

NORTH CAROLINA GENERAL ASSEMBLY



NORTH CAROLINA COURTS COMMISSION

REPORT TO THE 2019 SESSION of the 2019 GENERAL ASSEMBLY OF NORTH CAROLINA

FEBRUARY, 2019

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TRANSMITTAL LETTER

February 18, 2019

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TO THE MEMBERS OF THE 2019 REGULAR SESSION
OF THE 2019 GENERAL ASSEMBLY

The NORTH CAROLINA COURTS COMMISSION, respectfully submits the following report to the 2019 Regular Session of the 2019 General Assembly.


Rep. Joe John (Chair)

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COMMISSION PROCEEDINGS

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The North Carolina Courts Commission met several times prior to the 2019 Regular Session of the 2019 General Assembly. The following is a brief summary of the Commission's proceedings. Detailed minutes and information from each Commission meeting are available in the Legislative Library.

September 7, 2018

The Commission met on September 7, 2018 at 10:00 a.m. at the North Carolina Judicial Center (901 Corporate Center Drive, Raleigh, N.C.) with Rep. John presiding. At this meeting members received updates from sub-groups of the Commission and heard a presentation on pretrial release for criminal defendants.

The Hon. Athena Brooks, Special Superior Court Judge, District 29B, Henderson County, presented an overview of the magistrate working group and its previously submitted report recommending the development of a code of conduct for magistrates and a reasonable system of enforcement for this code. The Commission approved by vote a motion to propose legislation on this issue during the 2019 legislative session.

Bert Kemp, Public Defender, District 3A, Pitt County provided an update from the Criminal and Civil Matter Subcommittee which he co-chaired with the Hon. Locke Bell, District Attorney, District 38, Gaston County. The subcommittee has previously discussed issues such as motions for appropriate relief, sex offender registry, and expunctions. It was concluded the subcommittee needed to meet further to continue discussion on these issues.

Jessica Smith, Professor, University of North Carolina School of Government presented on the topic of Pretrial Release for Criminal Defendants. Professor Smith discussed the history of the American bail system and studies on the effectiveness of this system. She offered information regarding a project she is facilitating with several North Carolina counties to assess effectiveness and make changes to their pretrial release services. Chuck Johnson, Executive Director, Wake County Pretrial Services Program; Mark Black, Lobbyist for North Carolina Bail Agents; and several members of the public in attendance offered comments on this topic. Rep. John appointed Judge Athena Brooks to lead a working group to study this topic further.

Before adjourning, the Commission agreed to reconvene again prior to the start of the 2019 regular session.

January 11, 2019

The Commission met on January 11, 2019 at 10:00 a.m. at the University of North Carolina School of Government (400 South Road, Chapel Hill, NC), with Rep. John presiding.

First, John Byrd, Director of the North Carolina State Crime Laboratory presented on the current operations of the crime lab. The Commission approved by vote a motion to recommend the General Assembly appropriate \$1.2M in recurring funds to the NC State Crime Laboratory to fund 12 full-time scientist positions.

Next, the Hon. Athena Brooks provided an update on the pretrial release working group to the Commission. Tarrah Callahan, Executive Director, Conservatives for Criminal Justice Reform also presented research and data related to the effectiveness of pretrial release programs. Bert Kemp, Public Defender, Pitt County provided more information on the findings from the Chief Justice's North Carolina Commission on the Administration of Law and Justice (NCCALJ) Criminal Investigation and Adjudication Committee's Report on Pretrial Justice.

During this meeting the Commission also heard a presentation from Paul Dubbeling, Principal, P.M. Dubbeling, PLLC on sex offender risk and recidivism.

Before adjourning the commission approved three recommendations to be submitted in its report to the 2019 regular session of the 2019 General Assembly. The Commission also agreed to continue the work of the pretrial release subcommittee and the criminal and civil issues subcommittee.

February 15, 2019

The Commission held a meeting by conference call and reviewed a draft its report, recommendations, and proposed legislation. The Commission approved its final report to the 2019 Regular Session of the 2019 General Assembly, including its recommendations for legislative action as described in the report.

