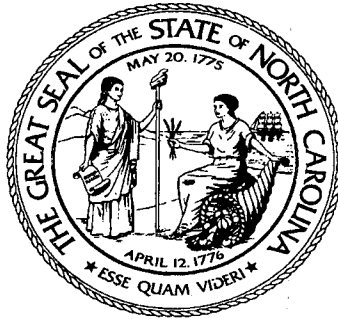


2008

**HOUSE SELECT
COMMITTEE ON SEX
OFFENDER ISSUES**

MINUTES

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES



Report to the
2009 General Assembly
Of North Carolina



Office of Speaker Joe Hackney
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

Rev. 2/28/08

**TO THE HONORABLE MEMBERS OF THE
NORTH CAROLINA HOUSE OF REPRESENTATIVES**

Section 1. The House Select Committee on Sex Offender Issues (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly.

Section 2. The Committee consists of the 10 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House. The Speaker of the House may dissolve the Committee at any time.

Representative Bruce Goforth, Chair
Representative Karen B. Ray, Vice-Chair
Representative Alice L. Bordsen
Representative Jean Farmer-Butterfield
Representative Rick Glazier
Representative W. Robert Grady
Representative Verla Insko
Representative Joe L. Kiser
Representative Ray Warren
Representative Roger West

Section 3. The Committee shall study sex offender issues in North Carolina. In connection with this study, the Committee shall:

- Review the existing laws relating to sex offender issues in North Carolina and the level of consistency in sentencing of sex offenders.
- Study the various types of sex offenders by looking at different categories of sex offenders as defined by law enforcement, the courts, and the medical/treatment community. Review current research and/or law enforcement data on reported cases of sex offenses. Study differences, if any, between sex offenders within the victims' family or known to the victims and sex offenders who are strangers to the victims.

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

- Review data to evaluate statewide demographics of sex offenders (age, urban vs. rural communities, gender, and socioeconomic groups).
- Examine the reporting of sex offender crimes in relation to North Carolina's demographics. Review the process of how sex offender crimes are handled by city, county, and State law enforcement organizations and the judicial system.
- Examine improvements in our educational system, including discussing sex offense issues as a method of prevention and improving counseling and therapy practices.
- Study the trends of law enforcement, mental health, and school psychologists to reduce the potential for actual acts of sexual abuse.
- Review the plans for treatment and services for returning military personnel in terms of victims and sex offenders.
- Examine best practices to focus our resources and energy on the prevention of sex abuse -- to stop the cycle of the offender through intervention, therapy, and substance abuse treatment.
- Consider input from professionals on sex offender issues for discussion on the increases in sex offenses, solutions, and legal issues for the victim and offender including sentencing and treatment methodology.
- Review the scope of sex offender issues in other Southeastern states to examine the extent of the problem and the most successful practices in handling sex offender issues.
- Review the federal Adam Walsh Act of 2006, the requirements for compliance with the Act, and the opportunities for federal funding and technical assistance upon compliance, and discuss the best approach for North Carolina.

Section 4. The Committee shall meet upon the call of its Chair. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations. Individual expenses of \$5,000 or less, including per diem, travel, and subsistence expenses of members of the Committee, and

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

clerical expenses shall be paid upon the authorization of the Chair of the Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the Speaker of the House of Representatives.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

Section 10. The Committee shall submit a final report on the results of its study, including any proposed legislation, no later than January 27, 2009, by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall terminate on January 27, 2009, or upon the filing of its final report, whichever occurs first.

Effective this 19th day of February, 2008.



Joe Hackney
Speaker

2/19/08
Rev. 2/28/08 to reflect Representative Ray as Vice Chair

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

MEMBERSHIP LIST

Representative Bruce Goforth – Co-Chair
137 Stonecrest Drive
Asheville, NC 28803
(828) 777-3093

Representative Karen Ray – Vice-Chair
262 Gibbs Rd.
Mooresville, NC 28117
(704) 660-5961

Representative Alice Bordsen
411 S. Fifth St.
Mebane, NC 27302
(919) 563-5264

Representative Jean Farmer-Butterfield
1001 West Vance Street N
Wilson, NC 27893
(252) 291-0828

Representative Rick Glazier
2642 Old Colony Place107
Fayetteville, NC 28303
(910) 484-4168

Representative Robert Grady
107 Jean Circle
Jacksonville, NC 28540
(910) 455-0359

Representative Verla Insko
610 Surry Road
Chapel Hill, NC 27514
(919) 929-6115

Representative Joe Kiser
P. O. Box 47
Vale, NC 28168
(704) 276-2725

Representative Ray Warren
68 Waugh Lane
Hiddenite, NC 28636
(828) 632-3798

Representative Roger West
P. O. Box 160
Marble, NC 28905
(828) 837-5246

COMMITTEE STAFF

Bill Drafting Division
Emily Johnson – (919) 733-6660

Research Division
Susan Sitze – (919) 733-2578
Brenda Carter (919) 733-2578

Fiscal Research Division

Committee Assistants
Ann Jordan (919) 733-5746

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Ann Jordan (919) 733-5746

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

September 30, 2008 – 10:00 AM
Room 1425 – Legislative Building


The House Select Committee on Sex Offender Issues met September 30, 2008 in Room 1425.

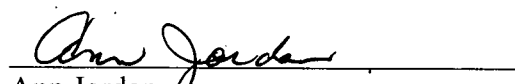
Vice-Chair Karen Ray presided. She called the meeting to order at 10:05 am. and thanked members and visitors for their attendance. She recognized and thanked Sergeants-At-Arms for their help. She thanked the past members for their work on the committee. The Agenda and Visitor Roster is attached and made a part of these minutes.

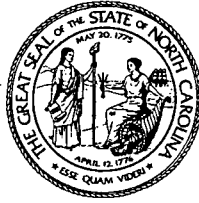
Susan Sitze was recognized to explain a Court of Appeals decision because the definition of residence was not clearly defined. Typically residence is defined by where you vote. The Sheriff's Department considers the address you use when you register is the residence. She gave members a copy of the current statute S 14-208.8A which covers the temporary residence which deals with out-of-county employment. (See Attachment 1) Statute 14-208.16 defines residential restrictions. (Attachment 1A). Statute 153-A covers the definition of a legal residence for social service purposes. (Attachment 2) Statute 163-57 defines residence for the purpose of registration and voting. (Attachment 3)

After some discussion the committee felt that if someone is staying somewhere for 10 days or more a month, the sheriff should be notified. Rep. Grady also asked if staff could have a couple of proposals run by the AG's office and then given to members of the committee at least 24 hours prior to the next meeting. He also felt that we should stick with the Statutes that defined residence for voting purposes. Questions were also raised about the impact of legislation on the budget. It was agreed that the type of activity and where the offense occurred should be considered.

The meeting adjourned at 11:20 a.m. after discussion by the committee members regarding any additional information they need or would like to have prior to drafting legislation.


Vice-Chair Karen Ray


Ann Jordan
Committee Assistant



House Select Committee on Sex Offender Issues

AGENDA

September 30, 2008
Room 1425, Legislative Building
10:00 AM

WELCOME AND INTRODUCTION

Rep. Bruce Goforth, Chair

- **Welcome & Introductions**

- **Overview of *State v. Abshire***
 - Susan L. Sitze, Committee Counsel

- **Review of Current statutes**

- **Committee Discussion**

- **Instructions to Staff**

- **Adjourn**

§ 14-208.8A. Notification requirement for out-of-county employment if temporary residence established.

(a) Notice Required. – A person required to register under G.S. 14-208.7 shall notify the sheriff of the county with whom the person is registered of the person's place of employment and temporary residence, which includes a hotel, motel, or other transient lodging place, if the person meets both of the following conditions:

- (1) Is employed or carries on a vocation in a county in the State other than the county in which the person is registered for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year, on a part-time or full-time basis, with or without compensation or government or educational benefit.
- (2) Maintains a temporary residence in that county for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year.

(b) Time Period. – The notice required by subsection (a) of this section shall be provided within 72 hours after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for more than 10 business days within a 30-day period, or within 10 days after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for an aggregate period exceeding 30 days in a calendar year.

(c) Notice to Division. – Upon receiving the notice required under subsection (a) of this section, the sheriff shall immediately forward the information to the Division. The Division shall notify the sheriff of the county where the person is working and maintaining a temporary residence of the person's place of employment and temporary address in that county. (2006-247, s. 4(a); 2007-484, s. 2.)

1 A

§ 14-208.16. Residential restrictions.

(a) A registrant under this Article shall not knowingly reside within 1,000 feet of the property on which any public or nonpublic school or child care center is located.

(b) As used in this section, "school" does not include home schools as defined in G.S. 115C-563 or institutions of higher education, and the term "child care center" is defined by G.S. 110-86(3). The term "registrant" means a person who is registered, or is required to register, under this Article.

(c) This section does not apply to child care centers that are located on or within 1,000 feet of the property of an institution of higher education where the registrant is a student or is employed.

(d) Changes in the ownership of or use of property within 1,000 feet of a registrant's registered address that occur after a registrant establishes residency at the registered address shall not form the basis for finding that an offender is in violation of this section. For purposes of this subsection, a residence is established when the registrant does any of the following:

- (1) Purchases the residence or enters into a specifically enforceable contract to purchase the residence.
- (2) Enters into a written lease contract for the residence and for as long as the person is lawfully entitled to remain on the premises.
- (3) Resides with an immediate family member who established residence in accordance with this subsection. For purposes of this subsection, "immediate family member" means a child or sibling who is 18 years of age or older, or a parent, grandparent, legal guardian, or spouse of the registrant.

(e) Nothing in this section shall be construed as creating a private cause of action against a real estate agent or landlord for any act or omission arising out of the residential restriction in this section.

(f) A violation of this section is a Class G felony. (2006-247, s. 11(a); 2007-213, s. 10.)

§ 153A-257. Legal residence for social service purposes.

(a) Legal residence in a county determines which county is responsible (i) for financial support of a needy person who meets the eligibility requirements for a public assistance or medical care program offered by the county or (ii) for other social services required by the person.

Legal residence in a county is determined as follows:

- (1) Except as modified below, a person has legal residence in the county in which he resides.
- (2) If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, he does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.
- (3) A minor has the legal residence of the parent or other relative with whom he resides. If the minor does not reside with a parent or relative and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility, or similar institution or facility, he has the legal residence of the person with whom he resides. Any other minor has the legal residence of his mother, or if her residence is not known then the legal residence of his father; if his mother's or father's residence is not known, the minor is a legal resident of the county in which he is found.

(b) A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.

(c) This section is intended to replace the law defining "legal settlement." Therefore any general law or local act that refers to "legal settlement" is deemed to refer to this section and the rules contained herein.

(d) If two or more county departments of social services disagree regarding the legal residence of a minor in a child abuse, neglect, or dependency case, any one of the county departments of social services may refer the issue to the Department of Health and Human Services, Division of Social Services, for resolution. The Director of the Division of Social Services or the Director's designee shall review the pertinent background facts of the case and shall determine which county department of social services shall be responsible for providing protective services and financial support for the minor in question. (1777, c. 117, s. 16, P.R.; R.C., c. 86, s. 12; Code, s. 3544; Rev., s. 1333; C.S., s. 1342; 1931, c. 120; 1943, c. 753, s. 2; 1959, c. 272; 1973, c. 822, s. 1; 2003-304, s. 7.)

§ 163-57. Residence defined for registration and voting.

All election officials in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

- (1) That place shall be considered the residence of a person in which that person's habitation is fixed, and to which, whenever that person is absent, that person has the intention of returning.
 - a. In the event that a person's habitation is divided by a State, county, municipal, precinct, ward, or other election district, then the location of the bedroom or usual sleeping area for that person with respect to the location of the boundary line at issue shall be controlling as the residency of that person.
 - b. If the person disputes the determination of residency, the person may request a hearing before the county board of elections making the determination of residency. The procedures for notice of hearing and the conduct of the hearing shall be as provided in G.S. 163-86. The presentation of an accurate and current determination of a person's residence and the boundary line at issue by map or other means available shall constitute prima facie evidence of the geographic location of the residence of that person.
 - c. In the event that a person's residence is not a traditional residence associated with real property, then the location of the usual sleeping area for that person shall be controlling as to the residency of that person. Residence shall be broadly construed to provide all persons with the opportunity to register and to vote, including stating a mailing address different from residence address.
- (2) A person shall not be considered to have lost that person's residence if that person leaves home and goes into another state, county, municipality, precinct, ward, or other election district of this State, for temporary purposes only, with the intention of returning.
- (3) A person shall not be considered to have gained a residence in any county, municipality, precinct, ward, or other election district of this State, into which that person comes for temporary purposes only, without the intention of making that county, municipality, precinct, ward, or other election district a permanent place of abode.
- (4) If a person removes to another state or county, municipality, precinct, ward, or other election district within this State, with the intention of making that state, county, municipality, precinct, ward, or other election district a permanent residence, that person shall be considered to have lost residence in the state, county, municipality, precinct, ward, or other election district from which that person has removed.
- (5) If a person removes to another state or county, municipality, precinct, ward, or other election district within this State, with the intention of

- remaining there an indefinite time and making that state, county, municipality, precinct, ward, or other election district that person's place of residence, that person shall be considered to have lost that person's place of residence in this State, county, municipality, precinct, ward, or other election district from which that person has removed, notwithstanding that person may entertain an intention to return at some future time.
- (6) If a person goes into another state, county, municipality, precinct, ward, or other election district, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, that person shall be considered to have lost residence in that State, county, municipality, precinct, ward, or other election district from which that person removed.
 - (7) School teachers who remove to a county, municipality, precinct, ward, or other election district in this State for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live where their parents or other relatives reside in this State and who do not have the intention of becoming residents of the county, municipality, precinct, ward, or other election district to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county, municipality, precinct, ward, or other election district in which their parents or other relatives reside.
 - (8) If a person removes to the District of Columbia or other federal territory to engage in the government service, that person shall not be considered to have lost residence in this State during the period of such service unless that person votes in the place to which the person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.
 - (9) If a person removes to a county, municipality, precinct, ward, or other election district to engage in the service of the State government, that person shall not be considered to have lost residence in the county, municipality, precinct, ward, or other election district from which that person removed, unless that person votes in the place to which the person removed, and the place at which that person resided at the time of that person's removal shall be considered and held to be the place of residence.
 - (9a) The establishment of a secondary residence by an elected official outside the district of the elected official shall not constitute prima facie evidence of a change of residence.
 - (10) For the purpose of voting a spouse shall be eligible to establish a separate domicile.

- (11) So long as a student intends to make the student's home in the community where the student is physically present for the purpose of attending school while the student is attending school and has no intent to return to the student's former home after graduation, the student may claim the college community as the student's domicile. The student need not also intend to stay in the college community beyond graduation in order to establish domicile there. This subdivision is intended to codify the case law. (19th amendt. U.S. Const.; amendt. State Const., 1920; 1901, c. 89, s. 15; Rev., s. 4316; C.S., s. 5937; Ex. Sess. 1920, c. 18, s. 1; 1933, c. 165, s. 4; 1945, c. 758, s. 7; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1981, c. 184; 1991, c. 727, s. 5.1; 1993 (Reg. Sess., 1994), c. 762, s. 22; 2001-316, s. 1; 2005-428, s. 3(b); 2006-262, s. 2.1.)

House Pages

Name Of Committee: _____

Date: _____

9-30-08

~~House~~ SELECT COMM. ON SEX OFFENDER ISSUES

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt.-At-Arms

1. Name: TOM WILDER

2. Name: MARTHA PARRISH

3. Name: EARL COKER

4. Name: _____

5. Name: _____

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

November 13, 2008 – 9:00 AM
Room 1228 – Legislative Building

The House Select Committee on Sex Offender Issues met November 13, 2008 in Room 1228.

Chairman Bruce Goforth presided. He called the meeting to order at 10:05 am. and thanked members and visitors for their attendance. He recognized and thanked Sergeants-At-Arms for their help. The Agenda and Visitor Roster is attached and made a part of these minutes.

Chairman Goforth recognized Mr. Grier Weeks from PROTECT. Mr. Weeks introduced David Keith, who is the National Chairman for PROTECT for comments. Mr. Keith is also a well know actor that has starded in a number of films. Mr. Keith, using a Power Point Presentation, said the United States consumers are responsible for more 50% of porn. In the porn films 83% of the children are 6 to 12 years of age, 39% are 3-5 years old and 20% have children less than the age of three. He also showed statistics that shows that "Stranger Danger" only affect about 4% of kids. The other 96% are abused by a member of the family or a trusted adult. He discussed a study of 62 prisoners, who were given amnesty on any additional crimes, to discuss their crimes. Over 80% of them admitted to assaulting more than 27 children each. Mr. Keith said there are more than 750,000 trafficker's porn. The use of a written program that allows law enforcement to go into hard drives has resulted in the rescue of a child 40% of the time. However, due to manpower and money shortages only about 2% of leads result into an investigation and even less into a conviction because of plea bargains. (See Attachment 1)

Chairman Goforth recognized Mr. Bob Carbo, Co-Director of the SOAR Program through the Department of Correction. The SOAR Program provides treatment of incarcerated sexual offenders. Through the program participants learn that sexually abusive behavior is both controllable and management. The Program, which is strictly voluntary, is located at the Harnett Correctional Institution in Lillington. Of more than 250 applicants only 60 per year are admitted due to staff & space shortage. (See Attachment 2).

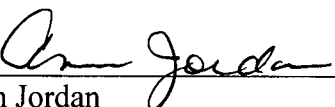
Emily Johnson, Committee Counsel with the NCGA, was recognized for a review of draft legislation. (Attachment 3). The legislation addresses the definition of a residence, temporary residence and creates a new criminal offense for the failure to report a temporary residential address punishable by a Class F felony. The new criminal penalties would only apply to offenses which occurred after December, 2009.

Rep. West was recognized for a motion on the draft legislation. Motion carried.

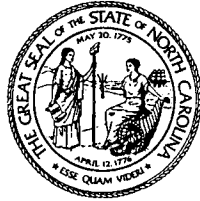
The meeting adjourned at 11:40 a.m. after discussion by the committee members regarding any additional information they need or would like to have prior to drafting legislation.



Chairman Bruce Goforth



Ann Jordan
Committee Assistant



House Select Committee on Sex Offender Issues

AGENDA

November 13, 2008
Room 1228, Legislative Building
9:00 AM

WELCOME AND INTRODUCTION

Rep. Bruce Goforth, Chair

- **Welcome & Introductions**
- **Child Victims**
 - Grier Weeks, Executive Director, Protect
- **SOARS Program**
 - Bob Carbo, Co-Director, SOAR Program, DOC
- **Review of Draft Legislation**
 - Emily Johnson, Committee Counsel
- **Committee Discussion**
- **Instructions to Staff**
- **Adjourn**

SOAR FACT SHEET

(Sexual Offender Accountability and Responsibility)

Program Philosophy

The SOAR Program, which provides treatment of incarcerated sexual offenders, is based on the tenets that: (1) deviant sexual behavior is learned; and (2) the treatment of sexual offenders involves learning appropriate and responsible social and sexual behavior to substitute for the inappropriate and irresponsible behavior which led to the offense. Though there is no "cure" that can guarantee sex-offending behavior will never recur, through psychoeducational modules, behavior techniques and empathy training, SOAR participants learn that sexually abusive behavior is both controllable and manageable.

Criteria for Admission

The offender should:

- Have a felony conviction for a sexual offense.
- Be age 21 or above.
- Be in minimum or medium custody.
- Volunteer to participate in the program.
- Admit guilt for his sexual offense.
- Not have a severe mental illness.
- Have a sixth grade reading level or higher.
- Be willing and able to participate in confrontational groups.

Referral Procedure

The offender should meet with the unit psychologist. The psychologist will interview the offender to determine if he meets the above criteria, and then will complete a clinical assessment report. If the assessment shows that the offender is a suitable candidate for S.O.A.R., the offender will be referred to SOAR staff. SOAR staff then selects participants for the next SOAR group.

Program Overview

- Located at Harnett Correctional Institution in Lillington
- Operating since January of 1991
- Approximately 60 offenders attend the program per year (30 offenders per cycle)
- Participants are housed in the same dormitory, which includes some inmates who are not sex offenders
- 300 hours of classroom instruction and 300 hours of lab time
- Annual program costs of approximately \$335,000 per year

Staffing

- Three full-time psychologists
- One contractual psychologist
- One processing assistant
- 10 peer counselors.

Schedule

- Five days a week for 20 weeks
- Classes begin at 8:00 a.m. and continue until 3:30 p.m.
- Participants attend some evening activities (ex. Sex Addicts Anonymous)
- Homework assignments are given for evening hours and weekends

SOAR Program, Harnett CI, P.O. Box 1569, Lillington, NC 27546
(910) 893-2751 ext. 443 or 469



2009-LHZ-4A: Sex Offender/Register Temp. Residence

DRAFT BILL ANALYSIS

Committee: House Select Committee on Sex Offender Issues

Date: November 13, 2008

Summary by: Committee Counsel

SUMMARY: The draft bill does the following:

- Provides that a person who is required to register under the Sex Offender and Public Protection Registration Programs must report both the person's mailing address and the person's residential address to the appropriate sheriff for inclusion in the public registry.
- Requires a registrant to report in person to the appropriate sheriff any temporary residence maintained by the registrant. A temporary residence is defined as a place that is not located at the person's residential address and that is a place where the person abides, lodges, or sleeps: (i) for a period of five or more calendar days within a 30 calendar day period or (ii) for an aggregate period exceeding 30 calendar days in a calendar year.
- Directs the sheriff to remove any temporary residential address if the sheriff verifies that the registrant no longer maintains the temporary residence and has not been at the temporary residence for 30 days preceding the verification of the registrant's public registry information.
- Provides that the temporary residential address is to be included in the information available for public access through the public registry, unless removed from the registry by the sheriff pursuant to law.
- Creates a new criminal offense of failure to report a temporary residential address that is punishable as a Class F felony.
- Makes it a criminal offense knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony.
- Becomes effective December 1, 2009. The registration requirements apply both to persons who are already on the registry at the time of the effective date and to persons who are required to register on or after that date. The criminal offenses and penalties created by the draft bill apply only to offenses that occur on or after December 1, 2009.

SECTION BY SECTION DRAFT BILL ANALYSIS:

Section 1. Amends G.S. 14-208.6 to add definitions for two new terms: "mailing address" and "residential address."

Section 2. Amends G.S. 14-208.7 to provide that a registrant must provide both the registrant's mailing address and residential address to the sheriff to comply with registration requirements. Also clarifies in G.S. 14-208.7(b)(1a) that a registrant who has multiple residences must provide the residential address for each residence to the appropriate sheriff.

Section 3. Amends G.S. 14-208.9 to add a new subsection (a1) that requires a registrant to report in person to the sheriff of the county with whom the registrant is registered the address of any temporary

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residence that the registrant maintains. The report must be made to the sheriff within 72 hours after the registrant knows or should know the registrant will be maintaining a temporary residence.

A temporary residence is defined as a place that is not located at the person's residential address and that is a place where the person abides, lodges, or sleeps: (i) for a period of five or more calendar days within a 30 calendar day period or (ii) for an aggregate period exceeding 30 calendar days in a calendar year.

The new subsection also requires the sheriff to forward the temporary residential address to the Division of Criminal Information of the Department of Justice and requires the Division to forward the notification to all affected county sheriffs.

The other amendments to the statute are conforming changes.

Section 4. Current law requires a registrant to verify at least semi-annually (and more often in some circumstances) that the information provided to the sheriff and the Division of Criminal Information of the Department of Justice for the county registry is still accurate. This section amends G.S. 14-208.9A to require as part of the information verification process that a registrant verify both the registrant's mailing and residential address and also indicate whether the registrant still maintains any temporary residence previously reported. If the registrant indicates that the registrant no longer maintains a temporary residence and has not been at that temporary residential address for the previous 30 days, then the sheriff is directed to remove the address from the public registry and to notify the Division of that fact. (Please note that in practice, the record of the temporary residence will continue to be included in the appropriate law enforcement data-base.)

The other changes to the statute are conforming changes.

Section 5. Amends G.S. 14-208.10(a) to include any reported temporary residential address of a registrant as part of the public registry available for public access and information unless the temporary residential address has been removed by the sheriff pursuant to law. (See G.S. 14-208.9A(a)(3)d.)

Section 6. Amends G.S. 14-208.11(a) to make a conforming change in subdivision (2) of that subsection and to add a new subdivision (11) that makes it a criminal offense to fail to report a temporary residential address. The offense is punishable as a Class F felony. Punishment for a Class F felony ranges from a minimum of 10 months intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 49 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 7. Amends G.S. 14-208.14(a) to make conforming changes.

