIES**

27 **SECTION 3.(a)** G.S. 15A-831(a) reads as rewritten:

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

31 "

32 **SECTION 3.(b)** G.S. 15B-11 reads as rewritten:

33 "**§ 15B-11. Grounds for denial of claim or reduction of award.**

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

36 (1) The claimant fails to file an application for an award within two years after
37 the date of the criminally injurious conduct that caused the injury or death for
38 which the claimant seeks the ~~award;~~award.

39 (2) The economic loss is incurred after one year from the date of the criminally
40 injurious conduct that caused the injury or death for which the victim seeks
41 the award, except in the case where the victim for whom compensation is
42 sought was 10 years old or younger at the time the injury occurred. In that
43 case an award of compensation will be denied if the economic loss is incurred
44 after two years from the date of the criminally injurious conduct that caused
45 the injury or death for which the victim seeks the ~~award;~~award.

46 ~~(3) The criminally injurious conduct was not reported to a law enforcement~~
47 ~~officer or agency within 72 hours of its occurrence, and there was no good~~
48 ~~cause for the delay;~~

49 (4) The award would benefit the offender or the offender's accomplice, unless a
50 determination is made that the interests of justice require that an award be
51 approved in a particular ~~ease;~~case.

(5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar ~~facility; or~~ facility.

...

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

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

...."

SECTION 3.(c) Subsection (a) of this section is effective when it becomes law and applies to the provision of information to victims identified before, on, or after that date. Subsection (b) of this section is effective when it becomes law and applies to award determinations made on or after that date. The remainder of this section is effective when it becomes law.

EXPAND RENTAL PROTECTIONS FOR VICTIMS OF CERTAIN CRIMES

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

"§ 42-40. Definitions.

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

(1) ~~"Action"~~ Action. – The term includes recoupment, counterclaim, defense, setoff, and any other proceeding including an action for possession.

(2) ~~"Premises" means a~~ Premises. – A dwelling unit, including mobile homes or mobile home spaces, and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities normally held out for the use of residential tenants.

(3) ~~"Landlord" means any~~ Landlord. – Any owner and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent to perform the duties imposed by this Article.

(4) ~~"Protected tenant" means a~~ Protected tenant. – A tenant or household member who is ~~a~~ any of the following:

a. A victim of domestic violence under Chapter 50B of the General Statutes or sexual assault or stalking under Chapter 14 of the General Statutes.

b. A victim of attempted homicide or household member of a victim of homicide under G.S. 14-17, 14-18, 14-18.4, 14-23.2, 14-23.3, or 14-23.4, where the premises was the location of the crime."

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

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

(a) Any protected tenant may terminate ~~his or her~~ the protected tenant's rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord shall be accompanied by ~~either~~ any of the following: (i) a copy of a valid order of protection issued by a court pursuant to Chapter 50B or 50C of the General Statutes, other than an ex parte order, (ii) a criminal order that restrains a person from contact with a protected tenant, ~~or~~ (iii) a valid Address Confidentiality Program card issued pursuant to G.S. 15C-4 to the victim or a minor member of the tenant's ~~household.~~ household, or (iv) documentation from a law enforcement, court, or federal agency indicating that the protected tenant is a victim of an attempted homicide or a household member of a victim of a homicide. A victim of domestic violence or sexual assault must submit a copy of a safety plan with the notice

1 to terminate. The safety plan, dated during the term of the tenancy to be terminated, must be
2 provided by a domestic violence or sexual assault program which substantially complies with the
3 requirements set forth in G.S. 50B-9 and must recommend relocation of the protected tenant.

4"

5 **SECTION 4.(c)** This section becomes effective August 1, 2023, and applies to rental
6 agreements entered into, amended, or renewed on or after that date.

7
8 **CREATE A PRIVILEGE FOR CERTAIN COMMUNICATIONS WITH VICTIM**
9 **ASSISTANCE CENTERS**

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

12 **"§ 8-53.12A. Communications with homicide victim advocates privileged.**

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

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

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

20 (3) Homicide. – A violation of any of the following: G.S. 14-17, 14-18, 14-18.4,
21 14-23.2, 14-23.3, and 14-23.4.

22 (4) Services. – The term includes assessment and intake, individual counseling,
23 court accompaniment, homicide support groups, outreach, and family support
24 services.

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

26 a. Alleges a homicide has been attempted against them or committed
27 against a family member or someone with whom they have a
28 significant relationship.

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

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

34 (b) Privileged Communications. – No agent of a victim assistance center shall be required
35 to disclose any information that the agent acquired during the provision of services to a victim
36 and that was necessary to enable the agent to render the services, unless the victim waives the
37 privilege conferred. The privilege afforded under this subsection terminates upon the death of
38 the victim.

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

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

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

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

50 (d) Duties of the Court Regarding Disclosure. – Before requiring production of records,
51 the court shall find that the party seeking disclosure has made a sufficient showing that the

1 records are likely to contain information subject to disclosure under this subsection. If the court
2 finds a sufficient showing has been made, the court shall (i) order that the records be produced
3 for the court under seal and (ii) examine the records in camera. The court shall allow disclosure
4 only of those portions of the records that the court finds contain information subject to disclosure
5 under this subsection. After all appeals in the action have been exhausted, any records received
6 by the court under seal shall be returned to the victim assistance center, unless otherwise ordered
7 by the court.