RECOMMENDATIONS

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1. The General Assembly should appropriate \$1.2M in recurring funds to the North Carolina State Crime Laboratory to fund 12 full-time scientist positions as set forth in bill draft 2019-TV-3 enclosed at page 13 in Appendix C of this report..
2. As set forth in bill draft 2019-TV-2 enclosed at page 14 the General Assembly should:
 - Grant chief district judges non-delegable disciplinary authority over magistrates.
 - Direct the Administrative Office of the Courts to draft a code of conduct applicable to magistrates.
 - Change the deadline relating to the nomination and appointment of magistrates, with conforming changes to the term starting date.
 - Provide that each county shall have a chief magistrate position, with higher pay and required training.
 - Remove the "emergency only" limitation on the authority of a chief district judge to assign magistrates to temporary duty outside their county of residence.
3. The General Assembly should provide that the requirement that a person convicted of sexual battery register as a sex offender is discretionary with the court, as set forth in bill draft 2019-TV-1, enclosed at page 18 of this report.

COMMISSION MEMBERSHIP

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2019-2020

President Pro Tempore of the Senate
Appointments:

Sen. Warren Daniel
Former Sen. Michael V. Lee
Former Sen. Tamara Barringer
Ms. Tiffany Cone (Magistrate)
Mr. Stephen J. Fowler (Public Member)
Ms. Tonya Bunn Powell (Practicing Attorney)
Ms. Lauren N. Raynor (Practicing Attorney)

Speaker of the House of Representatives
Appointments:

Rep. Sarah Stevens
Rep. David Rogers
Former Rep. Duane Hall
Mr. R. Locke Bell (Practicing Attorney)
Mr. Robert C. Kemp III (Practicing Attorney)
Mr. Timothy Lea (Public Member)
Justin Brackett (Public Member)

Governor Appointments:

Rep. Joe John (Chair)
Rep. Marcia Morey
Sen. Valerie Foushee
Nancy Lorrin Freeman (District Attorney)
Norman Charles Post (Practicing Attorney)
Gregory B. Drumwright (Public Member)
Pam W. Barlow (Clerk)

Chief Justice, Supreme Court Appointments:

Hon. Donna Stroud (Court of Appeals Judge)
Hon. Gale Adams (Superior Court Judge)
Hon. Joseph Crosswhite (Superior Court Judge)
Hon. Regina Parker (District Court Judge)
Hon. Athena Brooks (District Court Judge)
Hon. Barbara Jackson (Former Supreme Court Justice)
Eugene Flood, Jr., Ph.D. (Public Member)

Ex Officio Appointments:

Mr. J. Patrick Haywood (North Carolina Bar Association)
Mr. Fred P. Parker (North Carolina State Bar Council)
Hon. Marion Warren (Administrative Office of the Courts)

COMMISSION CHARGE/STATUTORY AUTHORITY

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Article 40A.

North Carolina Courts Commission.

§ 7A-506. Creation; members; terms; qualifications; vacancies.

(a) The North Carolina Courts Commission is created. Effective July 1, 1993, it shall consist of 28 members, seven to be appointed by the Governor, seven to be appointed by the Speaker of the House of Representatives, seven to be appointed by the President Pro Tempore of the Senate, and seven to be appointed by the Chief Justice of the Supreme Court.

(b) Of the appointees of the Chief Justice of the Supreme Court, one shall be a Justice of the Supreme Court, one shall be a Judge of the Court of Appeals, two shall be judges of superior court, two shall be district court judges, and one shall be a public member who is not an attorney and who is not an officer or employee of the Judicial Department.

(c) Of the seven appointees of the Governor, one shall be a district attorney, one shall be a practicing attorney, one shall be a clerk of superior court, at least three shall be members of the General Assembly, at least two shall not be attorneys, and of the nonattorneys, one shall be a public member who is not an officer or employee of the Judicial Department.

(d) Of the seven appointees of the Speaker of the House, at least three shall be practicing attorneys, at least three shall be members of the General Assembly, at least two shall not be attorneys, and of the non-attorneys, one shall be a public member who is not an officer or employee of the Judicial Department.

(e) Of the seven appointees of the President Pro Tempore of the Senate, at least three shall be practicing attorneys, at least three shall be members of the General Assembly, at least one shall be a magistrate, and one shall be a public member who is not an attorney and who is not an officer or employee of the Judicial Department.