Section 8. Current law prohibits a registrant from knowingly residing within 1000 feet of the property on which any public or nonpublic school or child care center is located. Section 8 of the legislative proposal amends G.S. 14-208.16(a) to make it unlawful for a registrant knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony. Punishment for a Class G felony ranges from a minimum of 8 months intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 36 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 9. Amends G.S. 14-208.28 to make conforming changes.

Section 10. Provides that the legislative proposal becomes effective December 1, 2009. Provides that the registration requirements, including the new requirement to report a temporary residential address, apply to persons who are currently on the registry as well as to persons who commit offenses on or after December 1, 2008, that require registration. Provides that the new criminal offenses enacted by the legislative proposal apply only to offenses that occur on or after December 1, 2008.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-LHz-4A [v.2] (10/16)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
11/10/2008 5:27:55 PM

Short Title: Sex Offender/Register Temp. Residence. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, MUST ALSO REPORT IN PERSON TO AND NOTIFY THE APPROPRIATE SHERIFF OF THE ADDRESS OF ANY TEMPORARY RESIDENCES MAINTAINED BY THE REGISTRANT, AND TO MAKE VARIOUS CONFORMING CHANGES TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.
- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

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- 1 (1e) "Employed" includes employment that is full-time or part-time for a
2 period of time exceeding 14 days or for an aggregate period of time
3 exceeding 30 days during any calendar year, whether financially
4 compensated, volunteered, or for the purpose of government or
5 educational benefit.
- 6 (1f) "Entity" means a business or organization that provides Internet
7 service, electronic communications service, remote computing service,
8 online service, electronic mail service, or electronic instant message or
9 chat services whether the business or organization is within or outside
10 the State.
- 11 (1g) "Instant Message" means a form of real-time text communication
12 between two or more people. The communication is conveyed via
13 computers connected over a network such as the Internet.
- 14 (1h) "Institution of higher education" means any postsecondary public or
15 private educational institution, including any trade or professional
16 institution, college, or university.
- 17 (1i) "Internet" means the global information system that is logically linked
18 together by a globally unique address space based on the Internet
19 Protocol or its subsequent extensions; that is able to support
20 communications using the Transmission Control Protocol/Internet
21 Protocol suite, its subsequent extensions, or other Internet Protocol
22 compatible protocols; and that provides, uses, or makes accessible,
23 either publicly or privately, high-level services layered on the
24 communications and related infrastructure described in this
25 subdivision.
- 26 (1j) "Mailing address" means the location where a person receives his or
27 her mail.
- 28 ~~(1j)~~(1k) "Mental abnormality" means a congenital or acquired condition of a
29 person that affects the emotional or volitional capacity of the person in
30 a manner that predisposes that person to the commission of criminal
31 sexual acts to a degree that makes the person a menace to the health
32 and safety of others.
- 33 ~~(1k)~~(1l) "Nonresident student" means a person who is not a resident of North
34 Carolina but who is enrolled in any type of school in the State on a
35 part-time or full-time basis.
- 36 ~~(1l)~~(1m) "Nonresident worker" means a person who is not a resident of North
37 Carolina but who has employment or carries on a vocation in the State,
38 on a part-time or full-time basis, with or without compensation or
39 government or educational benefit, for more than 14 days, or for an
40 aggregate period exceeding 30 days in a calendar year.
- 41 ~~(1m)~~(1n) "Offense against a minor" means any of the following offenses if the
42 offense is committed against a minor, and the person committing the
43 offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41
44 (abduction of children), and G.S. 14-43.3 (felonious restraint). The

1 term also includes the following if the person convicted of the
2 following is not the minor's parent: a solicitation or conspiracy to
3 commit any of these offenses; aiding and abetting any of these
4 offenses.

5 ~~(1n)~~(1o) "Online identifier" means electronic mail address, instant message
6 screen name, user ID, chat or other Internet communication name, but
7 it does not mean social security number, date of birth, or pin number.

8 (2) "Penal institution" means:

- 9 a. A detention facility operated under the jurisdiction of the
10 Division of Prisons of the Department of Correction;
11 b. A detention facility operated under the jurisdiction of another
12 state or the federal government; or
13 c. A detention facility operated by a local government in this State
14 or another state.

15 (2a) "Personality disorder" means an enduring pattern of inner experience
16 and behavior that deviates markedly from the expectations of the
17 individual's culture, is pervasive and inflexible, has an onset in
18 adolescence or early adulthood, is stable over time, and leads to
19 distress or impairment.

20 (2b) "Recidivist" means a person who has a prior conviction for an offense
21 that is described in G.S. 14-208.6(4).

22 (3) "Release" means discharged or paroled.

23 (4) "Reportable conviction" means:

- 24 a. A final conviction for an offense against a minor, a sexually
25 violent offense, or an attempt to commit any of those offenses
26 unless the conviction is for aiding and abetting. A final
27 conviction for aiding and abetting is a reportable conviction
28 only if the court sentencing the individual finds that the
29 registration of that individual under this Article furthers the
30 purposes of this Article as stated in G.S. 14-208.5.
31 b. A final conviction in another state of an offense, which if
32 committed in this State, is substantially similar to an offense
33 against a minor or a sexually violent offense as defined by this
34 section, or a final conviction in another state of an offense that
35 requires registration under the sex offender registration statutes
36 of that state.
37 c. A final conviction in a federal jurisdiction (including a court
38 martial) of an offense, which is substantially similar to an
39 offense against a minor or a sexually violent offense as defined
40 by this section.
41 d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g),
42 or (h), or a second or subsequent conviction for a violation of
43 G.S. 14-202(a), (a1), or (c), only if the court sentencing the

1 individual issues an order pursuant to G.S. 14-202(l) requiring
2 the individual to register.

3 (4a) "Residential address" means the address of a person's residence.

4 (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first
5 degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S.
6 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual
7 offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S.
8 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual
9 battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7
10 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a)
11 (statutory rape or sexual offense of person who is 13-, 14-, or
12 15-years-old where the defendant is at least six years older), G.S.
13 14-43.13 (subjecting or maintaining a person for sexual servitude),
14 G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing
15 or permitting minor to assist in offenses against public morality and
16 decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S.
17 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17
18 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third
19 degree sexual exploitation of a minor), G.S. 14-190.18 (promoting
20 prostitution of a minor), G.S. 14-190.19 (participating in the
21 prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with
22 children), or G.S. 14-202.3 (Solicitation of child by computer to
23 commit an unlawful sex act), G.S. 14-318.4(a1) (parent or caretaker
24 commit or permit act of prostitution with or by a juvenile), or
25 G.S. 14-318.4(a2) (commission or allowing of sexual act upon a
26 juvenile by parent or guardian). The term also includes the following:
27 a solicitation or conspiracy to commit any of these offenses; aiding and
28 abetting any of these offenses.

29 (6) "Sexually violent predator" means a person who has been convicted of
30 a sexually violent offense and who suffers from a mental abnormality
31 or personality disorder that makes the person likely to engage in
32 sexually violent offenses directed at strangers or at a person with
33 whom a relationship has been established or promoted for the primary
34 purpose of victimization.

35 (7) "Sheriff" means the sheriff of a county in this State.

36 (8) "Statewide registry" means the central registry compiled by the
37 Division in accordance with G.S. 14-208.14.

38 (9) "Student" means a person who is enrolled on a full-time or part-time
39 basis, in any postsecondary public or private educational institution,
40 including any trade or professional institution, or other institution of
41 higher education."

42 SECTION 2. G.S. 14-208.7 reads as rewritten:

43 "§ 14-208.7. Registration.

1 (a) A person who is a State resident and who has a reportable conviction shall be
2 required to maintain registration with the sheriff of the county where the person resides.
3 If the person moves to North Carolina from outside this State, the person shall register
4 within three business days of establishing residence in this State, or whenever the
5 person has been present in the State for 15 days, whichever comes first. If the person is
6 a current resident of North Carolina, the person shall register:

- 7 (1) Within three business days of release from a penal institution or arrival
8 in a county to live outside a penal institution; or
9 (2) Immediately upon conviction for a reportable offense where an active
10 term of imprisonment was not imposed.

11 Registration shall be maintained for a period of at least 30 years following the date of
12 initial county registration unless the person, after 10 years of registration, successfully
13 petitions the superior court to shorten his or her registration time period under
14 G.S. 14-208.12A.

15 (a1) A person who is a nonresident student or a nonresident worker and who has a
16 reportable conviction, or is required to register in the person's state of residency, is
17 required to maintain registration with the sheriff of the county where the person works
18 or attends school. In addition to the information required under subsection (b) of this
19 section, the person shall also provide information regarding the person's school or place
20 of employment as appropriate and the person's mailing and residential address in his or
21 her state of residence.

22 (b) The Division shall provide each sheriff with forms for registering persons as
23 required by this Article. The registration form shall require all of the following:

- 24 (1) The person's full name, each alias, date of birth, sex, race, height,
25 weight, eye color, hair color, ~~drivers license number, and home~~
26 ~~address.~~license number.
27 (1a) The person's mailing address and also the person's residential address
28 if the person resides at a location other than the mailing address. If a
29 person has multiple residential addresses, then the person shall provide
30 the address for each residential address.
31 (2) The type of offense for which the person was convicted, the date of
32 conviction, and the sentence imposed.
33 (3) A current photograph taken by the sheriff, without charge, at the time
34 of registration.
35 (4) The person's fingerprints taken by the sheriff, without charge, at the
36 time of registration.
37 (5) A statement indicating whether the person is a student or expects to
38 enroll as a student within a year of registering. If the person is a
39 student or expects to enroll as a student within a year of registration,
40 then the registration form shall also require the name and address of
41 the educational institution at which the person is a student or expects
42 to enroll as a student.
43 (6) A statement indicating whether the person is employed or expects to
44 be employed at an institution of higher education within a year of

1 registering. If the person is employed or expects to be employed at an
2 institution of higher education within a year of registration, then the
3 registration form shall also require the name and address of the
4 educational institution at which the person is or expects to be
5 employed.

6 (7) Any online identifier that the person uses or intends to use.

7 (c) When a person registers, the sheriff with whom the person registered shall
8 immediately send the registration information to the Division in a manner determined
9 by the Division. The sheriff shall retain the original registration form and other
10 information collected and shall compile the information that is a public record under
11 this Part into a county registry.

12 (d) Any person required to register under this section shall report in person at the
13 appropriate sheriff's office to comply with the registration requirements set out in this
14 section. The sheriff shall provide the registrant with written proof of registration at the
15 time of registration."

16 SECTION 3. G.S. 14-208.9 reads as rewritten:

17 "§ 14-208.9. **Change of address; notification of temporary residence; change of**
18 **academic status or educational employment status; change of online**
19 **identifier.**

20 (a) If Unless provided otherwise by law, if a person required to register changes
21 the person's mailing address or residential address, the person shall report in person and
22 provide written notice of the new address not later than the third business day after the
23 change to the sheriff of the county with whom the person had last registered. If the
24 person moves to another county, the person shall also report in person to the sheriff of
25 the new county and provide written notice of the person's mailing address and
26 residential address not later than the tenth day after the change of address. Upon receipt
27 of the notice, the sheriff shall immediately forward this information to the Division.
28 When the Division receives notice from a sheriff that a person required to register is
29 moving to another county in the State, the Division shall inform the sheriff of the new
30 county of the person's new residence.

31 (a1) A person required to register under GS 14-208.7 shall report in person to and
32 notify the sheriff of the county with whom the person is registered if the person intends
33 to maintain a temporary residence for a period of 5 or more calendar days within a 30
34 calendar day period, or for an aggregate period exceeding 30 calendar days in a calendar
35 year. A temporary residence is a place where the person abides, lodges, or sleeps at a
36 location other than their reported residential address. Upon receipt of this notice, the
37 sheriff shall immediately forward this information to the Division. The Division shall in
38 turn forward this notification to all affected county sheriffs. The person shall report to
39 the sheriff within 72 hours after the person knows or should know that he or she will be
40 maintaining a temporary residence.

41 (b) If a person required to register intends to move to another state, the person
42 shall report in person to the sheriff of the county of current residence at least three
43 business days before the date the person intends to leave this State to establish residence
44 in another state or jurisdiction. The person shall provide to the sheriff a written

1 notification that includes all of the following information: the mailing address,
2 residential address, municipality, county, and state of intended residence.

3 (1) If it appears to the sheriff that the record photograph of the sex
4 offender no longer provides a true and accurate likeness of the sex
5 offender, then the sheriff shall take a photograph of the offender to
6 update the registration.

7 (2) The sheriff shall inform the person that the person must comply with
8 the registration requirements in the new state of residence. The sheriff
9 shall also immediately forward the information included in the
10 notification to the Division, and the Division shall inform the
11 appropriate state official in the state to which the registrant moves of
12 the person's notification and new mailing address and residential
13 address.

14 (b1) A person who indicates his or her intent to reside in another state or
15 jurisdiction and later decides to remain in this State shall, within three business days
16 after the date upon which the person indicated he or she would leave this State, report in
17 person to the sheriff's office to which the person reported the intended change of
18 residence, of his or her intent to remain in this State. If the sheriff is notified by the
19 sexual offender that he or she intends to remain in this State, the sheriff shall promptly
20 report this information to the Division.

21 (c) If a person required to register changes his or her academic status either by
22 enrolling as a student or by terminating enrollment as a student, then the person shall,
23 within three business days, report in person to the sheriff of the county with whom the
24 person registered and provide written notice of the person's new status. The written
25 notice shall include the name and address of the institution of higher education at which
26 the student is or was enrolled. The sheriff shall immediately forward this information to
27 the Division.

28 (d) If a person required to register changes his or her employment status either by
29 obtaining employment at an institution of higher education or by terminating
30 employment at an institution of higher education, then the person shall, within three
31 business days, report in person to the sheriff of the county with whom the person
32 registered and provide written notice of the person's new status not later than the tenth
33 day after the change to the sheriff of the county with whom the person registered. The
34 written notice shall include the name and address of the institution of higher education
35 at which the person is or was employed. The sheriff shall immediately forward this
36 information to the Division.

37 (e) If a person required to register changes an online identifier, or obtains a new
38 online identifier, then the person shall, within 10 days, report in person to the sheriff of
39 the county with whom the person registered to provide the new or changed online
40 identifier information to the sheriff. The sheriff shall immediately forward this
41 information to the Division."

42 **SECTION 4. G.S. 14-208.9A reads as rewritten:**

43 **"§ 14-208.9A. Verification of registration information.**

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

3 (1) Every year on the anniversary of a person's initial registration date, and
4 again six months after that date, the Division shall mail a
5 nonforwardable verification form to the last reported mailing address
6 of the person.

7 (2) The person shall return the verification form in person to the sheriff
8 within three business days after the receipt of the form.

9 (3) The verification form shall be signed by the person and shall indicate
10 the following:

11 a. Whether the person still resides at the address last reported to
12 the ~~sheriff~~ sheriff as the person's residential address. If the
13 person has a different residential address, then the person shall
14 indicate that fact and the new residential address.

15 b. Whether the person still uses or intends to use any online
16 identifiers last reported to the sheriff. If the person has any new
17 or different online identifiers, then the person shall provide
18 those online identifiers to the sheriff.

19 c. Whether the person still receives his or her mail at the mailing
20 address last reported to the sheriff as the person's mailing
21 address. If the person has a different mailing address, then the
22 person shall indicate that fact and the new mailing address.

23 d. Whether the person still maintains any temporary residence
24 previously reported. If the person verifies that the person no
25 longer maintains a previously reported temporary residence and
26 has not been at that temporary residence for the previous 30
27 days, the sheriff shall remove the address of the temporary
28 residence from the public registry and shall notify the Division
29 of that fact.

30 (3a) If it appears to the sheriff that the record photograph of the sex
31 offender no longer provides a true and accurate likeness of the sex
32 offender, then the sheriff shall take a photograph of the offender to
33 include with the verification form.

34 (4) If the person fails to return the verification form in person to the sheriff
35 within three business days after receipt of the form, the person is
36 subject to the penalties provided in G.S. 14-208.11. If the person fails
37 to report in person and provide the written verification as provided by
38 this section, the sheriff shall make a reasonable attempt to verify that
39 the person is residing at the registered residential address or at a
40 reported temporary residential address. If the person cannot be found
41 at the registered residential address or a reported temporary residential
42 address and has failed to report a change of residential address or to
43 report a temporary residential address, the person is subject to the
44 penalties provided in G.S. 14-208.11, unless the person reports in

1 person to the sheriff and proves that the person has not changed his or
2 her residential address.

3 (b) Additional Verification May Be Required. – During the period that an
4 offender is required to be registered under this Article, the sheriff is authorized to
5 attempt to verify that the offender continues to reside at the residential or temporary
6 residential address last registered by the offender.

7 (c) Additional Photograph May Be Required. – If it appears to the sheriff that the
8 current photograph of the sex offender no longer provides a true and accurate likeness
9 of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow
10 the sheriff to take another photograph of the sex offender at the time of the sheriff's
11 request. If requested by the sheriff, the sex offender shall appear in person at the
12 sheriff's office during normal business hours within three business days of being
13 requested to do so and shall allow the sheriff to take another photograph of the sex
14 offender. A person who willfully fails to comply with this subsection is guilty of a Class
15 1 misdemeanor."

16 **SECTION 5.** G.S. 14-208.10(a) reads as rewritten:

17 "(a) The following information regarding a person required to register under this
18 Article is public record and shall be available for public inspection: name, sex, ~~address,~~
19 mailing address, residential address, address of any temporary residence maintained by
20 the person unless removed by the sheriff pursuant to G.S. 14-208.9A(a)(3)d., physical
21 description, picture, conviction date, offense for which registration was required, the
22 sentence imposed as a result of the conviction, and registration status. The information
23 obtained under G.S. 14-208.22 regarding a person's medical records or documentation
24 of treatment for the person's mental abnormality or personality disorder shall not be a
25 part of the public record.

26 The sheriff shall release any other relevant information that is necessary to protect
27 the public concerning a specific person, but shall not release the identity of the victim of
28 the offense that required registration under this Article."

29 **SECTION 6.** G.S. 14-208.11(a) reads as rewritten:

30 "(a) A person required by this Article to register who willfully does any of the
31 following is guilty of a Class F felony:

- 32 (1) Fails to register as required by this Article.
- 33 (2) Fails to notify the last registering sheriff of a change of mailing
34 address or residential address as required by this Article.
- 35 (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- 36 (4) Forges or submits under false pretenses the information or verification
37 notices required under this Article.
- 38 (5) Fails to inform the registering sheriff of enrollment or termination of
39 enrollment as a student.
- 40 (6) Fails to inform the registering sheriff of employment at an institution
41 of higher education or termination of employment at an institution of
42 higher education.
- 43 (7) Fails to report in person to the sheriff's office as required by G.S.
44 14-208.7, 14-208.9, and 14-208.9A.

- 1 (8) Reports his or her intent to reside in another state or jurisdiction but
2 remains in this State without reporting to the sheriff in the manner
3 required by G.S. 14-208.9.
- 4 (9) Fails to notify the registering sheriff of out-of-county employment if
5 temporary residence is established as required under G.S. 14-208.8A.
- 6 (10) Fails to inform the registering sheriff of any new or changes to existing
7 online identifiers that the person uses or intends to use.
- 8 (11) Fails to notify the registering sheriff of a temporary residence."

9 **SECTION 7.** G.S. 14-208.14(a) reads as rewritten:

10 "(a) The Division of Criminal Statistics shall compile and keep current a central
11 statewide sex offender registry. The Division is the State agency designated as the
12 custodian of the statewide registry. As custodian the Division has the following
13 responsibilities:

- 14 (1) To receive from the sheriff or any other law enforcement agency or
15 penal institution all sex offender registrations, changes of address,
16 temporary residential addresses, changes of academic or educational
17 employment status, and prerelease notifications required under this
18 Article or under federal law. The Division shall also receive notices of
19 any violation of this Article, including a failure to register or a failure
20 to report a change of address.
- 21 (2) To provide all need-to-know law enforcement agencies (local, State,
22 campus, federal, and those located in other states) immediately upon
23 receipt by the Division of any of the following: registration
24 information, a prerelease notification, a change of address, a change of
25 academic or educational employment status, or notice of a violation of
26 this Article.
- 27 (2a) To notify the appropriate law enforcement unit at an institution of
28 higher education as soon as possible upon receipt by the Division of
29 relevant information based on registration information or notice of a
30 change of academic or educational employment status. If an institution
31 of higher education does not have a law enforcement unit, then the
32 Division shall provide the information to the local law enforcement
33 agency that has jurisdiction for the campus.
- 34 (3) To coordinate efforts among law enforcement agencies and penal
35 institutions to ensure that the registration information, changes of
36 address, prerelease notifications, and notices of failure to register or to
37 report a change of address are conveyed in an appropriate and timely
38 manner.
- 39 (4) To provide public access to the statewide registry in accordance with
40 this Article.
- 41 (5) To maintain a system allowing an entity to access a list of online
42 identifiers of persons in the central sex offender registry."

43 **SECTION 8.** G.S. 14-208.16 reads as rewritten:

44 **"§ 14-208.16. Residential restrictions.**

1 (a) A registrant under this Article shall not knowingly reside or maintain a
2 temporary residence within 1,000 feet of the property on which any public or nonpublic
3 school or child care center is located.

4 (b) As used in this section, "school" does not include home schools as defined in
5 G.S. 115C-563 or institutions of higher education, and the term "child care center" is
6 defined by G.S. 110-86(3). The term "registrant" means a person who is registered, or is
7 required to register, under this Article.

8 (c) This section does not apply to child care centers that are located on or within
9 1,000 feet of the property of an institution of higher education where the registrant is a
10 student or is employed.

11 (d) Changes in the ownership of or use of property within 1,000 feet of a
12 registrant's registered address that occur after a registrant establishes residency at the
13 registered address shall not form the basis for finding that an offender is in violation of
14 this section. For purposes of this subsection, a residence is established when the
15 registrant does any of the following:

- 16 (1) Purchases the residence or enters into a specifically enforceable
17 contract to purchase the residence.
- 18 (2) Enters into a written lease contract for the residence and for as long as
19 the person is lawfully entitled to remain on the premises.
- 20 (3) Resides with an immediate family member who established residence
21 in accordance with this subsection. For purposes of this subsection,
22 "immediate family member" means a child or sibling who is 18 years
23 of age or older, or a parent, grandparent, legal guardian, or spouse of
24 the registrant.

25 (e) Nothing in this section shall be construed as creating a private cause of action
26 against a real estate agent or landlord for any act or omission arising out of the
27 residential restriction in this section.

28 (f) A violation of this section is a Class G felony."

29 **SECTION 9.** G.S. 14-208.28 reads as rewritten:

30 **"§ 14-208.28. Verification of registration information.**

31 The information provided to the sheriff shall be verified semiannually for each
32 juvenile registrant as follows:

- 33 (1) Every year on the anniversary of a juvenile's initial registration date
34 and six months after that date, the sheriff shall mail a verification form
35 to the juvenile court counselor assigned to the juvenile.
- 36 (2) The juvenile court counselor for the juvenile shall return the
37 verification form to the sheriff within three business days after the
38 receipt of the form.
- 39 (3) The verification form shall be signed by the juvenile court counselor
40 and the juvenile and shall indicate whether the juvenile still resides at
41 the residential address last reported to the sheriff. If the juvenile has a
42 different residential address, then that fact and the new residential
43 address shall be indicated on the form."

1 **SECTION 10.** This act becomes effective December 1, 2009. This act
2 applies to persons whose initial registration under Article 27A of Chapter 14 of the
3 General Statutes occurs on or after December 1, 2009, and to persons who are registered
4 under Article 27A of Chapter 14 of the General Statutes prior to December 1, 2009, and
5 continue to be registered on or after December 1, 2009. The criminal penalties enacted
6 by this act apply to offenses occurring on or after December 1, 2009.
7

NO. COA07-1185

NORTH CAROLINA COURT OF APPEALS

Filed: 16 September 2008

STATE OF NORTH CAROLINA

v.

Caldwell County
No. 06 CRS 052853

PATRICIA DAWN ABSHIRE,

Defendant.

Appeal by defendant from judgment entered 28 February 2007 by Judge Nathaniel J. Poovey in Caldwell County Superior Court. Heard in the Court of Appeals 19 March 2008

Court of Appeals

Attorney General Roy Cooper, by Assistant Attorney General J. Joy Strickland, for the State.

James W. Freeman, Jr., for defendant

Slip Opinion

ELMORE, Judge.

On 28 February 2007, Patricia Dawn Abshire (defendant) was convicted by a jury of failing to comply with sex offender registration in violation of N.C. Gen. Stat. § 14-208.11. Defendant received a sentence of thirteen to sixteen months' imprisonment. Her sentence was suspended for eighteen months and she was placed on supervised probation. Defendant now appeals. For the reasons stated below, we vacate her conviction.