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

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

13 **ALLOW MAGISTRATE EX PARTE ORDERS TO BE EXTENDED IN DURATION** 14 **UPON THE APPROVAL OF A DISTRICT COURT JUDGE**

15 **SECTION 6.(a)** G.S. 50B-2(c1) reads as rewritten:

16 "(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may
17 authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to
18 the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex
19 parte the district court is not in session and a district court judge is not and will not be available
20 to hear the motion for a period of four or more hours, the motion may be heard by the magistrate.
21 When the office of the clerk is closed and a magistrate has been authorized under this section to
22 hear a motion for emergency relief ex parte, an authorized magistrate shall accept for filing a
23 complaint alleging domestic violence and motion for emergency relief ex parte, note thereon the
24 filing date, and the magistrate shall issue a summons. Any endorsement or alias and pluries
25 summons pursuant to G.S. 1A-1, Rule 4(d) shall be issued by the clerk, assistant clerk, or deputy
26 clerk of the court in the county in which the action is commenced. Any complaint and motion for
27 emergency relief ex parte and any other documents accepted for filing under this section and any
28 order entered by the magistrate shall be delivered to the clerk's office for processing as soon as
29 that office is open for business. If it clearly appears to the magistrate from specific facts shown
30 that there is a danger of acts of domestic violence against the aggrieved party or a minor child,
31 the magistrate may enter orders as it deems necessary to protect the aggrieved party or minor
32 children from those acts, except that a temporary order for custody ex parte and prior to service
33 of process and notice shall not be entered unless the magistrate finds that the child is exposed to
34 a substantial risk of physical or emotional injury or sexual abuse. If the magistrate finds that the
35 child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request
36 of the aggrieved party, the magistrate shall consider and may order the other party to stay away
37 from a minor child, or to return a minor child to, or not remove a minor child from, the physical
38 care of a parent or person in loco parentis, if the magistrate finds that the order is in the best
39 interest of the minor child and is necessary for the safety of the minor child. If the magistrate
40 determines that it is in the best interest of the minor child for the other party to have contact with
41 the minor child or children, the magistrate shall issue an order designed to protect the safety and
42 well-being of the minor child and the aggrieved party. The order shall specify the terms of contact
43 between the other party and the minor child and may include a specific schedule of time and
44 location of exchange of the minor child, supervision by a third party or supervised visitation
45 center, and any other conditions that will ensure both the well-being of the minor child and the
46 aggrieved party. ~~An ex parte order entered under this subsection shall expire and the magistrate~~
47 ~~shall schedule an ex parte hearing before a district court judge by the end of the next day on~~
48 ~~which the district court is in session in the county in which the action was filed. Ex parte orders~~
49 ~~entered by the district court judge pursuant to this subsection shall be entered and scheduled in~~
50 ~~accordance with subsection (e) of this section.~~ Upon the issuance of an ex parte order under this
51

1 subsection, a hearing shall be held by a district court judge within 10 days from the date of
2 issuance of the order or within seven days from the date of service of process on the other party,
3 whichever occurs later. A continuance shall be limited to one extension of no more than 10 days
4 unless all parties consent or good cause is shown. The hearing shall have priority on the court
5 calendar."

6 **SECTION 6.(b)** This section becomes effective October 1, 2023, and applies to ex
7 parte orders issued on or after that date.

8
9 **CREATE NEW CRIMINAL OFFENSES FOR EXPOSING A CHILD TO A**
10 **CONTROLLED SUBSTANCE**

11 **SECTION 7.(a)** Article 39 of Chapter 14 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 14-318.7. Exposing a child to a controlled substance.**

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

15 (1) Child. – Any person who is less than 16 years of age.

16 (2) Controlled substance. – A controlled substance, controlled substance
17 analogue, drug, marijuana, narcotic drug, opiate, opioid, opium poppy, poppy
18 straw, or targeted controlled substance, all as defined in G.S. 90-87.

19 (3) Ingest. – Any means used to take into the body, to eat or drink, or otherwise
20 consume, or absorb into the body in any way.

21 (b) A person who knowingly, recklessly, or intentionally causes or permits a child to be
22 exposed to a controlled substance is guilty of a Class H felony.

23 (c) A person who knowingly, recklessly, or intentionally causes or permits a child to be
24 exposed to a controlled substance, and as a result the child ingests the controlled substance, is
25 guilty of a Class E felony.

26 (d) A person who knowingly, recklessly, or intentionally causes or permits a child to be
27 exposed to a controlled substance, and as a result the child ingests the controlled substance,
28 resulting in serious physical injury, is guilty of a Class D felony.

29 (e) A person who knowingly, recklessly, or intentionally causes or permits a child to be
30 exposed to a controlled substance, and as a result the child ingests the controlled substance,
31 resulting in serious bodily injury, is guilty of a Class C felony.

32 (f) A person who knowingly, recklessly, or intentionally causes or permits a child to be
33 exposed to a controlled substance, and as a result the child ingests the controlled substance, and
34 the ingestion is the proximate cause of death, is guilty of a Class B1 felony."

35 **SECTION 7.(b)** This section becomes effective December 1, 2023, and applies to
36 offenses committed on or after that date.

37
38 **EFFECTIVE DATE**

39 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
40 law.