(f) Of the initial appointments of each appointing authority, three shall be appointed for four-year terms to begin July 1, 1993, and three shall be appointed for two-year terms to begin July 1, 1993. The two public members appointed by the Governor and the Speaker of the House of Representatives shall be appointed for four-year terms to begin July 1, 1997. The two public members appointed by the Chief Justice and the President Pro Tempore of the Senate shall be appointed for two-year terms to begin July 1, 1997. Successors shall be appointed for four-year terms.

(g) A vacancy in membership shall be filled for the remainder of the unexpired term by the appointing authority who made the original appointment. A member whose term expires may be reappointed.

§ 7A-507. Ex officio members.

The following additional members shall serve ex officio: the Administrative Officer of the Courts; a representative of the N.C. State Bar appointed by the Council thereof; and a representative of the N.C. Bar Association appointed by the Board of Governors thereof. The Administrative Officer of the Courts has no vote.

§ 7A-508. Duties.

It shall be the duty of the Commission to make continuing studies of the structure, organization, jurisdiction, procedures and personnel of the Judicial Department and of the General Court of Justice and to make recommendations to the General Assembly for such changes therein as will facilitate the administration of justice. (1979, c. 1077, s. 1.)

§ 7A-509. Chair; meetings; compensation of members.

The Governor, after consultation with the Chief Justice of the Supreme Court, shall appoint a chair from the legislative members of the Commission. The term of the chair is two years, and the chair may be reappointed. The Commission shall meet at such times and places as the chair shall designate. The facilities of the State Legislative Building shall be available to the Commission, subject to approval of the Legislative Services Commission. The members of the Commission shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally.

§ 7A-510. Supporting services.

The Commission is authorized to contract for such professional and clerical services as are necessary in the proper performance of its duties.

LEGISLATIVE PROPOSALS

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

D

BILL DRAFT 2019-TV a-3 [v.2]

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
02/04/2019 05:15:41 PM**

Short Title: SBI Funds.

(Public)

Sponsors: Representative John.

Referred to:

2 A BILL TO BE ENTITLED
3 AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA STATE CRIME
4 LABORATORY TO FUND TWELVE (12) FULL-TIME SCIENTIST POSITIONS.
5 The General Assembly of North Carolina enacts:
6 **SECTION 1.** There is appropriated from the General Fund to the Department of
7 Justice, North Carolina State Crime Laboratory the sum of one million two hundred thousand
8 dollars (\$1,200,000) for the 2019-2020 and 2020-2021 fiscal years to fund twelve (12) full-time
9 scientist positions.
10 **SECTION 2.** This act becomes effective July 1, 2019.
11

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

BILL DRAFT 2019-TV-2 [v.3]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

02/01/2019 05:08:30 PM

Short Title: Conduct Code and Discipline for Magistrates.

(Public)

Sponsors: Representative John.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP A CODE OF CONDUCT FOR ALL MAGISTRATES; TO GIVE AUTHORITY FOR CHIEF DISTRICT COURT JUDGES TO DISCIPLINE MAGISTRATES; TO ALLOW FOR MAGISTRATES TO BE ASSIGNED TO TEMPORARY DUTY IN ANOTHER COUNTY; AND TO REQUIRE CHIEF DISTRICT COURT JUDGES OF EACH COUNTY TO APPOINT A CHIEF MAGISTRATE, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Code of Conduct. – The Administrative Office of the Courts shall develop a Code of Conduct for all magistrates. The purpose of the Code of Conduct is to create uniformity among all districts. The Code of Conduct shall provide guidance to magistrates regarding (i) standards of professional conduct and timeliness, (ii) required duties and responsibilities, (iii) methods for ethical decision making, and (iv) any other information that is deemed relevant by the Administrative Office of the Courts.

SECTION 1.(b) Time Frame. – The Administrative Office of the Courts shall establish the Code of Conduct for Magistrates required by subsection (a) of this section by July 1, 2020.

SECTION 2. G.S. 7A-146 reads as rewritten:

"§ 7A-146. Administrative authority and duties of chief district judge.

The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

- (1) Arranging schedules and assigning district judges for sessions of district courts.
- (2) Arranging or supervising the calendaring of noncriminal matters for trial or hearing.
- (3) Supervising the clerk of superior court in the discharge of the clerical functions of the district court.
- (4) Assigning matters to magistrates, and consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to another district court judge or the clerk of

1 the superior court, or the judge may ~~appoint a chief magistrate to fulfill~~
2 ~~delegate~~ some or all of the duties under subdivision (12) of this ~~section, section~~
3 ~~to the chief magistrate~~, and the person to whom such authority is delegated
4 shall make monthly reports to the chief district judge of the times and places
5 actually served by each magistrate.