I. Background

Defendant was convicted of indecent liberties with a child in 1995.¹ As a result, she must comply with the requirements of the North Carolina Sex Offender and Public Protection Registration Programs (the Registration Program). Under the Registration Program, she must "maintain registration with the sheriff of the county where [she] resides." N.C. Gen. Stat. § 14-208.79(a) (2005). Each sheriff has "forms for registering person as required" N.C. Gen. Stat. § 14-208.7(b) (2005). These forms require a registering person to provide, among other things, her "home address." N.C. Gen. Stat. § 14-208.7(b)(1) (2005). "If a person required to register changes address, the person shall provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered." N.C. Gen. Stat. § 14-208.9(a) (2005).²

On 19 July 2006, defendant submitted a change of address form to the Caldwell County Sheriff's Office. She listed her old address as 2155 White Pine Dr. #9, Granite Falls, NC, in Caldwell County. She listed her new address as 3410 Gragg Price Lane, Hudson, NC, also in Caldwell County. This was the thirteenth

¹ Although judgments from defendant's indecent liberties with a child case appear to have been entered as State's exhibits during the trial, the judgments were not a part of the record on appeal and we rely solely on testimony for information about her conviction.

² The General Assembly amended several sections of the Registration Program effective 1 December 2006 and 1 June 2007. However, defendant's alleged crimes occurred before these amendments took effect, so we evaluate her conviction under the 2005 statutes.

change of address form that defendant had submitted since becoming subject to the Registration Program requirements.

Ross Lee Price, the father of defendant's then-boyfriend, owned and lived in the house at 3410 Gragg Price Lane. Defendant's then-boyfriend was incarcerated at the time. On or about 19 August 2006, someone broke into the house at Gragg Price Lane and stole defendant's daughter's computer. Approximately ten days later, defendant and her two children began spending the night at defendant's parents' house, located on Poovey Drive in Granite Falls, also in Caldwell County. She slept at Gragg Price Lane on 9 September and 14 September 2006 and received her mail there. According to defendant's testimony, she also maintained a personal telephone number at Gragg Price Lane and returned "almost everyday" to do laundry, pick up fresh clothes, "hang out," and to feed her dog, fish, and three cats. She and her father both testified that she never brought a suitcase to Poovey Drive. Defendant also testified that she "never planned on moving [to Poovey Drive], living there, anything like that. Gragg Price Lane was mine and my children's home. My father's was just a getaway."

On 13 September 2006, defendant's brother attacked her. According to the criminal complaint she filed on 18 September 2006, her brother punched her "in the face, head, ribs, and stomach," and "threatened to kill [her] and make [her] daughters watch [her die.]" On the criminal complaint, defendant listed her address as Poovey Drive.

On 18 September 2006, Detective Aaron S. Barlowe of the Caldwell County Sheriff's Office began an investigation into defendant's whereabouts after receiving a report from a social worker that defendant could not be found at Gragg Price Lane. Detective Barlowe spoke with Price on 18 September 2006. Detective Barlowe testified that Price told him that defendant "was not living there at the residence" and had gone to "stay with her father." Detective Barlowe testified that Price felt "that she ha[d] been gone for more than ten days," but "at the same time indicated, 'She is planning on moving back to the house at some point,' but did not know when." Detective Barlowe asked what day defendant "actually moved out and he said he wasn't very good with dates and couldn't remember that, but did indicate that she had been gone for two to three weeks, but might have stayed a night." Price testified that he might have said those things to Detective Barlowe, but could not remember clearly because of the passage of time.

Detective Barlowe arrested defendant and she signed the following statement on 19 September 2006:

About 10 days after I filed the breaking and entering report when my house was broken into and my daughter's computer was stolen I went to stay with my father at 5739 Poovey Drive. I decided that if I went to stay with my dad for a week or two, I could get my emotions together. I told Ross that I was going to stay with my dad so I could get my self emotionally stable and I would come back home. I was planning on going back home this past weekend but I was attacked by my brother and I decided to stay with my dad for a little bit longer. I am moving back into the house on Friday after her [sic] girls are out of

school. I still received my mail at 3410 Gragg Price Lane[.] I would pick the mail up or Ross would bring me my mail about twice a week. I went back and stayed the night on the 9th and 14th of September. I was not planning n [sic] moving from the house but only staying for a week or two with my father.

Detective Barlowe also received the following note from defendant's father, Robert Abshire: "To Whom it may Concern, Patricia has stave [sic] at my home for the past 5-6 weeks. During that time she would go to Ross's Houses [sic] and stay once every 7-10 days[.]"

II. Subject Matter Jurisdiction

Defendant first argues that the trial court lacked subject matter jurisdiction because the indictment was fatally deficient. The indictment alleged, "On or about August 30 to September 4, 2006[;] the defendant moved to a residence at 5739 Poovey Drive, Granite Falls, NC 28630 and the defendant had not contacted the Caldwell County Sheriff's Office to change her address within 10 days of that move) [sic]." The indictment stated that the offense had occurred "ON OR ABOUT September 14 to 18, 2006."

An indictment must include

A statement or cross reference in each count indicating that the offense charged was committed on, or on or about, a designated date, or during a designated period of time. Error as to a date or its omission is not ground for dismissal of the charges or for reversal of a conviction if time was not of the essence with respect to the charge and the error or omission did not mislead the defendant to his prejudice.

N.C. Gen. Stat. § 15A-924(a) (4) (2005).

Defendant argues that "the vagueness and inexactness of the dates alleged for the violation in the indictment are fatal" Specifically, she argues that by alleging a range of dates during which the offense occurred, "the violation is so broad as to subject [defendant] to the possibility of being subjected to double jeopardy under the same facts." We disagree.

N.C. Gen. Stat. § 15A-924(a)(4) allows indictments to designate a "period of time" during which "the offense charged was committed." Here, the indictment alleged a four-day period of time during which the offense could have occurred. "[A] variance as to time . . . becomes material and of the essence when it deprives a defendant of an opportunity to adequately present his defense." *State v. Stewart*, 353 N.C. 516, 518, 546 S.E.2d 568, 569 (2001) (quotations and citation omitted). "When . . . the defendant relies on the date set forth in the indictment to prepare his defense, and the evidence produced by the State substantially varies to the prejudice of the defendant," an indictment does not meet the requirements of N.C. Gen. Stat. § 15A-924(a)(4). *Id.* (citations omitted). In *Stewart*, the indictment listed the date of the offense as "7-01-1991 to 7-31-1991," and the "defendant prepared and presented alibi evidence in direct reliance on those dates." *Id.* However, the State "presented no evidence of a specific act occurring during July 1991." *Id.* at 519, 546 S.E.2d at 570. Our Supreme Court held that "[u]nder the unique facts and circumstances of this case, . . . the dramatic variance between the date set forth in the indictment and the evidence presented by the

State prejudiced defendant by depriving him of an opportunity to adequately present his defense." *Id.* (quotations and citation omitted).

Here, the State's evidence focused on events that occurred between 30 August 2006 and 19 September 2006. The State presented evidence of defendant's whereabouts between 30 August 2006 and 4 September 2006 in the form of defendant's signed statement from 19 September 2006. In that statement, she stated, "About 10 days after I filed the breaking and entering report when my house was broken into and my daughter's computer was stolen I went to stay with my father at 5739 Poovey Drive." Defendant testified that she filed the breaking and entering report on 20 August 2006. It follows from that evidence that defendant "went to stay" at her father's home between 30 August 2006 and 4 September 2006. Whether that evidence was sufficient to support every element of the crime charged is the subject of defendant's next argument.

III. Insufficiency of the Evidence

Defendant next argues that the trial court erred by denying her motion to dismiss for insufficiency of the evidence. Defendant moved to dismiss at the close of the State's evidence and the close of all evidence. The trial court verbally denied the motion in both instances. Defendant argues that the State failed to present sufficient evidence that defendant changed her address, and therefore the trial court should have granted her motion to dismiss. We agree.

Our review of the trial court's denial of a motion to dismiss is well understood. [W]here the sufficiency of the evidence . . . is challenged, we consider the evidence in the light most favorable to the State, with all favorable inferences. We disregard defendant's evidence except to the extent it favors or clarifies the State's case. When a defendant moves for dismissal, the trial court must determine only whether there is substantial evidence of each essential element of the offense charged and of the defendant being the perpetrator of the offense. Substantial evidence is that evidence which a reasonable mind might accept as adequate to support a conclusion.

State v. Hinkle, ___ N.C. App. ___, ___, 659 S.E.2d 34, 36-37 (2008) (quotations and citation omitted; alteration in original).

The crime in question, failing to register a "change of address" pursuant to N.C. Gen. Stat. § 14-208.11, has three essential elements: (1) the defendant is "a person required to register," (2) the defendant "changes address," and (3) the defendant fails to "provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered." N.C. Gen. Stat. §§ 14-208.9, 14-208.11 (2005). Defendant does not dispute that she is "a person required to register." She does dispute, however, that she changed her address.

The term "change of address" is not defined in the statute or the case law. The statute includes a list of definitions, but neither "change" nor "address" is among them. N.C. Gen. Stat. § 14-208.6 (2005). We have previously addressed whether defendants violated N.C. Gen. Stat. § 14-208.11 by failing to register a change of address, but in each of those cases, the "change of

address" in question was obvious or was not at issue on appeal. See, e.g., *State v. Wise*, 178 N.C. App. 154, 164, 630 S.E.2d 732, 738 (2006) (noting that the "defendant's problems with his father's girlfriend began soon after he began living at th[e registered] address [in June 2003], and caused defendant to move out soon thereafter," which supported the State's position that the defendant was no longer living at the registered address in June 2004); *State v. Harrison*, 165 N.C. App. 332, 333, 598 S.E.2d 261, 261 (2004) (noting that when a sheriff's deputy visited the defendant's registered address in March 2002, the "occupant informed the deputy that she had been residing in the house since May 2001 and did not know defendant"); *State v. Holmes*, 149 N.C. App. 572, 578, 562 S.E.2d 26, 31 (2002) (noting that the defendant notified the sheriff's office by telephone "when he moved from Fifth Street to East Raleigh Avenue on 18 August 1998," but failed to fill out a change of address form until 6 November 1998); *State v. Parks*, 147 N.C. App. 485, 487, 556 S.E.2d 20, 22 (2001) (noting that the defendant had submitted Registration Program information under false pretenses when he registered his ex-wife's address even after she "informed him by letter that she was obtaining a divorce, and that her home in Concord would no longer be his residence," "installed new locks on the doors to her house and transported defendant's personal property to his sister's home" while the defendant was still incarcerated). Accordingly, we find the existing case law uninstructional on this point.

"When the language of a statute is clear and without ambiguity, it is the duty of this Court to give effect to the plain meaning of the statute, and judicial construction of legislative intent is not required." *In re R.L.C.*, 361 N.C. 287, 292, 643 S.E.2d 920, 923 (2007) (quotations and citations omitted). Here, however, we are confronted with language that is not clear and unambiguous. At trial, both the jury and the judge questioned the statute's meaning. During jury deliberations, the jury sent a note to the trial judge requesting "a copy of law stating what constitutes a residence in regards to sex offenders" The trial judge read the note in open court to the attorneys and commented, "I looked in the statute yesterday to see whether or not there was any definition for change of address, because that is - that's the term of art that's used in this statute and is definitely ambiguous" After some discussion, the prosecutor recommended "just to read the instruction again, so they can hear the law as to the elements." The trial judge replied, "It's a bad law or a poorly worded law; poorly worded instruction." The judge then brought the jury back to the courtroom and re-read portions of the jury instructions. Addressing the jury's request for a definition, he stated:

Members of the jury, the words I have used in these instructions are to be given their ordinary meaning. There is no extra special meaning or different meaning than these words are used commonly in the English language. I'm not going to define any words for you, but I'm simply going to instruct you that you are to use the ordinary meanings that these words have as commonly used in the English language.

We agree with Judge Poovey that the term "change of address" is ambiguous.

"[W]hen the language of a statute is ambiguous, this Court will determine the purpose of the statute and the intent of the legislature in its enactment." *Id.* (quotations and citations omitted). "In discerning the intent of the General Assembly, statutes *in pari materia* should be construed together and harmonized whenever possible." *State v. Jones*, 359 N.C. 832, 836, 616 S.E.2d 496, 498 (2005) (citation omitted).

The purpose of the Registration Program is

to assist law enforcement agencies' efforts to protect communities by requiring persons who are convicted of sex offenses or of certain other offenses committed against minors to register with law enforcement agencies, to require the exchange of relevant information about those offenders among law enforcement agencies, and to authorize the access to necessary and relevant information about those offenders to others

N.C. Gen. Stat. § 14-208.5 (2005). In reaching this conclusion, the General Assembly specifically recognized that "law enforcement officers' efforts to protect communities, conduct investigations, and quickly apprehend offenders who commit sex offenses or certain offenses against minors are impaired by the lack of information available to law enforcement agencies about convicted offenders who live within the agency's jurisdiction." *Id.*

The section that follows the registration requirement, N.C. Gen. Stat. § 14-208.9A, sets out how law enforcement agencies verify each registrant's "address":

(1) Every year on the anniversary of a person's initial registration date, the Division shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall return the verification form to the sheriff within 10 days after the receipt of the form.

(3) The verification form shall be signed by the person and shall indicate whether the person still resides at the address last reported to the sheriff. If the person has a new address then the person shall indicate that fact and the new address.

(4) If the person fails to return the verification form to the sheriff within 10 days after receipt of the form, the person is subject to the penalties provided in G.S. 14-208.11. If the verification form is returned to the sheriff as undeliverable, the sheriff shall make a reasonable attempt to verify that the person is residing at the registered address. . . .

N.C. Gen. Stat. § 14-208.9A (2005). A reasonable reading of § 14-208.9A indicates that one sends mail to an "address" and a person can reside at an "address." Section 14-208.7 sets out the information that a registrant must register with the sheriff and it specifies that a registrant must list her "home address." N.C. Gen. Stat. § 14-208.7(b)(1) (2005). The penalty provisions in § 14-208.11 refer to a registrant's "address," rather than a registrant's "home address," but this may be explained by the separate obligation of certain nonresident registrants who are "employed or expect[] to be employed at an institution of higher education" to register the "address of the educational institution at which the person is or expects to be employed." N.C. Gen. Stat. § 14-208.7(a1), (b)(6) (2005). Such nonresident registrants must

register both their home addresses and their work addresses. Defendant does not fall into this category of registrants and the only address that the Registration Program required her to register in 2006 was her "home address." Therefore, with respect to her appeal, we read the terms "address" and "home address" interchangeably. Accordingly, reading § 14-208.9A with §§ 14-208.5, 14-208.7, and 14-208.9, we define a "home address," as it applies to the Registration Program, as a place where a registrant resides and where that registrant receives mail or other communication.

We caution that this definition of "home address" is not synonymous with "domicile," just as "*residence* and *domicile* are not convertible terms." *Hall v. Board of Elections*, 280 N.C. 600, 605, 187 S.E.2d 52, 55 (1972). "Domicile" is a term of art and has a more fixed meaning in the law than "home address" or "residence." See, e.g., *id.* at 605, 187 S.E.2d at 55 ("Domicile denotes one's permanent, established home as distinguished from a temporary, although actual, place of residence. When absent therefrom, it is the place to which he intends to return (*animus revertendi*); it is the place where he intends to remain permanently, or for an indefinite length of time, or until some unexpected event shall occur to induce him to leave (*animus manendi*)."). The General Assembly chose to use the terms "home address" and "residence" rather than "domicile," and we would be overstepping our bounds by reading "domicile" into the statute.

We note that the State urges us to read "address" as "location," which we decline to do because such a reading is inconsistent with §§ 14-208.7 and 14-208.9A, is inconsistent with the statute's purpose, and is logistically impossible. The State explains in its brief that "even a person who is temporarily at a location with a different address from the one at which he or she is registered is required to notify the sheriff of that change no later than the tenth day after the address change." If any change in location triggered an address change, then every registrant would be under a continuing obligation to re-register her address every ten days unless she never left her registered address. Each time a registrant left her address to go to work or to the post office or to the grocery store, she would trigger an address change, which in turn would trigger a new registration requirement. A prudent registrant would register her address as the sheriff's office and return every ten days to submit a new registration form stating her address as the sheriff's office. Registering a registrant's location every ten days does not further the statute's purpose of increasing the reliability of information about registered sex offenders because the only information available is a series of snapshots of a registrant's location every ten days.³ Furthermore, it appears from the limited cases previously before this Court that law enforcement agencies do not enforce the Registration Program in this manner and instead expect registrants

³ See *People v. North*, 112 Cal. App. 4th 621 (2003), for a more complete discussion of the logistical problems posed by requiring registrants to register their "locations."

to register their "home address" as stated in N.C. Gen. Stat. § 14-208.7(b)(1). The General Assembly has resolved these problems for certain registrants by requiring them to wear Global Positioning System monitors, which use satellites to track registrants' locations through time and space. See N.C. Gen. Stat. §§ 14-208.40, 14-208.40A (2007) (establishing a satellite-based monitoring system for registrants who are sexually violent predators, recidivists, convicted of aggravated offenses, or have "committed an offense involving the physical, mental, or sexual abuse of a minor" and "require[] the highest possible level of supervision and monitoring").

Returning to the case at bar, with a definition of "home address" in hand, we hold that the State did not present substantial evidence that defendant changed her address between 30 August 2006 and 4 September 2006 as alleged in the indictment. We view the evidence "in the light most favorable to the State, giving the State the benefit of every reasonable inference to be drawn therefrom." *State v. Denny*, 361 N.C. 662, 665, 652 S.E.2d 212, 213 (2007) (quotations and citations omitted). Nevertheless, the State presented no evidence that defendant stopped receiving mail or other communications at Gragg Price Lane between 30 August 2006 and 4 September 2006. According to defendant's statement, she still received her mail at Gragg Price Lane and either picked up the mail herself or had Price bring her the mail. During direct examination by the State, Price testified that defendant received her mail at

Gragg Price Lane during that time, and that defendant came by the house to collect it.

The State also did not present substantial evidence that defendant had stopped residing at Gragg Price Lane between 30 August 2006 and 4 September 2006 and started residing at Poovey Drive. The only evidence that the State offered on this matter was Officer Barlowe's testimony about what Price and defendant's father had told him. Officer Barlowe testified that, on 18 September 2006, Price told him that defendant went to stay with her father two or three weeks earlier. Officer Barlowe also testified that, on 18 September 2006, Robert Abshire told him that defendant had been staying at Poovey Drive for about two weeks. The State offered an undated note written by Robert Abshire saying that defendant had stayed at Poovey Drive "for the past 5-6 weeks," but never established when the note was written or that defendant began her stay at Poovey Drive between 30 August 2006 and 4 September 2006. The State also offered defendant's criminal complaint in which she listed her address as Poovey Drive. However, the complaint is dated 18 September 2006 and does not support a finding that defendant resided at Poovey Drive before 18 September 2006 or took up a residence there between 30 August 2006 and 4 September 2006.

The State did not present evidence of any other indicia that defendant had changed her residence. It did not show, for example, that defendant had removed her personal belongings from Gragg Price Lane to Poovey Drive. Instead, defendant testified that she left

all of her personal belongings at Gragg Price Lane, including her pets, and that she returned each day to retrieve new clothing for herself and her children and to feed her animals. She testified that she never packed a suitcase. The State did not show that defendant stopped sleeping at Gragg Price Lane. According to the State's evidence, defendant slept at Gragg Price Lane twice after the alleged address change. The State did not show that defendant stopped holding out Gragg Price Lane to the public as her address. The State's only evidence that defendant held out a different address to the public was her criminal complaint, which was dated and filed well after the alleged change of address occurred. To present substantial evidence that a defendant has changed her address within the meaning of N.C. Gen. Stat. § 14-208.11, the State need not necessarily show that the defendant removed her personal belongings from a particular address, stopped sleeping at a particular address, or stopped holding out to the public a particular address as her own; however, in this case, something more was needed.

IV. Conclusion

For the reasons stated above, we hold that the trial court erred by denying defendant's motion to dismiss and we vacate defendant's conviction.

Vacated.

Judge STROUD concurs.

Judge HUNTER dissents by separate opinion.

NO. COA07-1185

NORTH CAROLINA COURT OF APPEALS

Filed: 16 September 2008

STATE OF NORTH CAROLINA

v.

Caldwell County
No. 06 CRS 052853

PATRICIA DAWN ABSHIRE,

Defendant.

HUNTER, Judge, dissenting.

I agree with the majority that the trial court had subject matter jurisdiction to hear the case. I disagree, however, with the majority's conclusion that the trial court erred in denying Patricia Dawn Abshire's ("defendant") motion to dismiss. Instead, I would hold that there was sufficient evidence to convict defendant under N.C. Gen. Stat. § 14-208.11 (2005), requiring registration of sex offenders, and would therefore find no error.

As the majority correctly notes, in considering a trial court's denial of a motion to dismiss on the basis of insufficient evidence, "we consider the evidence in the light most favorable to the State, with all favorable inferences. We disregard defendant's evidence except to the extent it favors or clarifies the State's case." *State v. Hinkle*, ___ N.C. App. ___, ___, 659 S.E.2d 34, 36 (2008) (citation omitted). In ruling on a motion to dismiss, "the trial court must determine only whether there is substantial evidence of each essential element of the offense charged and of the defendant being the perpetrator of the offense." *Id.* at ___, 659 S.E.2d at 36-37 (citation omitted). Substantial evidence is

defined as "evidence which a reasonable mind might accept as adequate to support a conclusion." *Id.* at ___, 659 S.E.2d at 37 (citation omitted).

I agree with the majority that there are three essential elements for the crime of failing to register a "change of address" under N.C. Gen. Stat. § 14-208.11. Those elements are that (1) the defendant is a "[a] person required . . . to register," (2) the defendant "change[s his or her] address," N.C. Gen. Stat. § 14-208.11, and (3) the defendant fails to "provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered." N.C. Gen. Stat. § 14-208.9(a) (2005). In the instant case, defendant only argues that she did not "change [her] address" in order to trigger a violation.

The majority defines "address" for purposes of the Registration Program, "as a place where a registrant resides and where that registrant receives mail or other communication."⁴ I do not read the statute so narrowly.

"The purpose of the Article is to prevent recidivism because 'sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and

⁴ In determining that the State had not presented sufficient evidence, the majority relies, in part, on defendant's testimony. As the majority quotes in its opinion and as I have quoted here, defendant's evidence is disregarded "except to the extent it favors or clarifies the State's case." *Hinkle*, ___ N.C. App. at ___, 659 S.E.2d at 36 (citation omitted). Accordingly, the majority has incorrectly applied the standard of review in this case.

. . . protection of the public from sex offenders is of paramount governmental interest.'" *State v. Sakobie*, 165 N.C. App. 447, 450, 598 S.E.2d 615, 617 (2004) (quoting N.C. Gen. Stat. § 14-208.5 (2003)). An additional purpose of the registry requirement is to assist "law enforcement officers' efforts to protect communities, conduct investigations, and quickly apprehend offenders who commit [a] sex offense[]" by providing information as to where the registrant resides. N.C. Gen. Stat. § 14.208.5 (2005). Under the majority's definition, a person required to register could easily thwart these purposes by receiving his or her mail at a post office box. Instead, I would define "address" as the place where the person is actually living, whether temporary or permanent.

This definition of "address" is consistent with our Supreme Court's definition of residence. *Hall v. Board of Elections*, 280 N.C. 600, 187 S.E.2d 52 (1972). When distinguishing domicile and residence, the Court held:

Residence simply indicates a person's actual place of abode, whether permanent or temporary. Domicile denotes one's permanent, established home as distinguished from a temporary, although actual, place of residence. When absent therefrom, it is the place to which he intends to return (*animus revertendi*); it is the place where he intends to remain permanently, or for an indefinite length of time, or until some unexpected event shall occur to induce him to leave (*animus manendi*).

Id. at 605, 187 S.E.2d at 55. Thus, to serve the purpose intended by the sex offender registration statute, when a person required to register changes residence, even temporarily, that new address is the person's official "address" which must be registered with the

State. Even if defendant in the case at bar was not changing her domicile permanently to her parents' home, there was sufficient evidence that she changed her residence such that a reasonable jury could find she was required to change her address in accordance with the statute.

Furthermore, I find support for such a definition in the Act's treatment of non-resident students and for non-resident workers. These classifications of offenders are defined as persons who are not residents of North Carolina and are here for a specific purpose, yet they must register pursuant to N.C. Gen. Stat. § 14-208.7(a)(1). In either situation, it is immaterial as to where the registrant is receiving mail or other communications. Instead, registration is required because the individual will be living in North Carolina for at least some period of time. Thus, the question is whether defendant in this case, was living at her parents' home and failed to register this change. I would hold that the State provided sufficient evidence that defendant had in fact began living at her parents' home and failed to register.

The State presented evidence tending to show that defendant was living at her parents' home in Granite Falls, North Carolina, and not at her registered address in Hudson, North Carolina. Indeed, Ross Price, with whom defendant had been living prior to her move to the unregistered address, indicated that defendant had not been living with him for three weeks and he did not know where she was. Mr. Price also informed Detective Barlowe that as of 18 September 2006, defendant had been gone from his residence for

approximately two to three weeks but may have stayed there a night. Although defendant testified that she kept her own phone line at the Price residence, Mr. Price testified that he suspected defendant had visited his place after she began living with her parents to help him with his phone bill.

Moreover, defendant's father, Robert Abshire, provided a note on defendant's behalf that defendant gave to Detective Barlowe when she was arrested. The note indicated that defendant had been staying at Mr. Abshire's home for five to six weeks prior to her arrest. Additionally, there was evidence defendant completed an affidavit on 18 September 2006 to have charges taken out against her brother for an assault in which she listed her parents' address in Granite Falls as her residence.

This evidence, and the fact that defendant admitted she had only spent two nights at the residence of Mr. Price, support a reasonable inference that defendant changed her address thereby triggering the requirement to notify the sheriff of her new address. Accordingly, I would hold that the trial court did not err in denying defendant's motion to dismiss and would reject defendant's assignments of error.

ARTICLE 27A --UNOFFICIAL ENGROSSMENT OF AMENDMENTS FROM S.L. 2008-220, S.L. 2008-117, AND 2008-S.L. 187.

Article 27A.

Sex Offender and Public Protection Registration Programs.

Part 1. Registration Programs, Purpose and Definitions Generally.

§ 14-208.5. Purpose.

The General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is of paramount governmental interest.

The General Assembly also recognizes that persons who commit certain other types of offenses against minors, such as kidnapping, pose significant and unacceptable threats to the public safety and welfare of the children in this State and that the protection of those children is of great governmental interest. Further, the General Assembly recognizes that law enforcement officers' efforts to protect communities, conduct investigations, and quickly apprehend offenders who commit sex offenses or certain offenses against minors are impaired by the lack of information available to law enforcement agencies about convicted offenders who live within the agency's jurisdiction. Release of information about these offenders will further the governmental interests of public safety so long as the information released is rationally related to the furtherance of those goals.

Therefore, it is the purpose of this Article to assist law enforcement agencies' efforts to protect communities by requiring persons who are convicted of sex offenses or of certain other offenses committed against minors to register with law enforcement agencies, to require the exchange of relevant information about those offenders among law enforcement agencies, and to authorize the access to necessary and relevant information about those offenders to others as provided in this Article. (1995, c. 545, s. 1; 1997-516, s. 1.)

§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.

- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.
- (1e) "Employed" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (1f) "Entity" means a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is within or outside the State.
- (1g) "Instant Message" means a form of real-time text communication between two or more people. The communication is conveyed via computers connected over a network such as the Internet.
- (1h) "Institution of higher education" means any postsecondary public or private educational institution, including any trade or professional institution, college, or university.
- (1i) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on the communications and related infrastructure described in this subdivision.
- (1j) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.
- (1k) "Nonresident student" means a person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.
- (1l) "Nonresident worker" means a person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.

- (1m) "Offense against a minor" means any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (1n) "Online identifier" means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.
- (2) "Penal institution" means:
- a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;
 - b. A detention facility operated under the jurisdiction of another state or the federal government; or
 - c. A detention facility operated by a local government in this State or another state.
- (2a) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.
- (2b) "Recidivist" means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).
- (3) "Release" means discharged or paroled.
- (4) "Reportable conviction" means:
- 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.
- (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), 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. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), or G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex act), 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.
- (6) "Sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.
- (7) "Sheriff" means the sheriff of a county in this State.
- (8) "Statewide registry" means the central registry compiled by the Division in accordance with G.S. 14-208.14.
- (9) "Student" means a person who is enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution,

including any trade or professional institution, or other institution of higher education. (1995, c. 545, s. 1; 1997-15, ss. 1, 2; 1997-516, s. 1; 1999-363, s. 1; 2001-373, s. 1; 2002-147, s. 16; 2003-303, s. 2; 2004-109, s. 8; 2005-121, s. 2; 2005-130, s. 1; 2005-226, s. 2; 2006-247, ss. 1(b), 19(a), 20(d). amended 2008-117, s. 6.2; 2008-220, s. 1.)

§ 14-208.6A. Lifetime registration requirements for criminal offenders.

It is the objective of the General Assembly to establish a 30-year registration requirement for persons convicted of certain offenses against minors or sexually violent offenses with an opportunity for those persons to petition in superior court to shorten their registration time period after 10 years of registration. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for recidivists, persons who commit aggravated offenses, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

To accomplish this objective, there are established two registration programs: the Sex Offender and Public Protection Registration Program and the Sexually Violent Predator Registration Program. Any person convicted of an offense against a minor or of a sexually violent offense as defined by this Article shall register in person as an offender in accordance with Part 2 of this Article. Any person who is a recidivist, who commits an aggravated offense, or who is determined to be a sexually violent predator shall register in person as such in accordance with Part 3 of this Article.

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14-208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record. (1997-516, s. 1; 2001-373, s. 2; 2006-247, s. 2(a). amended 2008-117, s. 7.)

§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B-2200 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register. (1997-516, s. 1; 1998-202, s. 13(e); 2006-247, s. 3(a).)

§ 14-208.6C. Discontinuation of registration requirement.

The period of registration required by any of the provisions of this Article shall be discontinued only if the conviction requiring registration is reversed, vacated, or set aside, or if the registrant has been granted an unconditional pardon of innocence for the offense requiring registration. (2001-373, s. 3.)

Part 2. Sex Offender and Public Protection Registration Program.

§ 14-208.7. Registration.

(a) A person who is a State resident and who has a reportable conviction shall be required to maintain registration with the sheriff of the county where the person resides. If the person moves to North Carolina from outside this State, the person shall register within three business days of establishing residence in this State, or whenever the person has been present in the State for 15 days, whichever comes first. If the person is a current resident of North Carolina, the person shall register:

- (1) Within three business days of release from a penal institution or arrival in a county to live outside a penal institution; or
- (2) Immediately upon conviction for a reportable offense where an active term of imprisonment was not imposed.

Registration shall be maintained for a period of at least 30 years following the date of initial county registration unless the person, after 10 years of registration, successfully petitions the superior court to shorten his or her registration time period under G.S. 14-208.12A.

(a1) A person who is a nonresident student or a nonresident worker and who has a reportable conviction, or is required to register in the person's state of residency, is required to maintain registration with the sheriff of the county where the person works or attends school. In addition to the information required under subsection (b) of this section, the person shall also provide information regarding the person's school or place of employment as appropriate and the person's address in his or her state of residence.

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article. The registration form shall require all of the following:

- (1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home address.
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence imposed.
- (3) A current photograph taken by the sheriff, without charge, at the time of registration.
- (4) The person's fingerprints taken by the sheriff, without charge, at the time of registration.
- (5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is a student or expects to enroll as a student.
- (6) A statement indicating whether the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the

registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.

(7) Any online identifier that the person uses or intends to use.

(c) When a person registers, the sheriff with whom the person registered shall immediately send the registration information to the Division in a manner determined by the Division. The sheriff shall retain the original registration form and other information collected and shall compile the information that is a public record under this Part into a county registry.

(d) Any person required to register under this section shall report in person at the appropriate sheriff's office to comply with the registration requirements set out in this section. The sheriff shall provide the registrant with written proof of registration at the time of registration. (1995, c. 545, s. 1; 1997-516, s. 1; 2001-373, s. 4; 2002-147, s. 17; 2006-247, s. 5(a). amended 2008-117, s. 8; 2008-220, s. 2.)

§ 14-208.8. Prerelease notification.

(a) At least 10 days, but not earlier than 30 days, before a person who will be subject to registration under this Article is due to be released from a penal institution, an official of the penal institution shall do all of the following:

- (1) Inform the person of the person's duty to register under this Article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so informed.
- (2) Obtain the registration information required under G.S. 14-208.7(b)(1), (2), (5), (6), and (7), as well as the address where the person expects to reside upon the person's release.
- (3) Send the Division and the sheriff of the county in which the person expects to reside the information collected in accordance with subdivision (2) of this subsection."

(b) If a person who is subject to registration under this Article does not receive an active term of imprisonment, the court pronouncing sentence shall conduct, at the time of sentencing, the notification procedures specified in subsection (a) of this section. (1995, c. 545, s. 1; 1997-516, s. 1; 2002-147, s. 18. amended 2008-220, s. 2.)

§ 14-208.8A. Notification requirement for out-of-county employment if temporary residence established.

(a) Notice Required. – A person required to register under G.S. 14-208.7 shall notify the sheriff of the county with whom the person is registered of the person's place of employment and temporary residence, which includes a hotel, motel, or other transient lodging place, if the person meets both of the following conditions:

- (1) Is employed or carries on a vocation in a county in the State other than the county in which the person is registered for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30

days in a calendar year, on a part-time or full-time basis, with or without compensation or government or educational benefit.

- (2) Maintains a temporary residence in that county for more than 10 business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year.

(b) Time Period. – The notice required by subsection (a) of this section shall be provided within 72 hours after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for more than 10 business days within a 30-day period, or within 10 days after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for an aggregate period exceeding 30 days in a calendar year.

(c) Notice to Division. – Upon receiving the notice required under subsection (a) of this section, the sheriff shall immediately forward the information to the Division. The Division shall notify the sheriff of the county where the person is working and maintaining a temporary residence of the person's place of employment and temporary address in that county. (2006-247, s. 4(a); 2007-484, s. 2.)

§ 14-208.9. Change of address; change of academic status or educational employment status; change of online identifier.

(a) If a person required to register changes address, the person shall report in person and provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the person had last registered. If the person moves to another county, the person shall also report in person to the sheriff of the new county and provide written notice of the person's address not later than the tenth day after the change of address. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. When the Division receives notice from a sheriff that a person required to register is moving to another county in the State, the Division shall inform the sheriff of the new county of the person's new residence.

(b) If a person required to register intends to move to another state, the person shall report in person to the sheriff of the county of current residence at least three business days before the date the person intends to leave this State to establish residence in another state or jurisdiction. The person shall provide to the sheriff a written notification that includes all of the following information: the address, municipality, county, and state of intended residence.

- (1) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to update the registration.
- (2) The sheriff shall inform the person that the person must comply with the registration requirements in the new state of residence. The sheriff shall also immediately forward the information included in the notification to the Division, and the Division shall inform the appropriate state official

in the state to which the registrant moves of the person's notification and new address.

(b1) A person who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this State shall, within three business days after the date upon which the person indicated he or she would leave this State, report in person to the sheriff's office to which the person reported the intended change of residence, of his or her intent to remain in this State. If the sheriff is notified by the sexual offender that he or she intends to remain in this State, the sheriff shall promptly report this information to the Division.

(c) If a person required to register changes his or her academic status either by enrolling as a student or by terminating enrollment as a student, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status. The written notice shall include the name and address of the institution of higher education at which the student is or was enrolled. The sheriff shall immediately forward this information to the Division.

(d) If a person required to register changes his or her employment status either by obtaining employment at an institution of higher education or by terminating employment at an institution of higher education, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status not later than the tenth day after the change to the sheriff of the county with whom the person registered. The written notice shall include the name and address of the institution of higher education at which the person is or was employed. The sheriff shall immediately forward this information to the Division.

(e) If a person required to register changes an online identifier, or obtains a new online identifier, then the person shall, within 10 days, report in person to the sheriff of the county with whom the person registered to provide the new or changed online identifier information to the sheriff. The sheriff shall immediately forward this information to the Division. (1995, c. 545, s. 1; 1997-516, s. 1; 2001-373, s. 5; 2002-147, s. 19; 2006-247, s. 6(a); 2007-213, s. 9A; 2007-484, s. 42(b). amended 2008-117, s. 9; 2008-220, s. 4; 2008-220, s. 5.)

§ 14-208.9A. Verification of registration information.

(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 Division shall mail a nonforwardable verification form to the last reported address of the person.
- (2) The person shall return the verification form in person to the sheriff within three business days after the receipt of the form.
- (3) The verification form shall be signed by the person and shall indicate the following:

- a. Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.
- b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff.

(3a) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to include with the verification form.

(4) If the person fails to return the verification form in person to the sheriff within three business days after receipt of the form, the person is subject to the penalties provided in G.S. 14-208.11. If the person fails to report in person and provide the written verification as provided by this section, the sheriff shall make a reasonable attempt to verify that the person is residing at the registered address. If the person cannot be found at the registered address and has failed to report a change of address, the person is subject to the penalties provided in G.S. 14-208.11, unless the person reports in person to the sheriff and proves that the person has not changed his or her residential address.

(b) **Additional Verification May Be Required.** – During the period that an offender is required to be registered under this Article, the sheriff is authorized to attempt to verify that the offender continues to reside at the address last registered by the offender.

(c) **Additional Photograph May Be Required.** – If it appears to the sheriff that the current photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow the sheriff to take another photograph of the sex offender at the time of the sheriff's request. If requested by the sheriff, the sex offender shall appear in person at the sheriff's office during normal business hours within three business days of being requested to do so and shall allow the sheriff to take another photograph of the sex offender. A person who willfully fails to comply with this subsection is guilty of a Class 1 misdemeanor. (1997-516, s. 1; 2006-247, s. 7(a). amended 2008-117, s. 10; 2008-220, s. 6.)

§ 14-208.10. Registration information is public record; access to registration information.

(a) The following information regarding a person required to register under this Article is public record and shall be available for public inspection: name, sex, address, physical description, picture, conviction date, offense for which registration was required, the sentence imposed as a result of the conviction, and registration status. The information obtained under G.S. 14-208.22 regarding a person's medical records or documentation of treatment for the person's mental abnormality or personality disorder shall not be a part of the public record.

The sheriff shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) Any person may obtain a copy of an individual's registration form, a part of the county registry, or all of the county registry, by submitting a written request for the information to the sheriff. However, the identity of the victim of an offense that requires registration under this Article shall not be released. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate. (1995, c. 545, s. 1; 1997-516, s. 1.)

§ 14-208.11. Failure to register; falsification of verification notice; failure to return verification form; order for arrest.

(a) A person required by this Article to register who willfully does any of the following is guilty of a Class F felony:

- (1) Fails to register as required by this Article.
- (2) Fails to notify the last registering sheriff of a change of address as required by this Article.
- (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- (4) Forges or submits under false pretenses the information or verification notices required under this Article.
- (5) Fails to inform the registering sheriff of enrollment or termination of enrollment as a student.
- (6) Fails to inform the registering sheriff of employment at an institution of higher education or termination of employment at an institution of higher education.
- (7) Fails to report in person to the sheriff's office as required by G.S. 14-208.7, 14-208.9, and 14-208.9A.
- (8) Reports his or her intent to reside in another state or jurisdiction but remains in this State without reporting to the sheriff in the manner required by G.S. 14-208.9.
- (9) Fails to notify the registering sheriff of out-of-county employment if temporary residence is established as required under G.S. 14-208.8A.
- (10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use.

(a1) If a person commits a violation of subsection (a) of this section, the probation officer, parole officer, or any other law enforcement officer who is aware of the violation shall immediately arrest the person in accordance with G.S. 15A-401, or seek an order for the person's arrest in accordance with G.S. 15A-305.

(b) Before a person convicted of a violation of this Article is due to be released from a penal institution, an official of the penal institution shall conduct the prerelease notification procedures specified under G.S. 14-208.8(a)(2) and (3). If upon a conviction for a violation of this Article, no active term of imprisonment is imposed, the court

pronouncing sentence shall, at the time of sentencing, conduct the notification procedures specified under G.S. 14-208.8(a)(2) and (3).

(c) A person who is unable to meet the registration or verification requirements of this Article shall be deemed to have complied with its requirements if:

- (1) The person is incarcerated in, or is in the custody of, a local, State, private, or federal correctional facility,
- (2) The person notifies the official in charge of the facility of their status as a person with a legal obligation or requirement under this Article and
- (3) The person meets the registration or verification requirements of this Article no later than 10 days after release from confinement or custody. (1995, c. 545, s. 1; 1997-516, s. 1; 2002-147, s. 20; 2006-247, ss. 8(a), 8(b). amended 2008-220, s. 7.)

§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure to report in certain circumstances.

(a) It shall be unlawful and a Class H felony for any person who has reason to believe that an offender is in violation of the requirements of this Article, and who has the intent to assist the offender in eluding arrest, to do any of the following:

- (1) Withhold information from, or fail to notify, a law enforcement agency about the offender's noncompliance with the requirements of this Article, and, if known, the whereabouts of the offender.
- (2) Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the offender.
- (3) Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the offender.
- (4) Provide information to a law enforcement agency regarding the offender that the person knows to be false information.

(b) This section does not apply if the offender is incarcerated in or is in the custody of a local, State, private, or federal correctional facility. (2006-247, s. 9.1(a).)

§ 14-208.12: Repealed by Session Laws 1997-516, s. 1.

§ 14-208.12A. Request for termination of registration requirement.

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

(a1) The court may grant the relief if:

- (1) The petitioner demonstrates to the court that he or she has not been arrested for any crime that would require registration under this Article since completing the sentence,
- (2) The requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable

to the termination of a registration requirement or required to be met as a condition for the receipt of federal funds by the State, and

(3) The court is otherwise satisfied that the petitioner is not a current or potential threat to public safety.

(a2) The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition and the district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(a3) If the court denies the petition, the person may again petition the court for relief in accordance with this section one year from the date of the denial of the original petition to terminate the registration requirement. If the court grants the petition to terminate the registration requirement, the clerk of court shall forward a certified copy of the order to the Division to have the person's name removed from the registry.

(b) If there is a subsequent offense, the county registration records shall be retained until the registration requirement for the subsequent offense is terminated by the court under subsection (a1) of this section. (1997-516, s. 1; 2006-247, s. 10(a).)

§ 14-208.13. File with Police Information Network.

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114-10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires. (1995, c. 545, s. 1; 1997-516, s. 1.)

§ 14-208.14. Statewide registry; Division of Criminal Statistics designated custodian of statewide registry.

(a) The Division of Criminal Statistics shall compile and keep current a central statewide sex offender registry. The Division is the State agency designated as the custodian of the statewide registry. As custodian the Division has the following responsibilities:

(1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The Division shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.

(2) To provide all need-to-know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the Division of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.

(2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the Division of

relevant information based on registration information or notice of a change of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the Division shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

- (3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.
 - (4) To provide public access to the statewide registry in accordance with this Article.
 - (5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.
- (b) The statewide registry shall include the following:
- (1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.
 - (2) Registration information received from a state or local law enforcement agency or penal institution in another state.
 - (3) Registration information received from a federal law enforcement agency or penal institution. (1997-516, s. 1; 2002-147, s. 21. amended 2008-220, s. 8.)

§ 14-208.15. Certain statewide registry information is public record: access to statewide registry.

(a) The information in the statewide registry that is public record is the same as in G.S. 14-208.10. The Division shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) The Division shall provide free public access to automated data from the statewide registry, including photographs provided by the registering sheriffs, via the Internet. The public will be able to access the statewide registry to view an individual registration record, a part of the statewide registry, or all of the statewide registry. The Division may also provide copies of registry information to the public upon written request and may charge a reasonable fee for duplicating costs and mailings costs. (1997-516, s. 1.)

§ 14-208.15A. Release of online identifiers to entity; fee.

(a) The Division may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.

(b) An entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the statewide registry may apply to the Division to access the information. An entity that complies with the criteria developed by the Division regarding the release and use of the online identifier information and pays the fee may screen new users or compare its database of registered users to the list of online identifiers of persons in the statewide registry as frequently as the Division may allow for the purpose of identifying a registered user associated with an online identifier contained in the statewide registry.

(c) The Division may charge an entity that submits a request for the online identifiers of persons in the statewide registry an annual fee of one hundred dollars (\$100.00). Fees collected under this section shall be credited to the Department of Justice and applied to the cost of providing this service.

(d) The Division shall develop criteria and adopt rules regarding the release and use of online identifier information. The criteria shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

(e) An entity that receives:

- (1) A complaint from a user of the entity's services that a person uses its service to solicit a minor by computer to commit an unlawful sex act as defined in G.S. 14-202.3, or
- (2) A report that a user may be violating G.S. 14-190.17 or G.S. 14-190.17A by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity,

shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(f) An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

- (1) The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.
- (2) A person's criminal or tortious acts against a minor with whom the person had communicated on the entity's system. (2008-220, s. 9.)

§ 14-208.16. Residential restrictions.

(a) A registrant under this Article shall not knowingly reside within 1,000 feet of the property on which any public or nonpublic school or child care center is located.

(b) As used in this section, "school" does not include home schools as defined in G.S. 115C-563 or institutions of higher education, and the term "child care center" is defined by G.S. 110-86(3). The term "registrant" means a person who is registered, or is required to register, under this Article.

(c) This section does not apply to child care centers that are located on or within 1,000 feet of the property of an institution of higher education where the registrant is a student or is employed.

(d) Changes in the ownership of or use of property within 1,000 feet of a registrant's registered address that occur after a registrant establishes residency at the registered address shall not form the basis for finding that an offender is in violation of this section. For purposes of this subsection, a residence is established when the registrant does any of the following:

- (1) Purchases the residence or enters into a specifically enforceable contract to purchase the residence.
- (2) Enters into a written lease contract for the residence and for as long as the person is lawfully entitled to remain on the premises.
- (3) Resides with an immediate family member who established residence in accordance with this subsection. For purposes of this subsection, "immediate family member" means a child or sibling who is 18 years of age or older, or a parent, grandparent, legal guardian, or spouse of the registrant.

(e) Nothing in this section shall be construed as creating a private cause of action against a real estate agent or landlord for any act or omission arising out of the residential restriction in this section.

(f) A violation of this section is a Class G felony. (2006-247, s. 11(a); 2007-213, s. 10.)

§ 14-208.17. Sexual predator prohibited from working or volunteering for child-involved activities; limitation on residential use.

(a) It shall be unlawful for any person required to register under this Article to work for any person or as a sole proprietor, with or without compensation, at any place where a minor is present and the person's responsibilities or activities would include instruction, supervision, or care of a minor or minors.

(b) It shall be unlawful for any person to conduct any activity at his or her residence where the person:

- (1) Accepts a minor or minors into his or her care or custody from another, and
- (2) Knows that a person who resides at that same location is required to register under this Article.

(c) A violation of this section is a Class F felony. (2006-247, s. 11(b).)

§ 14-208.18. Sex offender unlawfully on premises.

(a) It shall be unlawful for any person required to register under this Article, if the offense requiring registration is described in subsection (b) of this section, to knowingly be at any of the following locations:

- (1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.
- (2) Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.
- (3) At any place where minors gather for regularly scheduled educational, recreational, or social programs.

(b) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is the parent or guardian of a minor may take the minor to any location that can provide emergency medical care treatment if the minor is in need of emergency medical care.

(c) Subsection (a) of this section is applicable only to persons required to register under this Article who have committed any of the following offenses:

- (1) Any offense in Article 7A of this Chapter.
- (2) Any offense where the victim of the offense was under the age of 16 years at the time of the offense.

(d) A person subject to subsection (a) of this section who is a parent or guardian of a student enrolled in a school may be present on school property if all of the following conditions are met:

- (1) The parent or guardian is on school property for the purpose for one of the following:
 - a. To attend a conference at the school with school personnel to discuss the academic or social progress of the parents' or guardians' child; or
 - b. The presence of the parent or guardian has been requested by the principal or his or her designee for any other reason relating to the welfare or transportation of the child.
- (2) The parent or guardian complies with all of the following:
 - a. Notice: The parent or guardian shall notify the principal of the school of the parents' or guardians' registration under this Article and of his or her presence at the school unless the parent or guardian has permission to be present from the superintendent or the local board of education, or the principal has granted ongoing permission for regular visits of a routine nature. If permission is granted by the superintendent or the local board of education, the

superintendent or chairman of the local board of education shall inform the principal of the school where the parents' or guardians' will be present. Notification includes the nature of the parents' or guardians' visit and the hours when the parent or guardian will be present at the school. The parent or guardian is responsible for notifying the principal's office upon arrival and upon departure. Any permission granted under this sub-subdivision shall be in writing.

b. Supervision: At all times that a parent or guardian is on school property, the parent or guardian shall remain under the direct supervision of school personnel. A parent or guardian shall not be on school property even if the parent or guardian has ongoing permission for regular visits of a routine nature if no school personnel are reasonably available to supervise the parent or guardian on that occasion.

(e) A person subject to subsection (a) of this section who is eligible to vote may be present at a location described in subsection (a) used as a voting place as defined by G.S. 163-165 only for the purposes of voting and shall not be outside the voting enclosure other than for the purpose of entering and exiting the voting place. If the voting place is a school, then the person subject to subsection (a) shall notify the principal of the school that he or she is registered under this Article.