- 6 (5) Making arrangements with proper authorities for the drawing of civil court
7 jury panels and determining which sessions of district court shall be jury
8 sessions.
- 9 (6) Arranging for the reporting of civil cases by court reporters or other authorized
10 means.
- 11 (7) Arranging sessions, to the extent practicable for the trial of specialized cases,
12 including traffic, domestic relations, and other types of cases, and assigning
13 district judges to preside over these sessions so as to permit maximum
14 practicable specialization by individual judges.
- 15 (8) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 118(b),
16 effective July 15, 1992.
- 17 (9) Assigning magistrates ~~during an emergency~~ to temporary duty outside the
18 county of their residence but within that district pursuant to the policies and
19 procedures prescribed under G.S. 7A-343(11); and, upon the request of a chief
20 district judge of an adjoining district and upon the approval of the
21 Administrative Officer of the Courts, to temporary duty in the district of the
22 requesting chief district judge pursuant to the policies and procedures
23 prescribed under G.S. 7A-343(11).
- 24 (10) Designating another district judge of his district as acting chief district judge,
25 to act during the absence or disability of the chief district judge.
- 26 (11) Designating certain magistrates to appoint counsel and accept waivers of
27 counsel pursuant to Article 36 of this Chapter. This designation does not give
28 any magistrate the authority to appoint counsel or accept waivers of counsel
29 for potentially capital offenses, as defined by rules adopted by the Office of
30 Indigent Defense Services.
- 31 (12) Designating a full-time magistrate in ~~a each~~ county to serve as chief magistrate
32 for that county for an indefinite term and at the judge's pleasure. The chief
33 magistrate shall have the derivative administrative authority assigned by the
34 chief district court judge under subdivision (4) of this section. ~~This~~
35 ~~subdivision applies only to counties in which the chief district court judge~~
36 ~~determines that designating a chief magistrate would be in the interest of~~
37 ~~justice.~~
- 38 (13) Investigating complaints against magistrates. Upon investigation and written
39 findings of misconduct, a chief district court judge may issue a letter of
40 caution, a written reprimand, or suspend a magistrate without pay for no
41 longer than 10 days within one pay period."

42 **SECTION 3.** G.S. 7A-171 reads as rewritten:

43 **"§ 7A-171. Numbers; appointment and terms; vacancies.**

44 (a) The General Assembly shall establish a minimum quota of magistrates for each
45 county. In no county shall the minimum quota be less than one. The number of magistrates in a
46 county, above the minimum quota set by the General Assembly, is determined by the
47 Administrative Office of the Courts after consultation with the chief district court judge for the
48 district in which the county is located.

49 (a1) The initial term of appointment for a magistrate is two years and subsequent terms
50 shall be for a period of four years. The term of office begins on the first day of ~~January~~ February

1 of the ~~odd-numbered~~even-numbered year after appointment. The service of an individual as a
2 magistrate filling a vacancy as provided in subsection (d) of this section does not constitute an
3 initial term. For purposes of this section, any term of office for a magistrate who has served a
4 two-year term is for four years even if the two-year term of appointment was before the effective
5 date of this section, the term is after a break in service, or the term is for appointment in a different
6 county from the county where the two-year term of office was served.

7 (b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in
8 ~~December~~January of each even-numbered year, the clerk of the superior court shall submit to the
9 senior regular resident superior court judge of the district or set of districts as defined in
10 G.S. 7A-41.1(a) in which the clerk's county is located the names of two (or more, if requested by
11 the judge) nominees for each magisterial office for the county for which the term of office of the
12 magistrate holding that position shall expire on ~~December 31~~January 31 of that year. Not later
13 than the fourth Monday in ~~December~~January, the senior regular resident superior court judge
14 shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to
15 fill the positions for each county of the judge's district or set of districts.

16 (c) If an additional magisterial office for a county is approved to commence on January
17 ~~4February 1~~ of an ~~odd-numbered~~even-numbered year, the new position shall be filled as provided
18 in subsection (b) of this section. If the additional position takes effect at any other time, it is to
19 be filled as provided in subsection (d) of this section.