(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. 115C-391(d)(2).

(g) A juvenile subject to subsection (a) of this section may be present at a location described in that subsection if the juvenile is at the location to receive medical treatment or mental health services and remains under the direct supervision of an employee of the treating institution at all times.

(h) A violation of this section is a Class H felony. (2008-117, s.12.)

§ 14-208.19. Reserved for future codification purposes.

Part 3. Sexually Violent Predator Registration Program.

§ 14-208.20. Sexually violent predator determination; notice of intent; presentence investigation.

(a) When a person is charged by indictment or information with the commission of a sexually violent offense, the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause

shown allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders.

(b) Prior to sentencing a person as a sexually violent predator, the court shall order a presentence investigation in accordance with G.S. 15A-1332(c). However, the study of the defendant and whether the defendant is a sexually violent predator shall be conducted by a board of experts selected by the Department of Correction. The board of experts shall be composed of at least four people. Two of the board members shall be experts in the field of the behavior and treatment of sexual offenders, one of whom shall be selected from a panel of experts in those fields provided by the North Carolina Medical Society and not employed with the Department of Correction or employed on a full-time basis with any other State agency. One of the board members shall be a victims' rights advocate, and one of the board members shall be a representative of law enforcement agencies.

(c) When the defendant is returned from the presentence commitment, the court shall hold a sentencing hearing in accordance with G.S. 15A-1334. At the sentencing hearing, the court shall, after taking the presentencing report under advisement, make written findings as to whether the defendant is classified as a sexually violent predator and the basis for the court's findings. (1997-516, s. 1; 2001-373, s. 6.)

§ 14-208.21. Lifetime registration procedure; application of Part 2 of this Article.

Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a person classified as a sexually violent predator, a person who is a recidivist, or a person who is convicted of an aggravated offense. The procedure for registering as a sexually violent predator, a recidivist, or a person convicted of an aggravated offense is the same as under Part 2 of this Article. (1997-516, s. 1; 2001-373, s. 7.)

§ 14-208.22. Additional registration information required.

(a) In addition to the information required by G.S. 14-208.7, the following information shall also be obtained in the same manner as set out in Part 2 of this Article from a person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator:

- (1) Identifying factors.
- (2) Offense history.
- (3) Documentation of any treatment received by the person for the person's mental abnormality or personality disorder.

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article.

(c) The Department of Correction shall also obtain the additional information set out in subsection (a) of this section and shall include this information in the prerelease notice forwarded to the sheriff or other appropriate law enforcement agency. (1997-516, s. 1; 2001-373, s. 8.)

§ 14-208.23. Length of registration.

A person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator shall maintain registration for the person's life. Except as provided under G.S. 14-208.6C, the requirement of registration shall not be terminated. (1997-516, s. 1; 2001-373, s. 9.)

§ 14-208.24. Verification of registration information.

(a) The information in the county registry shall be verified by the sheriff for each registrant who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator every 90 days after the person's initial registration date.

(b) The procedure for verifying the information in the criminal offender registry is the same as under G.S. 14-208.9A, except that verification shall be every 90 days as provided by subsection (a) of this section. (1997-516, s. 1; 2001-373, s. 10.)

§ 14-208.25: Repealed by Session Laws 2001-373, s. 11.

§ 14-208.25A. Community and public notification.

The licensee for each licensed day care center and the principal of each elementary school, middle school, and high school shall register with the North Carolina Sex Offender and Public Protection Registry to receive e-mail notification when a registered sex offender moves within a one-mile radius of the licensed day care center or school. (2008-117, s.13)

Part 4. Registration of Certain Juveniles Adjudicated for Committing Certain Offenses.

§ 14-208.26. Registration of certain juveniles adjudicated delinquent for committing certain offenses.

(a) When a juvenile is adjudicated delinquent for a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), or G.S. 14-27.6 (attempted rape or sexual offense), and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall be entered requiring the juvenile to register. The court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record. No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community.

A juvenile ordered to register under this Part shall register and maintain that registration as provided by this Part.

(a) For purposes of this section, a violation of any of the offenses listed in subsection (a) of this section includes all of the following: (i) the commission of any of those offenses, (ii) the attempt, conspiracy, or solicitation of another to commit any of those offenses, (iii) aiding and abetting any of those offenses.

(b) If the court finds that the juvenile is a danger to the community and must register, the presiding judge shall conduct the notification procedures specified in G.S. 14-208.8. The chief court counselor of that district shall file the registration information for the juvenile with the appropriate sheriff. (1997-516, s. 1; 1999-363, s. 2.)

§ 14-208.27. Change of address.

If a juvenile who is adjudicated delinquent and required to register changes address, the juvenile court counselor for the juvenile shall provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the juvenile moves to another county in this State, the Division shall inform the sheriff of the new county of the juvenile's new residence. (1997-516, s. 1; 2001-490, s. 2.36. amended 2008-117, s. 14.)

§ 14-208.28. Verification of registration information.

The information provided to the sheriff shall be verified semiannually for each juvenile registrant as follows:

- (1) Every year on the anniversary of a juvenile's initial registration date and six months after that date, the sheriff shall mail a verification form to the juvenile court counselor assigned to the juvenile.
- (2) The juvenile court counselor for the juvenile shall return the verification form to the sheriff within three business days after the receipt of the form.
- (3) The verification form shall be signed by the juvenile court counselor and the juvenile and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, then that fact and the new address shall be indicated on the form. (1997-516, s. 1; 2001-490, s. 2.37; 2006-247, s. 13. amended 2008-117, s. 15)

§ 14-208.29. Registration information is not public record; access to registration information available only to law enforcement agencies and local boards of education.

(a) Notwithstanding any other provision of law, the information regarding a juvenile required to register under this Part is not public record and is not available for public inspection.

(b) The registration information of a juvenile adjudicated delinquent and required to register under this Part shall be maintained separately by the sheriff and released only to law enforcement agencies and local boards of education. Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education. Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via internet. (1997-516, s. 1. amended 2008-117, s. 12.2.)

§ 14-208.30. Termination of registration requirement.

The requirement that a juvenile adjudicated delinquent register under this Part automatically terminates on the juvenile's eighteenth birthday or when the jurisdiction of the juvenile court with regard to the juvenile ends, whichever occurs first. (1997-516, s. 1.)

§ 14-208.31. File with Police Information Network.

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114-10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes. (1997-516, s. 1; 1998-202, s. 14.)

§ 14-208.32. Application of Part.

This Part does not apply to a juvenile who is tried and convicted as an adult for committing or attempting to commit a sexually violent offense or an offense against a minor. A juvenile who is convicted of one of those offenses as an adult is subject to the registration requirements of Part 2 and Part 3 of this Article. (1997-516, s. 1.)

Part 5. Sex Offender Monitoring.

§ 14-208.40. Establishment of program; creation of guidelines; duties.

(a) The Department of Correction shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14-208.6.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the

General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Department's risk assessment program requires the highest possible level of supervision and monitoring.

(3) Any offender who is convicted of G.S. 14-27.2A or G.S. 14-27.4A, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment.

(b) In developing the guidelines for the program, the Department shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Department determines that an active program will not work as provided by this section, then the Department shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

- (1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.
- (2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Department may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part. (2006-247, s. 15(a); 2007-213, s. 1; 2007-484, s. 42(b), amended 2008-117, s. 16.)

§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying

whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, ~~or~~ has committed an aggravated offense, or was convicted of G.S. 14-27.2A or G.S. 14-27.4A, the court shall order the offender to enroll in a satellite-based monitoring program for life.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.2A or G.S. 14-27.4A and the offender is not a recidivist, the court shall order that the Department do a risk assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Department pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court. (2007-213, s. 2. amended 2008-117, s. 16.1.)

§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite-based monitoring, the Department shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Department determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the Department shall schedule a hearing in the court of the county in which the offender resides. The Department shall notify the offender of the Department's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, ~~or~~ (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of NC General Statutes - Chapter 14 Article 27A

G.S. 14-27.2A or G.S. 14-27.4A, the court shall order the offender to enroll in satellite-based monitoring for life.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.2A or G.S. 14-27.4A, and the offender is not a recidivist, the court shall order that the Department do a risk assessment of the offender. The Department shall have a minimum of 30 days, but not more than 60 days, to complete the risk assessment of the offender and report the results to the court. The Department may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Department, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court. (2007-213, s. 3; 2007-484, s. 42(b). amended 2008-117, s. 16.2.)

§ 14-208.40C. Requirements of enrollment.

(a) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives an active sentence shall be enrolled and receive the appropriate equipment immediately upon the offender's release from the Division of Prisons.

(b) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives an intermediate punishment shall, immediately upon sentencing, report to the Division of Community Corrections for enrollment in the satellite-based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment. If the intermediate sentence includes a required period of imprisonment, the offender shall not be required to be enrolled in the satellite-based monitoring program during the period of imprisonment.

(c) Any offender required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B who receives a community punishment shall, immediately upon sentencing, report to the Division of Community Corrections for enrollment in the satellite-based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment. (2007-213, s. 4; 2007-484, s. 42(b).)

§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of enrollment.

(a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based monitoring program with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the registration period imposed under G.S. 14-208.23 which is NC General Statutes - Chapter 14 Article 27A

the person's life, unless the requirement to enroll in the satellite-based monitoring program is terminated pursuant to G.S. 14-208.43.

(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the court.

(c) Any person described by G.S. 14-208.40(a)(3), upon completion of active punishment, shall enroll in a satellite-based monitoring program with the Division of Community Corrections office in the county where the person resides. The person shall enroll in the satellite-based monitoring program for the entire period of post-release supervision and shall remain enrolled in the satellite-based monitoring program for the person's life, unless the requirement to enroll in the satellite-based monitoring program is terminated pursuant to G.S. 14-208.43. (2006-247, s. 15(a); 2007-213, s. 13; 2007-484, s. 42(b). amended 2008-117, s. 17; 2008-187, s. 5.)

§ 14-208.42. Offenders required to submit to satellite-based monitoring required to cooperate with Department upon completion of sentence.

Notwithstanding any other provision of law, when an offender is required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of the offender's sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring program is terminated pursuant to G.S. 14-208.43.

The Department shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment examined or maintained, and for any other purpose necessary to complete the requirements of the satellite-based monitoring program. The offender shall cooperate with the Department and the requirements of the satellite-based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Department. (2006-247, s. 15(a); 2007-213, s. 5; 2007-484, s. 42(b).)

§ 14-208.43. Request for termination of satellite-based monitoring requirement.

(a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is required to submit to satellite-based monitoring for the offender's life may file a request for termination of monitoring requirement with the Post-Release Supervision and Parole Commission. The request to terminate the satellite-based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the offender: (i) has served his or her sentence for the offense for which the satellite-based monitoring requirement was imposed, and (ii) has also

NC General Statutes - Chapter 14 Article 27A

completed any period of probation, parole, or post-release supervision imposed as part of the sentence.

(b) Upon receipt of the request for termination, the Commission shall review documentation contained in the offender's file and the statewide registry to determine whether the person has complied with the provisions of this Article. In addition, the Commission shall conduct fingerprint-based state and federal criminal history record checks to determine whether the person has been convicted of any additional reportable convictions.

(c) If it is determined that the person has not received any additional reportable convictions during the period of satellite-based monitoring and the person has substantially complied with the provisions of this Article, the Commission may terminate the monitoring requirement if the Commission finds that the person is not likely to pose a threat to the safety of others.

(d) If it is determined that the person has received any additional reportable convictions during the period of satellite-based monitoring or has not substantially complied with the provisions of this Article, the Commission shall not order the termination of the monitoring requirement.

(d1) Notwithstanding the provisions of this section, if the Commission is notified by the Department of Correction that the offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order the termination of the monitoring requirement.

(e) The Commission shall not consider any request to terminate a monitoring requirement except as provided by this section. The Commission has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2). (2006-247, s. 15(a); 2007-213, s. 11; 2007-484, s. 42(b). amended 2008-117, s. 18.)

§ 14-208.44. Failure to enroll; tampering with device.

(a) Any person required to enroll in a satellite-based monitoring program who fails to enroll shall be guilty of a Class F felony.

(b) Any person who intentionally tampers with, removes, vandalizes, or otherwise interferes with the proper functioning of a device issued pursuant to a satellite-based monitoring program to a person duly enrolled in the program shall be guilty of a Class E felony.

(c) Any person required to enroll in a satellite-based monitoring program who fails to provide necessary information to the Department, or fails to cooperate with the Department's guidelines and regulations for the program shall be guilty of a Class 1 misdemeanor.

(d) For purposes of this section, "enroll" shall include appearing, as directed by the Department, to receive the necessary equipment. (2006-247, s. 15(a); 2007-213, s. 6.)

§ 14-208.45. Fees.

NC General Statutes - Chapter 14 Article 27A

(a) Except as provided in subsections (b) and (b1) of this section, each person required to enroll pursuant to this Part shall pay a one-time fee of ninety dollars (\$90.00). The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Department of Correction. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system.

(b) When a court determines a person is required to enroll pursuant to G.S. 14-208.40A or G.S. 14-208.40B, the court may exempt a person from paying the fee required by subsection (a) of this section only for good cause and upon motion of the person required to enroll in satellite-based monitoring. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods.

(c) When a person is required to enroll based on a determination by the Department pursuant to G.S. 14-208.40B, the Department shall have the authority to exempt the person from paying the fee only for good cause and upon request of the person required to enroll in satellite-based monitoring. The Department may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods. (2006-247, s. 15(a); 2007-213, s. 12; 2007-484, ss. 42(a), (b).)

VISITOR REGISTRATION SHEET

House Select Committee Issues
Name of Committee

11/13/08
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Monica Johnson	NCCASA
Sarah Becker	NCCASA
Matt Small	TPG
Sarah Preston	ACLU-NC
Greg Melend	NC ABO
Andrea Lewis	DHHS-DCI
Jill Rosenblum	193 Woodcreek Ct, CT
Robert A Carbo	DOC - SOAR program
John Carbone MD	DOC - mental health
PAULA Y. SMITH, MD	DOC - HEALTH SERVICES

VISITOR REGISTRATION SHEET

House Select Comm on Sex Offender Issues

11/13/08

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mildred Spearman

NCDOC

Tim Moon

NC DOC

Sonya Brown

DMH DTSAS

Nicole Sullivan

NC DOC

Steve Metcalf

The Policy Group

Jeffrey Walston

DOA - GATE

Mike Heavner

NC DOJ

Joy Strickland

NC DOJ

John Albridge

NC DOJ

VISITOR REGISTRATION SHEET

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES 4/13/08

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Patrick Buff

NMRC

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

December 18, 2008 – 9:00 AM
Room 1124 – Legislative Building

The House Select Committee on Sex Offender Issues met December 18, 2008 in Room 1124.

Chairman Bruce Goforth presided. He called the meeting to order at 10:05 am. and thanked members and visitors for their attendance. He recognized and thanked Sergeants-At-Arms for their help. The Agenda and Visitor Roster is attached and made a part of these minutes.

Chairman Goforth recognized Mr. Kevin West, Special Agent in Charge, with the SBI Computer Crimes Unit/NC Internet Crimes against Children (ICAC). (Attachment 1) Mr. West discussed the Sources of Computer Crimes. They include requests from local agencies, requests from Federal Partners, Cybertipline, Undercover Operations and Referrals from other ICAC Cases across the state and country. There are 60 National ICAC Task Forces and 70 local State and Federal partners in NC. Referrals on the Cybertipline are from Internet Companies (which are required to do so) and members of the public. He described a typical cybertip case from receiving the information to the issue of a subpoena, then verification and research to the summary and assignment to an SBI agent with a prepared warrant. Mr. Greg McLeod was recognized. He said that some special federal funding had resulted in the SBI being able to purchase a high tech training lab.

Rep. Glazer was recognized for a motion to seek additional funding for new agents. Motion carried.

Rep. Farmer-Butterfield was recognized for a motion to look at changing address in statutes. Motion carried.

Susan Sitze, Committee Counsel, was recognized to give an overview of the new G.S. 14-208.18. (Attachment 2A). She also gave the committee a copy of "The North Carolina Sex Offender & Public Protection Registration Programs". After discussion, Rep. Glazier suggested having our staff talk with CSG staff regarding the enforcement in Iowa since indecent liberties if lumped in with sex offenders. Chairman Goforth asked Rep. Glazier to head up a special working group to consider the issues. She also passed out comments from Attorney General Roy Cooper, NC Department of Justice, regarding the SBI Computer Crimes Unit and the positive work they have done. (Attachment 2C).

Emily Johnson, Committee Counsel, was recognized to give a Review of Draft Legislation. (Attachment 3A). On line 27 indecent liberties was added.

Rep. Ray made a motion to remove the last portion on line 8 and have it end with "on or after that date" and remove line 9.

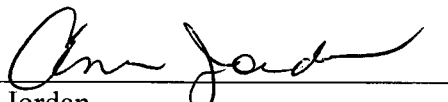
Attachment 3B is an explanation of the revamped bill (Attachment 3C) Rep. Glazier suggested changing the language on page 6, lines 36 & 37 to read "abides or routinely sleeps). He also suggested making the first offense an A1 Misdemeanor and have the second offense at the Class H felony. Motion carried.

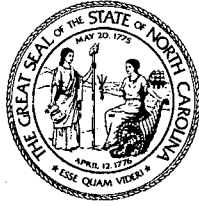
Rep. Goforth recognized Jean Sandaire to explain the Fiscal Analysis Memorandum. (Attachment 4).

Before the committee adjourned Rep. Goforth recognized Rep. Karen Ray, Vice-Chair for all the work she has done for this committee and welcomes her to the final meeting as a public member.

The meeting adjourned at 10:45 to reconvene on January 22, 2008.


Chairman Bruce Goforth


Ann Jordan
Committee Assistant



House Select Committee on Sex Offender Issues

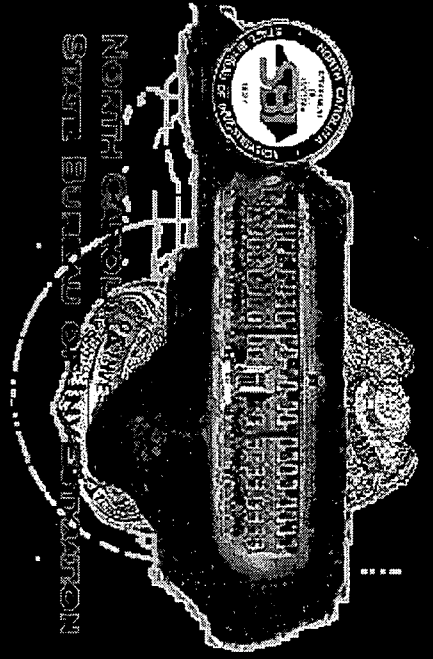
AGENDA

December 18, 2008
Room 1124/1224, Legislative Building
9:00 AM

WELCOME AND INTRODUCTION

Rep. Bruce Goforth, Chair

- **Welcome & Introductions**
- **NC Internet Crimes Against Children (ICAC) Unit**
 - Kevin West, Special Agent in Charge, SBI Computer Crimes Unit/NC Internet Crimes Against Children (ICAC) Commander
- **Overview of New G.S. 14-208.18**
 - Susan L. Sitze, Committee Counsel
- **Review of Draft Legislation**
 - Emily Johnson, Committee Counsel
- **Committee Discussion**
- **Instructions to Staff**
- **Adjourn**



NC SBI Internet Crimes Against Children Task Force NC SBI Computer Crimes

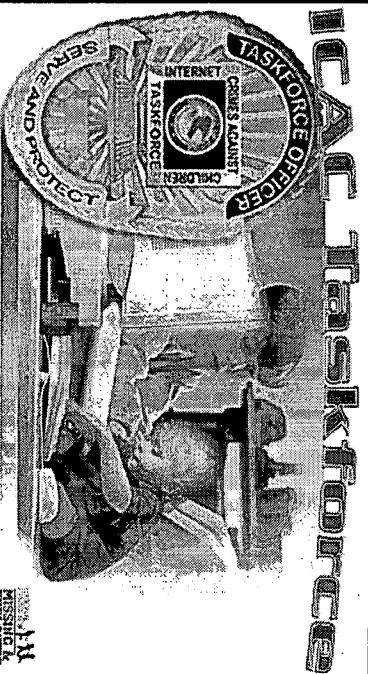
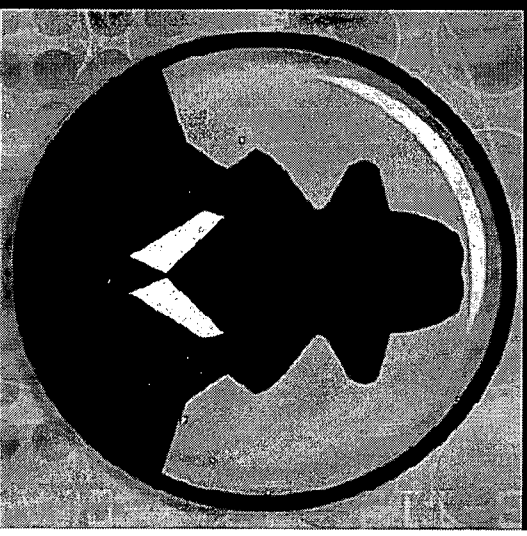


PHOTO BY
AP/WIDEWORLD
PHOTOGRAPHY

Source of NC SBI Computer Crimes / ICAC Workload

- Requests From Local Agencies
 - Child Pornography
 - Citizen Complaints
 - Child Abuse Investigations / Child Porn Suspected
- Requests from Federal Partners
- Cybertipline Reports
- Undercover Operations
 - Undercover Chat
 - Undercover Peer to Peer
 - SBI Generated
 - NC ICAC Task Force generated
 - Local Agency Generated
 - Federally Generated
- Referrals From Other ICAC Cases Across the State and Country
 - 60 National ICAC Task Forces
 - 70 Local State and Federal Partners in NC



Sources of CyberTipline Reports

Source of referrals:

- Internet Companies (Required)
- Yahoo
- AOL
- MSN
- MySpace
- Other ISPs
- Members of the public

MAKE A REPORT

Please contact us if you have information to help in the fight against child sexual exploitation. Your information will be forwarded to law enforcement for investigation and review and, when possible, to the appropriate Electronic Service Provider(s).

The CyberTipline



Typical Cybertip Case: Username wolfeelooking

2 | FBI Basic Search Results - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Home Search Favorites

Address <https://cyber.cybertip.org/service/TaskforceSearchServlet>

CyberTipline

Home

Logout

Task Force Basic Search Results

Total Results: 1

Report ID	Suspect Screen Name	Suspect Email	ISP Name	ECU Staff	Re-Classified Incident Type
279637	wolfeelooking	wolfeelooking@aol.com	America Online	Christa Frankos	Child Pornography (Conf)

Typical Cyberrip Case: Information on Cyberripline Report

Access Date/Time: 10/18/2004 19:27

Child Victim

No Data

Suspect

E-Mail: wolfelooking@aol.com
Screen User Name: wolfelooking

Law Enforcement Information

No Data

Additional Information

Original Filename: Zip: 28457 Bid: UNITEDSTATES

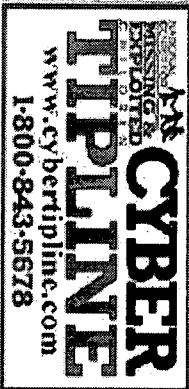
Uploaded Files

Unloaded Files(s) Download Zip File

ECU FILES

The following information was gathered by ECU staff and is the result of additional analysis.
Feedback email.htm
Feedback.pdf

Typical CyberTIP Case: CyberTipline Report



NCMEC CyberTipline Report

The National Center for Missing & Exploited Children is a national clearinghouse that gathers information about missing and sexually exploited children for law enforcement use. NCMEC neither investigates nor vouches for the accuracy of the information reported to itself. NCMEC forwards all information unedited to law enforcement agencies for investigation and disposition pursuant to its congressional mandate to operate as a clearinghouse.

Report ID: 279637
Incident Type: Child Pornography (possession, manufacture, and distribution)
Entry Date: 10/20/2004 07:08
Incident Date: 10/18/2004 19:27 EST

The following information was submitted to NCMEC's CyberTipline. This information cannot be modified by ECU staff.

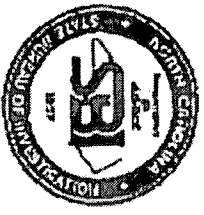
Reporting Person Information

Name: AOL Legal
Address: 22000 AOL Way
City: Dulles
Country: United States
State: VA
Zip: 20166
Non-US State:

Typical CyberTip Case: Subpoena work



NORTH CAROLINA STATE BUREAU OF INVESTIGATION ADMINISTRATIVE SUBPOENA



TO: America Online
AT: 22000 AOL Way, Dulles, Virginia 20166

GREETINGS:

By the service of this subpoena upon you, you are hereby commanded and required to:

- Produce any and all records regarding the identification of a user with the AOL ID of **wolfebigdeal**, to include name and address, date account was registered and created, account status, E-mail address, alternate E-mail addresses, alternate AOL IDs, the I.P. address the registration was created from, the last known I.P. addresses.
- Provide a digital copy by mail of the following images uploaded via E-mail by **wolfebigdeal**:
16057.10128.60455.jpg
15846.10175.49560.jpg

* * This case involves child exploitation via Internet requests for child pornography. * *

This is a child exploitation case that involves Cyber Tip Line Report #(s) 276992 and 277349.

Typical CyberTip Case: Subpoena work

Sworan1 - 104-4309-759 - SecurID: 0

X

Name and address:

1044309759
RANDY SWOPE
139 belhammon forest dr
Rocky point, NC 28457 US

Business:

United States (AOL)

Account status:

Terminated (04-10-13 07:21)

Account type:

Normal

Member since:

03-10-17 16:47:22

Software version:

9.0 for Windows (1034)

Validator:

9023 1207

Brand: aol

Phone number(s): Day or evening: 9106751881

Screen names: sworan1 (?), wolfebigdeal, wilmingtonnchere, greylwolfrockin, robbiefa1991,

jlweinerlvr, jenny12fa

Last Session: 04-10-13 07:21 as wilmingtonnchere (Unknown node)

Comment:

Billing info: VIS-DB (Call), Randy Swope, Bill date 17th

Sec. Bill Contact:

Usage caps: No usage caps

Account groups: Promo 394021, Pl=72, Unlimited Monthly \$23.90, AG=570

Balances: No free time or account credits pending.

Service: AOL

Products: Narrow band

Block login: None



Typical Cybertip Case: Verification / Research

01D400001V.DMVISS.QDF.20041103114524.

TO: SBD5 -011065 20041103 11:45:24 18B44368FE

FROM: DMVISS 20041103 11:45:24

N.C. DRIVER LICENSE SYSTEM

RESPONSE BASED UPON:

CUSTOMER ID: 26161413 PAGES: 7

ATTENTION:

DRIVER HISTORY RESPONSE

NAME: SWOPE RANDY CARL

ADDRESS: 139 BELLHAMMON FOREST DR

CITY: ROCKY POINT STATE: NC ZIP: 284577531 TOTAL POINTS: 0

DOB: 05-06-1952 HEIGHT: 5 FT. 11 IN. SEX: M EYES: BRO HAIR: BRO RACE: W

PRIMARY LICENSE NO: 26161413

SECONDARY LICENSE NO: NON-RESIDENT MILITARY: N

ORG. ISS.DT: 09-05-00 OS DL NO: S100723521660 OS STATE: FL

*** DRIVER LICENSE STATUS: CLS C ACTIVE ***

**Typical Cybertip Case: Verification /
Research / DMV Photo / Other Sources**



Typical CyberTip Case: Research NCMEC After Discovery of Other Usernames

Kevin West - RE: CyberTip 279637 and 276992, 277349

From: <CFRANKOS@ncmec.org>
To: <Kwest@ncdoj.com>
Date: 12/10/2004 8:32 PM
Subject: RE: CyberTip 279637 and 276992, 277349

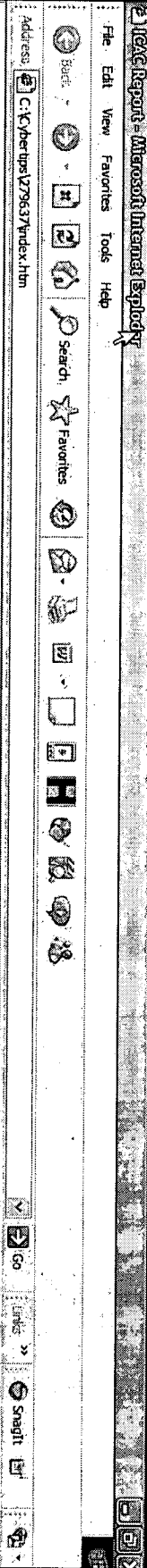
Hi Kevin,

The following are the list of screen names and the CT searches on each screen name:

ranbud1-No past CT/TA reports.
wilmingtonherenc-No past CT/TA reports.
wolfelooking-There is one past CT/TA report:
279637 Child Pornography (Confirmed) Sent to NC
ryanwilldo-No past CT/TA reports.
jennybugfla-No past CT/TA reports.
sworan1-No past CT/TA reports.
wolfbigdeal--There are two past CT/TA reports:
277349 Child Pornography (Confirmed) Sent to NC
276992 Child Pornography (Confirmed) Sent to NC
wilmingtonthere--No past CT/TA reports.
greywolfhookin--There are two past CT/TA reports:
261690 Child Pornography (Confirmed) FBI
157412 Child Pornography (Confirmed) Sent to NC
robbiefa1991--No past CT/TA reports.
lilweinerluvr--No past CT/TA reports.
jenny12fla--No past CT/TA reports.

The reports with hits are all available on the VPN.

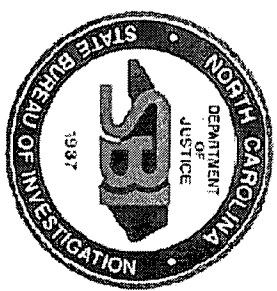
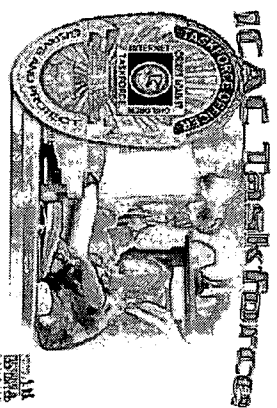
Typical Cyberrip Case: Summary and Assignment to SBI Agent / NC ICAC Officer



*** NOTICE ***

NORTH CAROLINA STATE BUREAU OF INVESTIGATION Computer Crimes Investigation Unit North Carolina Internet Crimes Against Children

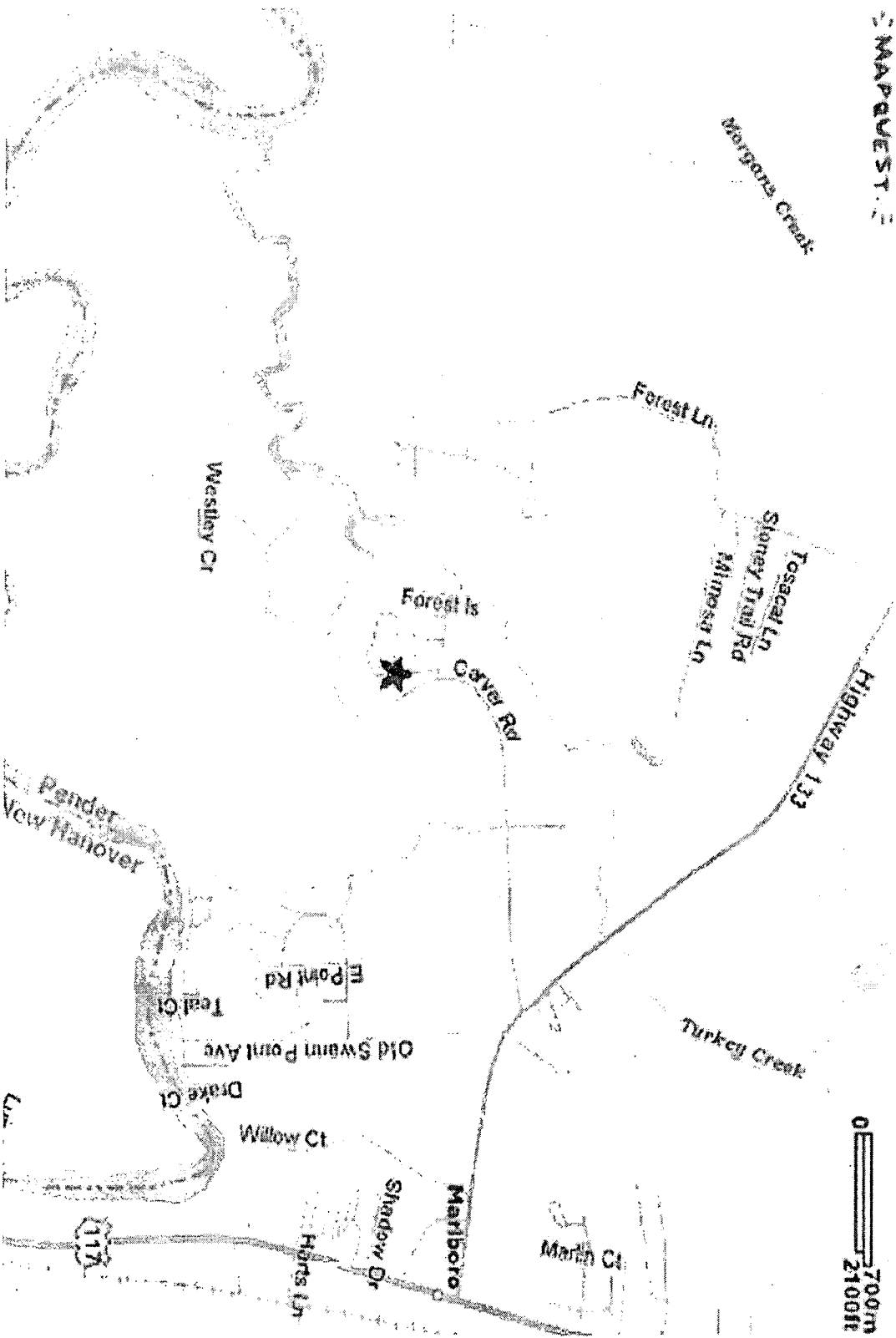
THIS REPORT MAY CONTAIN CHILD PORNOGRAPHY
THIS REPORT IS INTENDED FOR YOUR INVESTIGATION ONLY
YOU ARE EXPRESSLY FORBIDDEN FROM FURTHER DISSEMINATION
UNDER PENALTY OF PROSECUTION



CRIMINAL REPORT

Typical Cybertip Case: Search Warrant Preparation

MAPQUEST



Typical CyberTip Case: Search Warrant Preparation

Person Search

- Main Menu
- People
- Businesses
- Assets
- Licenses
- Directory Assignments
- Courts
- My Account
- Print
- Contact
- Log Out

PERSON SEARCH

Last Name: First Name: Middle Name: SSN:

Street Address: City: State: Zip: County: Radius:

Phone: DOB: Age Range:

Search for other possible name spellings Include Bankruptcies (30,25)

Output Type: Completed Hit Completed basic footprint only (not this report)

Important: The Public Records and Announcements web services used in this system have various data structures called/parsed/processed differently and are generally not from the same source. This system should be used with extreme care and accuracy. Before relying on any data the system supplies, it should be independently verified.

Reference Code:

Search completed

1 to 10 of 10

Click Icons Below To Run a Report

All	Full Name	Age/DOB	Address	Dates	Phone Information
	ROCKY MOORE		139 BELLHAMMON FOREST DR ROCKY POINT NC 28457-7531		(910) 675-1881 MOORE ROCKY
	ROCKY LANE MOORE	55 Oct 27, 1949	139 BELLHAMMON FOREST DR # D ROCKY POINT NC 28457 7531	Nov 98 - Oct 04	(910) 675-1881 MOORE ROCKY
	HANDY CAUL SWOPE	52 May 06, 1957	139 BELLHAMMON FOREST DR ROCKY POINT NC 28457-7531	May 00 - Oct 04	(910) 675-1881

Click Icons Below To Run a Report

Typical CyberTip Case: Search Warrant Preparation

Law Enforcement Report

Important: The Public Records and commercially available data sources used on reports have errors. Data is sometimes entered poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate. Before relying on any data this system supplies, it should be independently verified.

REPORT FOLLOWS

Law Enforcement Report
Date: 11/19/04
Reference Code: 2004-00668

Report processed by:
North Carolina State Bureau of Investigation
3320 Garner Rd
Raleigh, NC 27610
(919) 662-4500 Main Phone
(919) 662-4483 Fax

Subject Information:
Name: **RANDY CARL SWOPE**
Date of Birth: **05/06/1952**
Age: **52**
SSN: **376-58-4297** issued in
Michigan between 01/01/1968 and
12/31/1969

Name as Accrordated With Subhiant:

Report Legend:
S - Shared Address
D - Deceased
✓ - Probable Current Address

Typical Cybertip Case: Search Warrant Preparation - Surveillance

- Drive by to check out location
- Photographs
- Determine work times and times home
- Determine wireless and other problems
- Verification of suspects

Typical Cybertip Case: Search Warrant Preparation

FD-104 (Rev. 12/03) Affidavit for Search Warrant

UNITED STATES DISTRICT COURT

DISTRICT OF _____

In the Matter of the Search of

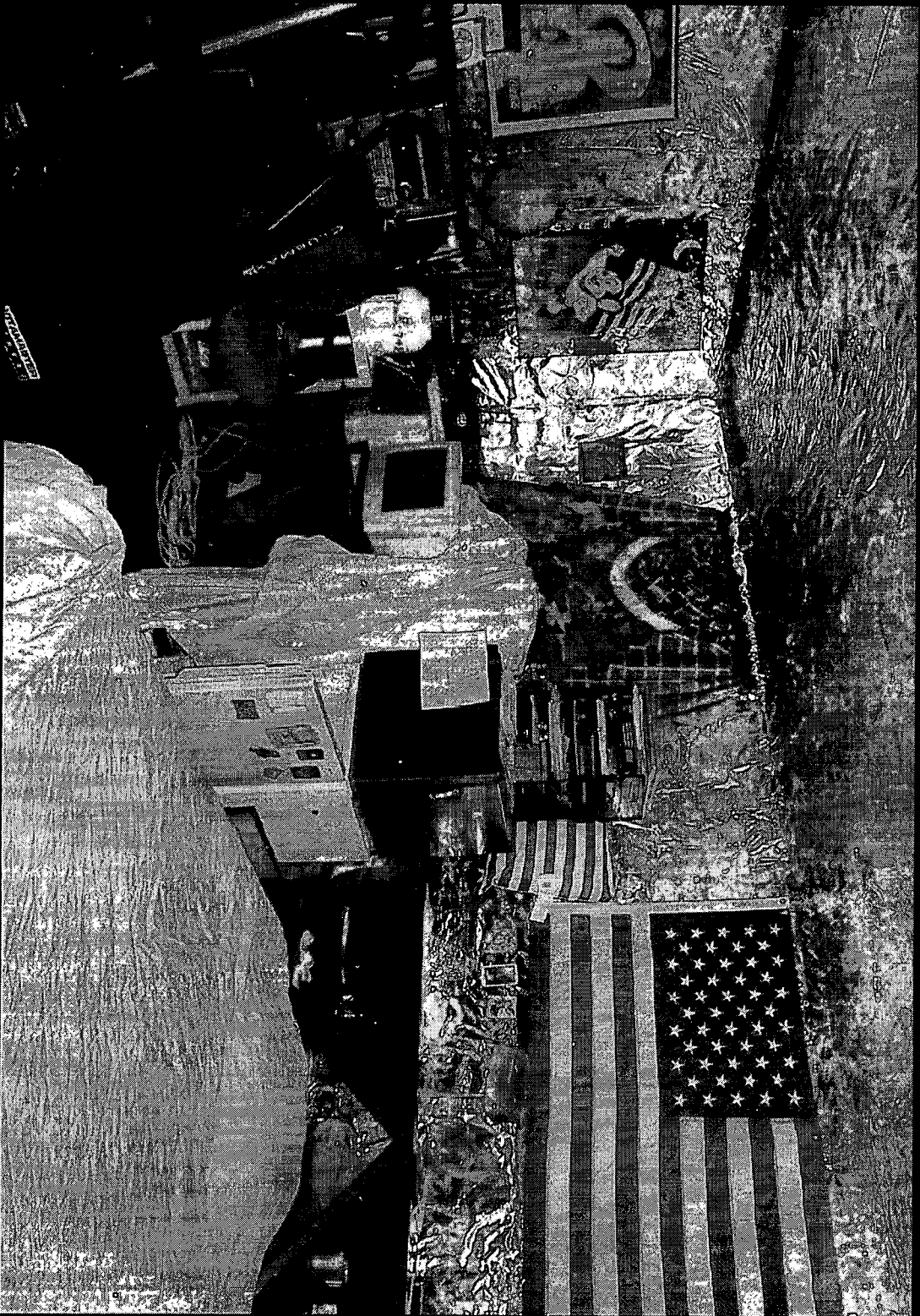
(Name, address or brief description of person, property or premises to be

139 Bellhammon Forest Drive
Rocky Point, North Carolina 28457

APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

Case Number: _____

Typical Cyberrip Case: Search



Typical Cybertip Case: Search

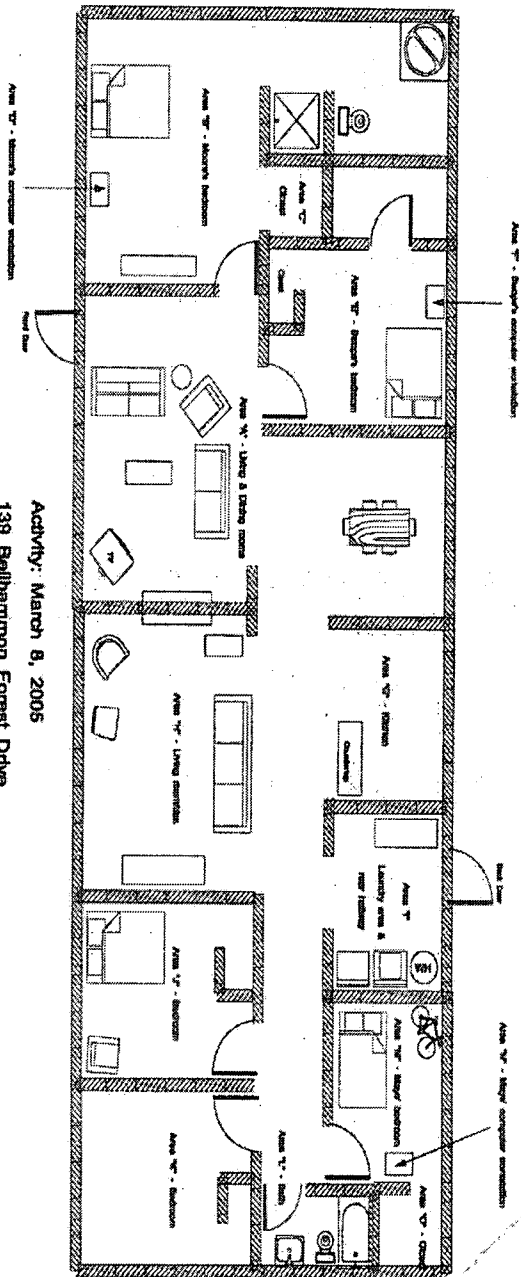
Individual rooms and computer work stations were then labeled for identification and evidence control, as follows:

1. Area/room "A" - Living and dining rooms.
2. Area/room "B" - Bedroom to left of living room (later identified as belonging to Rocky Lane Moore).
3. Area/room "C" - Walk-in closet in Moore's bedroom.
4. Area/room "D" - Computer work station in Moore's bedroom.
5. Area/room "E" - Bedroom directly across front door (later identified as belonging to Randy Swope).
6. Area/room "F" - Computer work station in Swope's bedroom.
7. Area/room "G" - Kitchen.
8. Area/room "H" - Living room/den directly across kitchen.
9. Area/room "I" - Laundry room and hallway to rear door.
10. Area/room "J" - Front bedroom (apparently vacant).
11. Area/room "K" - Front corner bedroom (apparently vacant).
12. Area/room "L" - Bathroom.
13. Area/room "M" - Bedroom (later identified as belonging to Steven Mays).
14. Area/room "N" - Computer work station in Mays' bedroom.
15. Area/room "O" - Walk-in closet in Mays' bedroom.

At approximately 7:15 a.m., SA Miller began the process of photographing relevant areas of the residence. A photographic log will be included as a separate report.

Typical Cybertip Case: Search

SBI Case # 2004-03557



Activity: March 8, 2005
139 Bellharrington Forest Drive
Rocky Point, NC 28457
NOT TO SCALE
Diagram by:
SA Hans J. Miller, NC SBI

Typical CyberTip Case: Arrest

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

JUL 29 1005
ED
EASTERN NORTH CAROLINA

UNITED STATES OF AMERICA
VS.
KANDY CARL SMOPE
WARRANT FOR ARREST

CASE NO. 7:05-CR-81-1-BO

To: The United States Marshal and
any Authorized United States Office

YOU ARE HEREBY COMMANDED TO ARREST KANDY CARL SMOPE
and bring him forthwith to the nearest magistrate to answer a(n)

XX Indictment	Information	Complaint	Order of Court	Violation Notice
	CHARGING HIM WITH (brief description of offense)			
	COURT 1 - Transmission of Child Pornography in violation of 18:2252(a)(1)			
	COURT 2 - Receipt of Child Pornography in violation of 18:2252(a)(2)			
	COURT 3 - Possession of Child Pornography in violation of 18:2252(a)(4)(B)			
	COURT 4 - Transportation of obscene matters over the Internet in violation of 18:2256(8) and 18:1165			
	COURT 5 - Transportation of obscene matters for sale or distribution in violation of 18:2256(8) and 18:1165			
	Perfection Notice - 18:2253(c)			

Violation of Title See Above United States codes, Section(s) See Above
AS PER ATTACHED - CERTIFIED COPY OF INDICTMENT

W. C. RORCH III Clerk, U.S. District Court
Name of Issuing Officer Title of Issuing Officer
Janice Myers July 27, 2005 - Raleigh, NC
Signature of Issuing Officer Date and Location
Deputy Clerk

Detention recommended by U.S. Attorney

RETURN
This warrant was received and executed with the arrest of the above-named defendant
at _____
Date Received (Name and Title of Arresting Officer) (Signature of Arresting Officer)

DATE OF ARREST
07-28-05

Typical Cybertip Case: Arrest

ARREST/PHYSICAL DESCRIPTION/DRUG STAT DATA SHEET

Page 1 of 1

AGENCY	04-03557	NCBI0000	CA 746	79	DATE	July 28, 05	TIME OF ARREST	12:30 pm	OCA
AGENCY NAME	Federal Bureau of Investigation		COUNTY OF ARREST	Fender	PLACE OF ARREST	139 Bellhammon Forest Drive, Raley Point, Unemployed			
PRINTS	<input checked="" type="checkbox"/>	PHOTOS	<input checked="" type="checkbox"/>	FEDERAL - NO #	CHECK-DIGIT #	AGE	5/11	SEX	M
NAME (LAST, FIRST, MIDDLE)	SUOPE, Randy Carl		DOB	08/16/1952	53	HT	5'11"	WT	250
AKA	SUOPE, Randy Carl		SSN	376-58-4297	26161413	NC	HAIR	GREY	EYES
SCARS, MARKS, TATTOOS, ETC.	Scar right elbow		COUNTRY OF CITIZENSHIP	US	RESIDENT	Y	NON-RES	N	MARITAL STATUS
CURRENT ADDRESS	139 Bellhammon Forest Drive, Raley Point, Unemployed		STATE	NC	PHONE (Area Code & Number)	(910) 675-1881			
OWNER'S NAME	N/A		ADDRESS	UNKNOWN, Newport, FL	PHONE (Area Code & Number)	UNKNOWN			
SPONSOR'S NAME	(Former spouse)		ADDRESS	UNKNOWN, Newport, FL	PHONE (Area Code & Number)	UNKNOWN			
NEAREST RELATIVE'S NAME & RELATIONSHIP	SUOPE, Doris (mother)		ADDRESS	UNKNOWN, FL	PHONE (Area Code & Number)	UNKNOWN			
ARRESTEE RATED	No		RESISTANCE	N	ON-VIEW	<input type="checkbox"/>	SUMMONS	<input type="checkbox"/>	CITATION
CHARGE NUMBER 1	Transmission - Child Pornography		FELONY	<input checked="" type="checkbox"/>	COUNTS	1	OFFENSE JURISDICTION	NC USM 0300	STATUTE NUMBER
CHANGE NUMBER 1	Receipt - Child Pornography		FELONY	<input checked="" type="checkbox"/>	COUNTS	1	OFFENSE JURISDICTION	NC USM 0300	STATUTE NUMBER
CHANGE NUMBER 2	Possession - Child Pornography		FELONY	<input checked="" type="checkbox"/>	COUNTS	1	OFFENSE JURISDICTION	NC USM 0300	STATUTE NUMBER
CHANGE NUMBER 3	Transport of Obscene Material over Interstate & Distribution		FELONY	<input checked="" type="checkbox"/>	COUNTS	1	OFFENSE JURISDICTION	NC USM 0300	STATUTE NUMBER
CHANGE NUMBER 4	Transport of Obscene Material		FELONY	<input checked="" type="checkbox"/>	COUNTS	1	OFFENSE JURISDICTION	NC USM 0300	STATUTE NUMBER
VEHICLE MAKE	N/A		YEAR	N/A	MODEL	N/A	COLOR	N/A	LICENSE NUMBER
1. LEFT AT SCENE	<input type="checkbox"/>	SECURED	<input type="checkbox"/>	UNSECURED	<input type="checkbox"/>	DATE/TIME	N/A		
2. RELEASED TO OTHER AT OWNER'S REQUEST	<input type="checkbox"/>	WHERE STORED	N/A						
3. IMPOUNDED	<input type="checkbox"/>	WHERE STORED	N/A						
ESTIMATE	COVERED	PLACED CONTAINED	N/A						
ARRESTING OFFICER'S NAME	Newhanover Co. Jail		ID NUMBER	DEPARTMENT		JUDICIAL OFFICIAL		SIGN	
ARRESTING OFFICER'S NAME	Abvelli, Richard		ID NUMBER	DEPARTMENT		JUDICIAL OFFICIAL		SIGN	
ARRESTING OFFICER'S NAME	Miller, William		ID NUMBER	DEPARTMENT		JUDICIAL OFFICIAL		SIGN	
ARRESTED BY	Miller, William		YES	MAINTENANCE		N/A		N/A	

Typical Cybertip Case: Additional Investigation

Approximately one (1) week after the FEDERAL BUREAU OF INVESTIGATION conducted a search of RANDY CARL SWOPE's residence, he purchased a new computer.