20 (d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior
21 court shall submit to the senior regular resident superior court judge the names of two (or more,
22 if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the
23 nominations the senior regular resident superior court judge shall appoint from the nominations
24 received a magistrate who shall take office immediately and shall serve until ~~December 31~~
25 January 31 of the even-numbered year, and thereafter the position shall be filled as provided in
26 subsection (b) of this section."

27 **SECTION 4.** G.S. 7A-173 reads as rewritten:

28 "**§ 7A-173. ~~Suspension;~~Suspension pending removal; removal; reinstatement.**

29 (a) A magistrate may be suspended from performing the duties of ~~his office~~the
30 magistrate's office pending removal from office by the chief district judge of the district court
31 district in which ~~his~~the magistrate's county is located, or removed from office by the senior
32 regular resident superior court judge of, or any regular superior court judge holding court in, the
33 district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located. Grounds
34 for suspension pending removal or removal are the same as for a judge of the General Court of
35 Justice.

36 (b) Suspension from performing the duties of the office may be ordered upon filing of
37 sworn written charges in the office of clerk of superior court for the county in which the
38 magistrate resides. If the chief district judge, upon examination of the sworn charges, finds that
39 the charges, if true, constitute grounds for removal, he may enter an order suspending the
40 magistrate from performing the duties of ~~his~~the magistrate's office until a final determination of
41 the charges on the merits. During suspension pending removal the salary of the magistrate
42 continues.

43 (c) If a hearing, with or without suspension, is ordered, the magistrate against whom the
44 charges have been made shall be given immediate written notice of the proceedings and a true
45 copy of the charges, and the matter shall be set by the chief district judge for hearing before the
46 senior regular resident superior court judge or a regular superior court judge holding court in the
47 district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located. The hearing
48 shall be held in a county within the district or set of districts not less than 10 days nor more than
49 30 days after the magistrate has received a copy of the charges. The hearing shall be open to the
50 public. All testimony offered shall be recorded. At the hearing the superior court judge shall

1 receive evidence, and make findings of fact and conclusions of law. If ~~he-the judge~~ finds that
2 grounds for removal exist, ~~he-the judge~~ shall enter an order permanently removing the magistrate
3 from office, and terminating ~~his-the magistrate's~~ salary. If ~~he-the judge~~ finds that no such grounds
4 exist, ~~he-the judge~~ shall terminate the suspension, if any.

5 (d) A magistrate may appeal from an order of removal to the Court of Appeals on the
6 basis of error of law by the superior court judge. Pending decision of the case on appeal, the
7 magistrate shall not perform any of the duties of his office. If, upon final determination, ~~he-the~~
8 ~~magistrate~~ is ordered reinstated, either by the appellate division or by the superior court on
9 remand, ~~his-the magistrate's~~ salary shall be restored from the date of the original order of removal.

10 (e) This section shall only apply to suspensions pending removal from office and does
11 not apply to disciplinary suspension pursuant to G.S. 7A-146."

12 **SECTION 5.** Section 3 of this act becomes effective December 1, 2019, and applies
13 to all current and future magistrates. Section 4 of this act becomes effective December 1, 2019,
14 and applies to all magistrates appointed to office on or after January 1, 2020; currently appointed
15 magistrates will finish their term as set at their appointment. The remainder of this act is effective
16 when it becomes law.
17

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

BILL DRAFT 2019-TV-1 [v.3]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
02/01/2019 04:59:15 PM

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

Sponsors: Representative John.

Referred to:

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

The General Assembly of North Carolina enacts:

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

"§ 14-27.33. Sexual battery.

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

- (1) By force and against the will of the other person; or
- (2) Who has a mental disability or who is mentally incapacitated or physically helpless, and the person performing the act knows or should reasonably know that the other person has a mental disability or is mentally incapacitated or physically helpless.

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

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

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

"(l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the sentencing court shall consider whether the person is a danger to the community and

whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. At sentencing, the state shall provide all appropriate and competent evidence of the person's danger to the community. Evidence to be considered may include, but is not limited to, age, criminal record, relationship to victim, and a risk assessment conducted by the Division of Adult Correction. If the sentencing court rules that the person is a danger to the community and that the person shall register, then 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 indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or has a mental disability), G.S. 14-205.3(b) (promoting prostitution of a minor or a person who has a mental disability), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses."

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

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

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

SUPPORTING DOCUMENTATION

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