While on-line in a boy-lover's website for which SWOPE was a member, he was contacted by an individual using the following screen names:

F [REDACTED] 7 (AOL)
B [REDACTED] (MSN)



We knew the above because of an additional Cybertip report

SWOPE and ARGLE maintained contact almost daily from March/April 2005 until SWOPE's arrest in late July 2005.

ARGLE and SWOPE (using his WOLFIE identity) entered into discussions of boys they had access to. SWOPE informed ARGLE that he had a 13-yr boy [REDACTED] that would come to SWOPE's and have sex. SWOPE disclosed that the [REDACTED] person was a fantasy identity used by SWOPE. SWOPE allowed [REDACTED] to speak to [REDACTED] on-line. During these conversations, ARGLE disclosed that his name was CHRIS.

Typical CyberTip Case: Case Conclusion



DEFENDANT/SUSPECT DISPOSITION AND CLOSING REPORT

CFMS

PART A

DEFENDANT/SUSPECT DISPOSITION REPORT

CODE: _____

DEFENDANT/
SUSPECT: Randy Carl SWOPE, white male
DOB: May 6, 1962

NEW CODES: REL: _____ PROF: _____

CASE #: 2004-03557 (746)

VICTIM: State of North Carolina

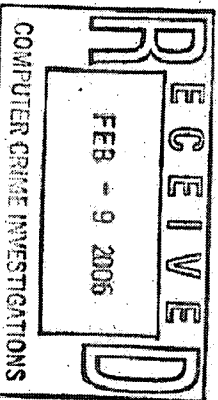
NEW CODE: PROF: _____

VICTIM: United States of America

NEW CODE: PROF: _____

COURT: _____ DATE: _____

DOCKET #	CHARGES	VERDICT	SENTENCE/DISPOSITION
	18 USC 2252(a)(1) - Interstate Transportation of Visual Depictions of Minors Engaged in Sexually Explicit Conduct	Guilty	108 months of active confinement in Federal prison, \$100,000 special assessment, five years of supervised release, forfeiture of all computer equipment, and mandatory registration as a sex offender.
	18 USC 2252(a)(2) - Knowingly Receiving Visual Depictions of Minors Engaged in Sexually Explicit Conduct	Guilty	
	18 USC 1462 - Interstate Transportation of Obscene Materials over the Internet	Guilty	



Results of CyberTip Investigations

Results in Rescue of Children

- 2007-00906:
 - The SBI received a cyber Tip from the National Center where Yahoo had reported to NCMEC that a Yahoo user had uploaded child pornography to a Yahoo group. Upon investigation, it was determined that some of the images had been produced locally in the state of North Carolina. The investigation identified a subject in Lenoir, NC. The subject was arrested and admitted to sexually abusing his two daughters, ages 7 and 10 at the time. The subject also admitted to taking pornographic pictures of his daughters as well. The daughters were not under the subject's care at the time of arrest. The images taken of the two females have shown up on the internet as far as Oregon.

Cybertip Cases - NC SBI / Computer Crimes Unit

○ 2001	9
○ 2002	29
○ 2003	199
○ 2004	616 (Anomaly year)
○ 2005	252
○ 2006	436
○ 2007	506
○ 2008	344 (Early November Stats)

Results of Undercover Result in Rescue of Children

- 2006-03531:
- The SBI initiated a case from an online undercover investigation, where a SBI Agent was posing as a mom with a 11 year old daughter. Through undercover, the agent began talking with a subject in Miami, Florida. The male subject in Florida put his 5 year daughter on web cam to the agent and fondled her while on web cam. The subject was arrested the next day. Upon his arrest, the subject admitted to being part of a web cam child pornography ring where dads, and caregivers, abused their female juveniles online and on web cam in real time and the other members of the web cam ring would watch. The FBI continued this investigation and to date, 11 juvenile females, with the youngest being 5 have been rescued. The SBI and the Agent were the recipient of a national recognition award along with the FBI from The National Center for Missing and Exploited Children in 2007 for the work in that case.

Undercover Peer To Peer

GNUG

File Tools Edit About

Get Clip Local Share All Share Batch Share Local IP History SHA History

NetSkel Peer Log Peer Case IP History GUID History SHA History

Batch IPs Quit

RESULTS for SHA: TO6JGQMYIC6CU4T2TUXUDEB4XUCHC6WI

66.75.218.39:3044	US, CA, Manhattan Beach, -----, 33.381, -119.0225
69.167.24.100:50895	US, CA, Manhattan Beach, -----, 33.8893, -118.401
24.177.4.164:38401	US, CT, Ashford, -----, 41.8956, -72.1622
66.176.191.198:42321	US, FL, Hialeah, -----, 25.8856, -80.3156
66.176.35.30:6346	US, FL, Hialeah, -----, 25.8856, -80.3156
65.33.13.255:9683	US, FL, Orlando, -----, 28.5037, -81.3306
75.4.145.251:5933	US, IL, Bloomingdale, -----, 41.9484, -88.0947
24.13.229.174:31359	US, IL, Highland Park, -----, 42.189, -87.8063
12.205.131.127:12974	US, IN, Auburn, -----, 41.3346, -85.0217
68.43.192.137:14003	US, IN, Auburn, -----, 41.3346, -85.0217
69.40.41.25:17582	US, NC, Matthews, -----, 35.0905, -80.6947
69.125.49.202:27001	US, NY, Bronx, -----, 40.8499, -73.8769
24.44.248.242:56346	US, NY, Holbrook, -----, 40.7981, -73.068
24.184.122.175:6346	US, TN, Clarksville, -----, 36.509, -87.3396
71.87.170.225:45956	US, TX, Keller, -----, 32.9342, -97.2515
66.182.197.202:44719	US, TX, Keller, -----, 32.9342, -97.2515

RESULTS for SHA: YEMDICTI37C4WJ6M7LIIY7YVSI8YOGU

68.200.11.238:46470	US, FL, Saint Petersburg, -----, 27.7788, -82.6823
69.125.49.202:27881	US, NJ, Elizabeth, -----, 40.6636, -74.1991

RESULTS for SHA: FD5N2GGXSANMFSRBLUHBR337SYKWSAN

67.169.146.143:26675	US, CA, Windsor, -----, 38.5369, -122.8123
24.14.188.204:2456	US, IL, Wheaton, -----, 41.852, -88.1211

Using software that accesses a public Geographic IP lookup of the IP addresses sharing the selected Child Pornography I can quickly target in and identify those in NC Sharing the Child Porn images I know are illegal in NC.

Undercover Peer To Peer

The screenshot shows a BitTorrent client window with a search results table. The table has columns for 'Downloaded', 'Size', 'Rate', 'Ratio', and 'Status'. A red circle highlights a specific entry in the list.

Downloaded	Size	Rate	Ratio	Status
10.11.38284	0.6%	...	0.0%	Waiting
12.205.131.127.12974	0.6%	...	0.0%	Waiting
24.13.229.174.31359	0.6%	...	0.0%	Waiting
24.44.248.242.26346	0.6%	...	0.0%	Waiting
24.177.4.164.38401	0.6%	...	0.0%	Waiting
24.104.122.175.6346	0.6%	...	0.0%	Waiting
65.33.13.255.9683	0.6%	...	0.0%	Waiting
66.75.218.33.50171	0.6%	...	0.0%	Waiting
66.176.35.30.6346	0.6%	...	0.0%	Waiting
66.176.191.198.42321	0.6%	...	0.0%	Waiting
66.43.192.137.14982	0.6%	...	0.0%	Waiting
69.40.41.25.17582	0.6%	...	0.0%	Waiting
69.125.95.202.27881	0.6%	...	0.0%	Waiting
69.167.24.100.50695	0.6%	...	0.0%	Waiting
71.87.170.225.4936	0.6%	...	0.0%	Waiting
73.145.251.5933	0.6%	...	0.0%	Waiting

Below the table, there are sections for 'Downloaded' and 'Downloaded' with various file names and their respective sizes and rates. The interface also shows a search bar and various control buttons.

Using the open source software for trading files I can connect to the suspect's computer if the suspect allows sharing and get a file listing of all the files he is sharing directly from his IP address.

Undercover Peer To Peer

Checking Batch SHA reveals:

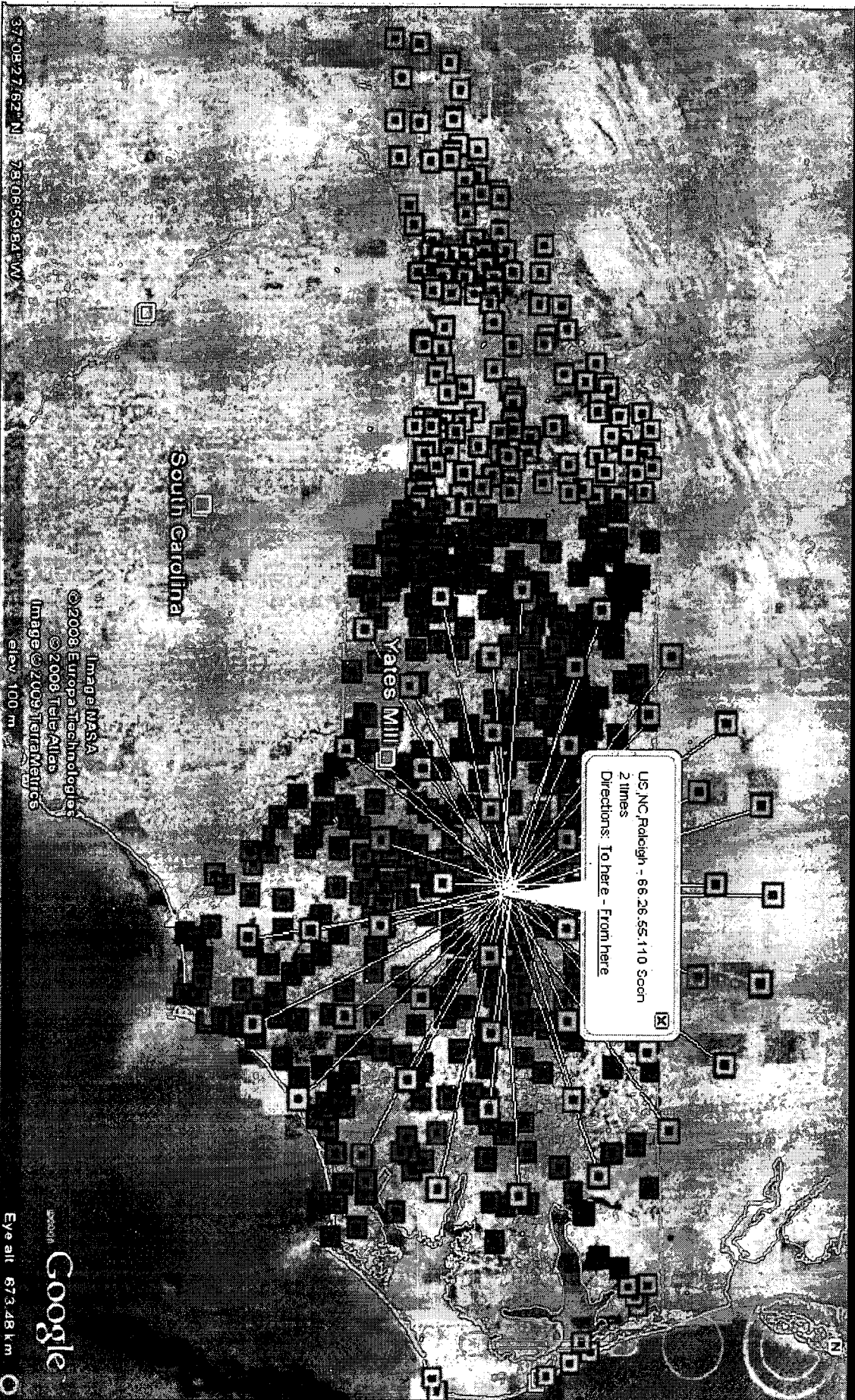
X0X4GBE2RXJ5QMIIIBUZTLAMLQZZP2E34
T06JGQMYIC6CU4T2TUXUDEB4XUCHC6WT

Child Sexual Abuse Image - Suspected Wyoming ICAC
Child Sexual Abuse Image - Submitted by Hanson, Dale as notable: 2006-19

----- LAST RECORD -----

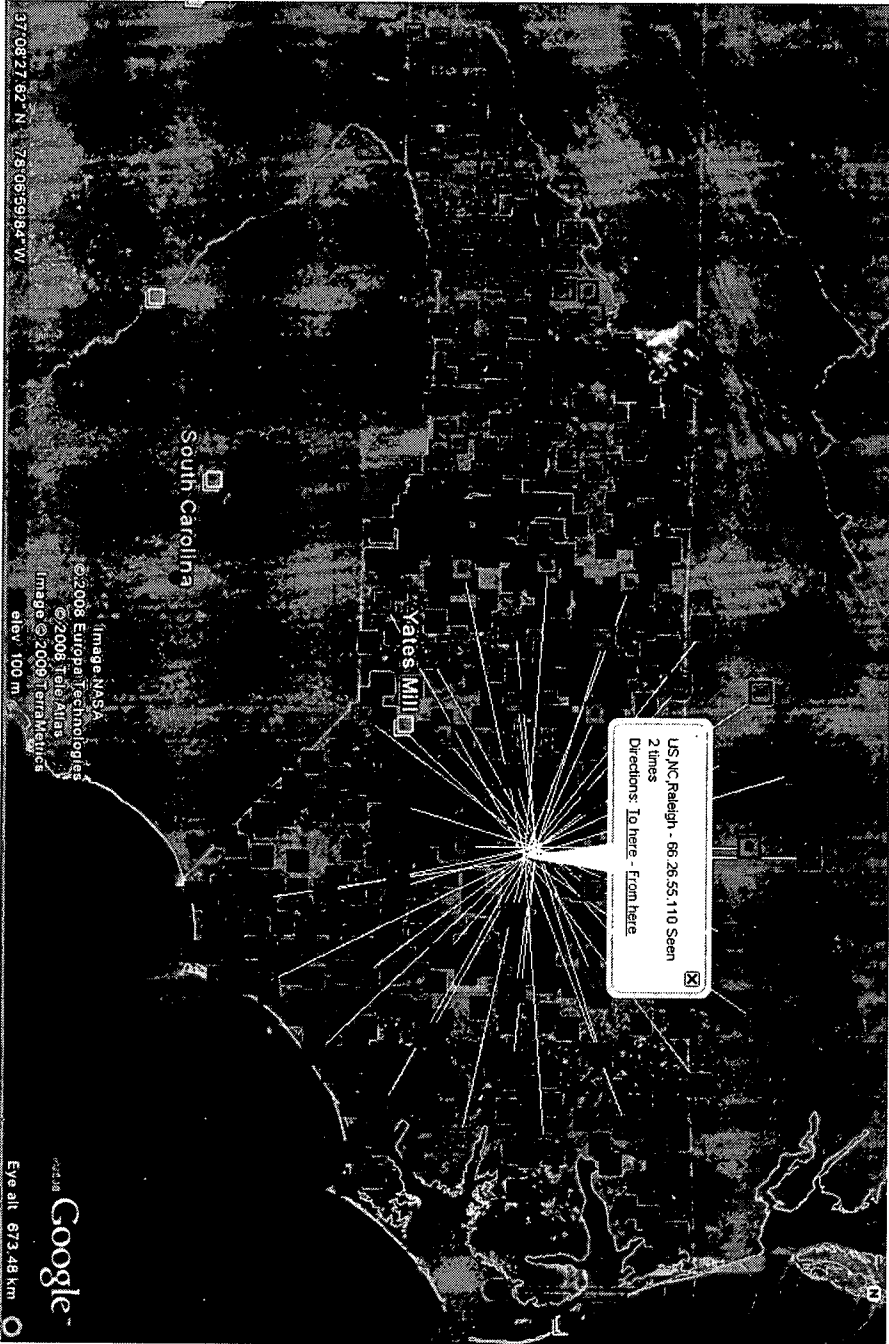
- Finally using a program that compares the signatures of his files he is sharing with known child pornography I can see that this suspect has other additional know files of child pornography.
- My case if properly documented is now ready for a search warrant after Subpoena Identify of who owns the IP address
- Using one agent I can make any number of cases a day in NC – however, that does not give the manpower to do the actual searches – case preparation – interviews – forensics - and everything else involved in a case.

Who Shares CP in NC via P2P?



NC SBI Actual (SBI Full Cases)

- 2006 - 145 cases (10 Agents)
- 2007 - 195 cases (12 Agents)
- 2008 - 137 (Early November stats) cases (13 Agents)
- Using full year figures and not using 2008 data
 - 1 Agent can work approximately = 30 cases per year



37.0827 82° N 78.0659184° W

South Carolina

Yates Mill

US NC Raleigh - 66 26 55 110 Seen
2 Times
Directors: [To here](#) - [From here](#)

Image MSA
©2008 Europa Technologies
©2008 Tele Atlas
Image ©2008 TerraMetrics
elev 100 m

Google
Eye alt 673.48 km

§ 14-208.18. Sex offender unlawfully on premises.

(a) It shall be unlawful for any person required to register under this Article, if the offense requiring registration is described in subsection (b) [subsection (c)] of this section, to knowingly be at any of the following locations:

- (1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.
- (2) Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.
- (3) At any place where minors gather for regularly scheduled educational, recreational, or social programs.

(b) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is the parent or guardian of a minor may take the minor to any location that can provide emergency medical care treatment if the minor is in need of emergency medical care.

(c) Subsection (a) of this section is applicable only to persons required to register under this Article who have committed any of the following offenses:

- (1) Any offense in Article 7A of this Chapter.
- (2) Any offense where the victim of the offense was under the age of 16 years at the time of the offense.

(d) A person subject to subsection (a) of this section who is a parent or guardian of a student enrolled in a school may be present on school property if all of the following conditions are met:

- (1) The parent or guardian is on school property for the purpose for one of the following:
 - a. To attend a conference at the school with school personnel to discuss the academic or social progress of the parents' or guardians' child; or
 - b. The presence of the parent or guardian has been requested by the principal or his or her designee for any other reason relating to the welfare or transportation of the child.
- (2) The parent or guardian complies with all of the following:
 - a. Notice: The parent or guardian shall notify the principal of the school of the parents' or guardians' registration under this Article and of his or her presence at the school unless the parent or guardian has permission to be present from the superintendent or the local board of education, or the principal has granted ongoing permission for regular visits of a routine nature. If permission is granted by the superintendent or the local board of education, the superintendent or chairman of the

local board of education shall inform the principal of the school where the parents' or guardians' will be present. Notification includes the nature of the parents' or guardians' visit and the hours when the parent or guardian will be present at the school. The parent or guardian is responsible for notifying the principal's office upon arrival and upon departure. Any permission granted under this sub-subdivision shall be in writing.

b. Supervision: At all times that a parent or guardian is on school property, the parent or guardian shall remain under the direct supervision of school personnel. A parent or guardian shall not be on school property even if the parent or guardian has ongoing permission for regular visits of a routine nature if no school personnel are reasonably available to supervise the parent or guardian on that occasion.

(e) A person subject to subsection (a) of this section who is eligible to vote may be present at a location described in subsection (a) used as a voting place as defined by G.S. 163-165 only for the purposes of voting and shall not be outside the voting enclosure other than for the purpose of entering and exiting the voting place. If the voting place is a school, then the person subject to subsection (a) shall notify the principal of the school that he or she is registered under this Article.

(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C-378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. 115C-391(d)(2).

(g) A juvenile subject to subsection (a) of this section may be present at a location described in that subsection if the juvenile is at the location to receive medical treatment or mental health services and remains under the direct supervision of an employee of the treating institution at all times.

(h) A violation of this section is a Class H felony. (2008-117, s. 12.)

THE NORTH CAROLINA

SEX OFFENDER & PUBLIC PROTECTION

REGISTRATION PROGRAMS

This publication is only represented to be current as of the revision date on this cover page. Material in this publication may have been altered, added, or deleted since the revision date. Information contained in this publication should not be relied upon as legal advice in a particular scenario. This information is designed as a reference guide only.

ROY COOPER, ATTORNEY GENERAL



NORTH CAROLINA DEPARTMENT OF JUSTICE
LAW ENFORCEMENT LIAISON SECTION

REVISED OCTOBER 2008

www.ncdoj.gov

PREFACE

We have prepared this publication to help the citizens of North Carolina understand the Sex Offender Registration Programs. As of April 1, 1998, substantial information about convicted sex offenders has been made available to the public, including information about the identity of sex offenders, where they currently reside, and the offenses they committed. The Department of Justice is continuing to work with local law enforcement to provide information in a thorough manner so that the public will be fully informed. Any suggestions for improving this publication should be directed to the Law Enforcement Liaison Section within the North Carolina Attorney General's office at (919) 716-6725.

Roy Cooper
Attorney General

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NORTH CAROLINA SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS

I. HISTORY

In October of 1994, Congress enacted the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. (42 USC § 14071(f)) (hereinafter, "The Wetterling Act"). In broad terms, the Wetterling Act provided for a system and outline for various states to create sex offender registration programs in order to continue to receive certain federal funds. The various states had three (3) years from the Act's original enactment date of September 13, 1994 to comply with these standards. The Wetterling Act was modified on May 17, 1996 by way of "Megan's Law" (Public Law 104-145) which added provisions relating to the release of registration information. The Wetterling Act was again modified by way of "The Pam Lychner Sexual Offender Tracking Act of 1996." The Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109) provides for a new comprehensive set of minimum standards for sex offender registration and notification in the United States. The deadline for implementation of the Adam Walsh Act is July 27, 2009, with an allowance for up to two, one-year extensions.

On January 1, 1996, the North Carolina General Assembly created North Carolina's first sex offender registration law, known as the "Amy Jackson Law." In 1998 and 2001, North Carolina's Sex Offender Registration Programs was rewritten to comply with the standards set forth in the Wetterling, Megan and Pam Lychner Laws. In 2008, the legislature passed three new laws, including the "Jessica Lunsford Act." These laws made many changes to include reducing the time period sex offenders have to report changes in their registration information, banning sex offenders from certain Web sites visited by children, and certain offenders from premises regularly used by children including schools, children museums, child care centers, nurseries, playgrounds, etc. The North Carolina Sex Offender and Public Protection Registration Programs are codified in Article 27A of Chapter 14 of the North Carolina General Statutes. (N.C.G.S. §§ 14-208.5 - 208.45) Article 27A is comprised of five (5) parts:

- Part 1. Registration Programs, Purpose, and Definitions Generally.
- Part 2. Sex Offender and Public Protection Registration Program.
- Part 3. Sexually Violent Predator Registration Program.
- Part 4. Registration of Certain Juveniles Adjudicated for Committing Certain Offenses.
- Part 5. Sex Offender Monitoring.

This outline is intended to give North Carolina citizens an overview of their state's Sex Offender and Public Protection Registration Programs. This publication is not intended to be, nor should be construed as legal advice or guidance.

II. PURPOSE OF NORTH CAROLINA'S REGISTRATION PROGRAMS

N.C.G.S. § 14-208.5

The General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is of paramount governmental interest.

The General Assembly also recognizes that persons who commit certain other types of offenses against minors, such as kidnapping, pose significant and unacceptable threats to the public safety and welfare of the children in this State and that the protection of those children is of great governmental interest. Further, the General Assembly recognizes that law enforcement officers' efforts to protect communities, conduct investigations, and quickly apprehend offenders who commit sex offenses or certain offenses against minors are impaired by the lack of information available to law enforcement agencies about convicted offenders who live within the agency's jurisdiction. Release of information about these offenders will further the governmental interests of public safety so long as the information released is rationally related to the furtherance of those goals.

Therefore, it is the purpose of Article 27A (Sex Offender and Public Protection Registration Programs) to assist law enforcement agencies' efforts to protect communities by requiring persons who are convicted of sex offenses or of certain other offenses committed against minors to register with law enforcement agencies, to require the exchange of relevant information about those offenders among law enforcement agencies, and to authorize the access to necessary and relevant information about those offenders to others as provided in this Article.

III. WHO IS REQUIRED TO REGISTER?

Three groups of persons are required to register:

- A. Residents who have a "reportable conviction;" (N.C.G.S. § 14-208.7(a))
- B. Nonresident students who have a "reportable conviction" or are required to register in their state of residency; and (N.C.G.S. § 14-208.7(a1))
- C. Nonresident workers who have a "reportable conviction" or are required to register in their state of residency. (N.C.G.S. § 14-208.7(a2))

IV. REPORTABLE CONVICTIONS AND EFFECTIVE DATES

A resident, nonresident student or worker who has a "reportable conviction" shall register provided their offense meets the relevant EFFECTIVE DATE triggering requirements.

The General Assembly has specified the effective date triggering requirements in the session laws that enacted the Sex Offender and Public Protection Registration Programs.¹

¹ Several relevant session laws are cited in this publication as [__S.L.___]. Session laws may be accessed via the North Carolina General Assembly's Website at <http://www.ncleg.net/>.

A. North Carolina Convictions that are Reportable Convictions
 N.C.G.S. §§ 14-208.6(4)a., 14-208.6(4)d.

1. An “**offense against a minor**” is a reportable conviction. “Offense against a minor” is defined by N.C.G.S. § 14-208.6(1i) to include the following offenses if the offense is committed against a minor (person who is less than 18 years old), and the person committing the offense is not the minor’s parent:

N.C.G.S. §	Offense Against a Minor	Effective Date
14-39	Kidnapping	<u>April 1, 1998</u> is effective date. (Session Law 1997-516 does not specify whether offense, conviction, or other triggering event must occur on or after April 1, 1998. At the least, it applies to offenses COMMITTED on or after that date.) For offenses committed before Dec. 1, 1999, does not include offenses committed by minor’s parent or <u>legal custodian</u> . [1999 S.L. 393]
14-41	Abduction of Children	<u>April 1, 1998</u> is effective date. (Session Law 1997-516 does not specify whether offense, conviction, or other triggering event must occur on or after April 1, 1998. At the least, it applies to offenses COMMITTED on or after that date.) For offenses committed before Dec. 1, 1999, does not include offenses committed by minor’s parent or <u>legal custodian</u> . [1999 S.L. 393]
14-43.3	Felonious Restraint	<u>April 1, 1998</u> is effective date. (Session Law 1997-516 does not specify whether offense, conviction, or other triggering event must occur on or after April 1, 1998. At the least, it applies to offenses COMMITTED on or after that date.) For offenses committed before Dec. 1, 1999, does not include offenses committed by minor’s parent or <u>legal custodian</u> . [1999 S.L. 393]

* Effective Dec. 1, 2008, offenders found guilty of one of the above offenses will be banned from certain protected premises where children regularly gather (discussed later in this publication) if the victim of the offense was under the age of 16.

2. A “**sexually violent offense**” is a reportable conviction. “Sexually violent offense” is defined by N.C.G.S. § 14-208.6(5) to include violations of:

N.C.G.S. §	Sexually Violent Offense	Effective Date
14-27.2	First Degree Rape	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-27.2A	Rape of a Child; Adult Offender	Offenses COMMITTED on or after <u>Dec. 1, 2008</u>
14-27.3	Second Degree Rape	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>

N.C.G.S. §	Sexually Violent Offense	Effective Date
14-27.4	First Degree Sexual Offense	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-27.4A	Sexual Offense with a child; adult offender	Offenses COMMITTED on or after <u>Dec. 1, 2008</u>
14-27.5	Second Degree Sexual Offense	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-27.5A [2005 S.L. 130]	Sexual Battery	Offense COMMITTED on or after <u>Dec. 1, 2005</u>
14-27.6	Attempted Rape or Sexual Offense (Repealed in 1994)	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-27.7	Intercourse and Sexual Offense With Certain Victims	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-27.7A(a) [2006 S.L. 247]	Statutory Rape or Sexual Offense of a Person Who is 13, 14, or 15 Years -Of-Age, Where the Defendant is at Least Six (6) Years Older	Offenses COMMITTED on or after <u>Dec. 1, 2006</u>
14-43.13 [2006 S.L. 247]	Subjecting or Maintaining a Person for Sexual Servitude	Offenses COMMITTED on or after <u>Dec. 1, 2006</u>
14-178	Incest Between Near Relatives	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-190.6	Employing or Permitting Minor to Assist in Offenses Against Public Morality and Decency	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-190.9(a1) [2005 S.L. 226]	Felony Indecent Exposure	Offense COMMITTED on or after <u>Dec. 1, 2005</u>
14-190.16	First Degree Sexual Exploitation of a Minor	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-190.17	Second Degree Sexual Exploitation of a Minor	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-190.17A	Third Degree Sexual Exploitation of a Minor	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-190.18	Promoting Prostitution of a Minor	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-190.19	Participating in Prostitution of a Minor	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-202.1	Taking Indecent Liberties with Children	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>
14-202.3 [2005 S.L. 121]	Solicitation of a Child by Computer to Commit an Unlawful Sex Act	Offense COMMITTED on or after <u>Dec. 1, 2005</u>

N.C.G.S. §	Sexually Violent Offense	Effective Date
14-318.4(a1) [2008 S.L. 220]	Parent or Caretaker Commit or Permit Act of Prostitution with or by a Juvenile	Convicted or Released from Penal Institution on or after <u>Dec. 1, 2008</u>
14-318.4(a2) [2008 S.L. 220]	Commission or Allowing Sexual Act upon a Juvenile by Parent or Guardian	Convicted or Released from Penal Institution on or after <u>Dec. 1, 2008</u>

* Effective Dec. 1, 2008, offenders found guilty of one of the above offenses will be banned from certain protected premises where children regularly gather (discussed later in this publication) if the victim of the offense was under the age of 16 or if the offense is codified in Article 7A of Chapter 14 of the North Carolina General Statutes. (See Appendix I at the end of the publication for a list of Article 7A offenses)

3. North Carolina Convictions involving Aiding & Abetting, Attempt, Conspiracy, and Solicitation

	Offense	Effective Date
Aiding & Abetting	A final conviction for aiding and abetting an "offense against a minor" or "sexually violent offense" is a reportable conviction only if the court sentencing the individual finds that registration of that individual under Article 27A of Chapter 14 of the North Carolina General Statutes furthers the purposes of Article 27A, as stated in N.C.G.S. § 14-208.5. N.C.G.S. §§ 14-208.6(1i), 14-208.6(4)(a), 14-208.6(5) [1999 S.L. 363]	Offense COMMITTED on or after <u>Dec. 1, 1999</u> *If underlying offense has later effective date, use the effective date of that offense.
Attempt	A final conviction for an attempt to commit an "offense against a minor" or a "sexually violent offense" is a reportable conviction. N.C.G.S. § 14-208.6(4)(a) [1997 S.L. 516]	April 1, 1998 is effective date. (Session Law 1997-516 does not specify whether offense, conviction, or other triggering event must occur on or after April 1, 1998. At the least, it applies to offenses COMMITTED on or after that date.) *If underlying offense has later effective date, use the effective date of that offense.
Conspiracy or Solicitation	"Offense against a minor" includes a solicitation or conspiracy to commit an "offense against a minor." "Sexually violent offense" includes a solicitation or conspiracy to commit a "sexually violent offense." N.C.G.S. §§ 14-208.6(1i), 14-208.6(5) [1999 S.L. 363]	Offense COMMITTED on or after <u>Dec. 1, 1999</u> *If underlying offense has later effective date, use the effective date of that offense.

* Effective Dec. 1, 2008, offenders found guilty of one of the above offenses will be banned from certain protected premises where children regularly gather (discussed later in this publication) if the victim of the offense was under the age of 16 or if the underlying offense is codified in Article 7A of Chapter 14 of the North Carolina General Statutes. (See Appendix I at the end of the publication for a list of Article 7A offenses)

4. **Secretly Peeping**
N.C.G.S. § 14-208.6(4)d.

N.C.G.S. §	Secretly Peeping Offense	Effective Date
14-202 (a) or (c) [2003 S.L. 303]	Secretly Peeping Will be a reportable conviction only for a second or subsequent conviction and only if the court sentencing the individual issues an order pursuant to 14-202(l) requiring the individual to register.	Only for a second or subsequent conviction, if that offense was COMMITTED on or after <u>Dec. 1, 2003</u> and the court sentencing the individual issues an order pursuant to 14-202(l) requiring the individual to register.
14-202 (a1) [2004 S.L. 109]	Secretly Peeping Will be a reportable conviction only for a second or subsequent conviction and only if the court sentencing the individual issues an order pursuant to 14-202(l) requiring the individual to register.	Only for a second or subsequent conviction, if that offense was COMMITTED on or after <u>Dec. 1, 2004</u> and the court sentencing the individual issues an order pursuant to 14-202(l) requiring the individual to register.
14-202 (d),(e),(f),(g) or (h) [2003 S.L. 303]	Secretly Peeping Will be a reportable conviction only if the court sentencing the individual issues an order pursuant to 14-202(l) requiring the individual to register.	Only for offenses that were COMMITTED on or after <u>Dec. 1, 2003</u> and the court sentencing the individual issues an order pursuant to 14-202(l) requiring the individual to register.

* Effective Dec. 1, 2008, offenders found guilty of one of the above offenses will be banned from certain protected premises where children regularly gather (discussed later in this publication) if the victim of the offense was under the age of 16.

B. Convictions from Other States that are Reportable Convictions

N.C.G.S. §	Basis of Reportable Conviction	Effective Date
14-208.6(4)(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” is a reportable conviction. Includes <u>conspiracy or solicitation to commit any of these offenses and aiding and abetting any of these offenses.</u>	Use effective date for underlying “offense against a minor” or “sexually violent offense”
14-208.6(4)(b)	A final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state is a reportable conviction. Includes <u>ANY offense that requires registration in state of conviction.</u>	Applies to individuals who MOVE into North Carolina on or after <u>Dec. 1, 2006</u> . Also applies to any offense COMMITTED on or after <u>Dec. 1, 2006</u> regardless of when the individual moved into the state.

* Effective Dec. 1, 2008, offenders found guilty of one of the above offenses will be banned from certain protected premises where children regularly gather (discussed later in this publication) if the victim of the offense was under the age of 16. Convictions from other states will never qualify as an Article 7A offense. Thus, offenders not convicted in North Carolina, will be prohibited from these protected premises only if the offender had previously committed an offense against a victim who was under the age of 16 years. Law enforcement may wish to review the statute under which the offender was convicted. If the statute has an element requiring the victim be under the age of 16 years old, then the offender is prohibited from these locations and no further research is necessary. If the statute does not have such a requirement, then law enforcement must determine the actual age(s) of the offender's victim(s) at the time of the offense(s)

C. Federal Convictions that are Reportable Convictions

N.C.G.S. §	Basis of Reportable Conviction	Effective Date
14-208.6(4)(c) [1997 S.L. 15]	A final conviction in a federal jurisdiction for an offense which is substantially similar to an "offense against a minor," or a "sexually violent offense" is a reportable conviction. Includes <u>conspiracy or solicitation to commit any of these offenses and aiding and abetting any of these offenses.</u>	Convicted or released from a penal institution on or after <u>April 3, 1997.</u> *If underlying offense has later effective date, use the effective date of that offense.

* Effective Dec. 1, 2008, offenders found guilty of one of the above offenses will be banned from certain protected premises where children regularly gather (discussed later in this publication) if the victim of the offense was under the age of 16. Federal convictions will never qualify as an Article 7A offense. Thus, offenders not convicted in North Carolina, will be prohibited from these protected premises only if the offender had previously committed an offense against a victim who was under the age of 16 years. Law enforcement may wish to review the statute under which the offender was convicted. If the statute has an element requiring the victim be under the age of 16 years old, then the offender is prohibited from these locations and no further research is necessary. If the statute does not have such a requirement, then law enforcement must determine the actual age(s) of the offender's victim(s) at the time of the offense(s).

D. Note, "**Final Conviction**" is not statutorily defined. A North Carolina misdemeanor conviction from District Court that has been appealed to Superior Court is not a final conviction unless the appeal has been withdrawn and the case has been remanded. Pursuant to N.C.G.S. § 15A-1431, a defendant has 10 days from entry of judgment in District Court to appeal a conviction to Superior Court.

V. NONRESIDENT STUDENTS AND WORKERS

N.C.G.S. §	Who	Basis of Registration	Effective Date
14-208.6 (1g), 14-208.7(a1) [2001 S.L. 373]	Nonresident Student A person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.	Either has a "reportable conviction"(see above) or is required to register in their state of residency.	Oct. 1, 2001
14-208.6 (1h), 14-208.7(a1) [2001 S.L. 373]	Nonresident Worker A person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.	Either has a "reportable conviction" (see above) or is required to register in their state of residency	Oct. 1, 2001

VI. ADULT OFFENDER CLASSIFICATIONS

A person who is registered, **or is required to register under Article 27A** is a "registrant." (N.C.G.S. § 14-208.16) As stated earlier, Chapter 14, Article 27A of the North Carolina General Statutes (The Sex Offender and Public Protection Registration Programs) is comprised of five

parts. Parts 2 and 3 create the following four (4) classifications of adult registrants: offenders, aggravated offenders, recidivists, and sexually violent predators.

A. Offenders (Part 2 Registrants)

Part 2, "Sex Offender and Public Protection Registration Program," establishes the basic registration program for adult offenders who are required to register. Registrants required to register under Part 2 are classified as "offenders." (N.C.G.S. § 14-208.6A)

B. Aggravated Offenders, Recidivists, and Sexually Violent Predators (Part 3 Registrants)

Any restriction or requirement placed on a Part 2 offender applies to a Part 3 registrant. (N.C.G.S. § 14-208.21) Due to the more serious nature of their offenses, specific court determinations, or their recidivism, "aggravated offenders," "sexually violent predators," and "recidivists" are also subject to the more stringent set of registration requirements that are found in Part 3, "Sexually Violent Predator Registration Program." (N.C.G.S. § 14-208.6A)

N.C.G.S. §	Classification	Who Qualifies	Effective Date
14-208.6(1a), 14-208.21 [2001 S.L. 373]	Aggravated Offender "Aggravated offender" is not a statutory term, but is commonly used to refer to an individual convicted of an "aggravated offense," as defined in N.C.G.S. § 14-208.6(1a).	A person who commits any registerable criminal offense that includes either of the following: (1) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence, or (2) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years-of-age.	An individual shall be registered as an aggravated offender <u>only</u> if the offense was COMMITTED on or after <u>October 1, 2001</u> .
14-208.6(2b), 14-208.21 [2001 S.L. 373]	Recidivist	A person who has a prior conviction for an offense described in N.C.G.S. § 14-208.6(4)	An individual shall be registered as a recidivist if they have at least one reportable conviction for an offense COMMITTED on or after <u>October 1, 2001</u> .
14-208.6(6), 14-208.20 14-208.21 [1997 S.L. 516]	Sexually Violent Predator	An individual who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder, that makes the person likely to engage in sexually violent offenses directed at strangers, or at a person with whom a relationship has been established or promoted for the primary purpose of victimization. (See below for more details on requirements)	<u>April 1, 1998</u> is effective date. The sentencing court must make a determination and written findings. (Session Law 1997-516 does not specify whether offense, conviction, or other triggering event must occur on or after April 1, 1998. At the least, it applies to offenses COMMITTED on or after that date.)

C. Sexually Violent Predator Determination Process

N.C.G.S. §§ 14-208.20, 14-208.21
[1997 S.L. 516; 2001 S.L. 373]

A “sexually violent predator” is defined in N.C.G.S. § 14-208.6(6) as an individual who has been convicted of a sexually violent offense and who suffers from a “mental abnormality” or “personality disorder,” that makes the person likely to engage in sexually violent offenses directed at strangers, or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

A “mental abnormality” is defined in N.C.G.S. § 14-208.6(1f) as a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts, to a degree that makes the person a menace to the health and safety of others.

A “personality disorder” is defined in N.C.G.S. § 14-208.6(2a) as an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual’s culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

In order to be classified as a sexually violent predator the requirements set out in N.C.G.S. § 14-208.20 must be complied with. N.C.G.S. § 14-208.20 requires the following:

1. When a person is charged by indictment or information with the commission of a sexually violent offense, the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall, within the time provided for the filing of pretrial motions under N.C.G.S. § 15A-952, file a notice of the district attorney’s intent.
2. Prior to sentencing a person as a sexually violent predator, the court shall order a pre-sentence investigation in accordance with N.C.G.S. § 15A-1332(c). However, the study of the defendant and whether the defendant is determined to be a sexually violent predator shall be conducted by a board of experts selected by the Department of Correction. The board of experts shall be composed of at least four (4) people. Two (2) of the board members shall be experts in the field of the behavior and treatment of sexual offenders, one (1) of whom shall be selected from a panel of experts in those fields provided by the North Carolina Medical Society, and not employed with the Department of Correction or employed on a full-time basis with any other State agency. One (1) of the board members shall be a victim’s rights advocate, and one (1) of the board members shall be a representative of law enforcement agencies.
3. When the defendant is returned from the pre-sentence commitment, the court shall hold a sentencing hearing in accordance with N.C.G.S. § 15A-1334. At the sentencing hearing, the court shall, after taking the pre-sentencing report under

advisement, make written findings as to whether the defendant is classified as a sexually violent predator and the basis for the court's findings.

D. Additional Registration Requirements for Part 3 Registrants

Part 3 Registrants are subject to all of the registration requirements that apply to Part 2 Registrants. (N.C.G.S. § 14-208.21) In addition to the registration requirements placed on all registrants, aggravated offenders, recidivists, and sexually violent predators are subject to the following requirements:

1. Lifetime registration.²
(N.C.G.S. § 14-208.23)
2. Providing the following additional registration information:
(N.C.G.S. § 14-208.22)
 - a. Identifying factors,
 - b. Offense history, and
 - c. Documentation of any treatment received by the person for the person's mental abnormality or personality disorder.
3. Must verify registration information every 90 days.³
(N.C.G.S. § 14-208.24)
4. May be subject to satellite-based monitoring under Part 5 of Article 27A. (See Section X. "Satellite-Based Monitoring Program" of this publication for more details.)

VII. REGISTRATION AND VERIFICATION PROCESS

[1995 S.L. 545; 1997 S.L. 516; 2001 S.L. 373; 2002 S.L. 147; 2006 S.L. 247]

A. Where to Register

N.C.G.S. §§ 14-208.7(a), 14-208.7(a1)

Residents required to register shall report, IN PERSON, to the sheriff of the county of residence. Nonresident students and workers are required to maintain registration with the sheriff in the county where the person attends school or works.

² Compare to qualifying Part 2 registrants who, 10 years from date of their initial registration, may request termination of their registration requirement by petitioning the superior court in the district where they reside. N.C.G.S. § 14-208.12A

³ Compare to Part 2 registrants who must verify registration information every six months under N.C.G.S. § 14-208.9A.

B. When to Register

N.C.G.S. §	Who	Deadline
14-208.7(a)(2)	Current North Carolina resident convicted who did not receive an active sentence	Immediately upon conviction
14-208.7(a)(1) Effective until Dec. 1, 2008	Current North Carolina resident who received an active sentence.	Within 10 days of release from a correctional institution
14-208.7(a)(1) [2008 S.L. 117] Effective Dec. 1, 2008	Current North Carolina resident who received an active sentence.	Within 3 business days of release from a correctional institution
14-208.7(a) Effective until Dec. 1, 2008	Person moves into North Carolina from outside the State	Within 10 days of establishing residency in North Carolina, <u>or</u> whenever the offender has been present in North Carolina for 15 days, <u>whichever comes first</u>
14-208.7(a) [2008 S.L. 117] Effective Dec. 1, 2008	Person moves into North Carolina from outside the State	Within 3 business days of establishing residency in North Carolina <u>or</u> whenever the offender has been present in North Carolina for 15 days, <u>whichever comes first</u>
14-208.6(1g), 14-208.7(a1)	Nonresident student	When enrolled in any type of school in North Carolina
14-208.6(1h), 14-208.7(a1)	Nonresident worker	When has employment or carries on vocation in North Carolina, on part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year

C. Initial Notification of Duty to Register

1. Normally, offenders convicted in North Carolina who do not receive an active sentence are notified of their duty to register by the sentencing judge.
2. For offenders convicted in North Carolina who receive an active sentence and are subject to registration after release from a North Carolina penal institution, an official of the penal institution will, within at least ten (10) days, but not earlier than 30 days before the offender is due to be released:
 - a. Inform the offender of the their duty to register under Article 27A of Chapter 14, of the North Carolina General Statutes, and require the offender to sign a written statement that the offender was so informed, or if the offender refuses to sign the statement, certify that the offender was so informed;

- b. Obtain the registration information required, as well as the address where the offender expects to reside upon the offender's release; and
- c. Send the information collected to the Sex Offender Coordination Unit of the Criminal Information and Identification Section of the North Carolina State Bureau of Investigation (hereinafter CIIS) and the sheriff of the county in which the offender expects to reside.

3. Notification of Registration Requirements by Division of Motor Vehicles (DMV)
N.C.G.S. §§ 20-9(I), 20-9.3
[2006 S.L. 247]

DMV shall provide notice to each person who applies for the issuance of a drivers license, learner's permit, or instruction permit to operate a motor vehicle, and to each person who applies for an identification card, that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes.

Furthermore, DMV shall not issue a drivers license to an applicant who has resided in this State for less than 12 months until DMV has searched the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in another state.

If DMV finds that the person is currently registered as a sex offender in another state, DMV shall not issue a drivers license to the person until the person submits proof of registration pursuant to Article 27A of Chapter 14 of the General Statutes issued by the sheriff of the county where the person resides.

If the person does not appear on the National Sex Offender Public Registry, DMV shall issue a drivers license but shall require the person to sign an affidavit acknowledging that the person has been notified that if the person is a sex offender, then the person is required to register pursuant to Article 27A of Chapter 14 of the General Statutes.

4. In certain circumstances, sex offenders notified of their duty to register by other states or jurisdictions will be deemed to have adequate notice of their duty to register in North Carolina. State v. Bryant, 359 N.C. 554, 614 S.E.2d 479 (2005)

D. **Information Collected by the Sheriff**
N.C.G.S. § 14-208.7(b)

1. **Initial Registration.** The sheriff shall collect the following information:
 - a. Registrant's full name, all aliases, date of birth, sex, race, height, weight, eye color, hair color, drivers license number and home address;

- b. Type of offense for which the registrant was convicted, date of offense, date of conviction, age of victim, and sentence imposed⁴;
- c. Current photograph;
- d. Registrant's fingerprints;
- e. A statement indicating whether the registrant is a student, or expects to enroll as a student within one (1) year of registering, the name and address of any educational institution at which the person is or expects to enroll as a student; and
- f. A statement indicating whether the registrant is employed or expects to be employed at an institution of higher education within one (1) year of registering, the name and address of any institution of higher education at which the person is or expects to be employed.
- g. (Effective May 1, 2009) Any online identifier that the person uses or intends to use.⁵
- h. If the registrant is an aggravated offender, recidivist, or sexually violent predator, then the following registration information is also required under N.C.G.S. § 14-208.22:
 - 1. Identifying factors;
 - 2. Offense history; and
 - 3. Documentation of any treatment received by the person for the person's mental abnormality or personality disorder.

Once the registrant completes the registration process, the registering sheriff shall immediately send the registration information to the CIIS in a manner determined by the SBI. The sheriff shall retain the original registration form and other information collected, and will compile the information that is considered a public record into a county registry. A county registry is defined as the information compiled by the sheriff of a county in compliance with this law.

⁴ Effective Dec. 1, 2008, pursuant to N.C.G.S. § 14-208.18, offenders whose victims were under the age of 16 at the time of offense will be prohibited from certain locations. Therefore, the date of offense and age of victim will be collected and displayed on the public Web site.

⁵ **Online identifier** is defined in N.C.G.S. § 14-208.6(1n) as electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number. **Electronic mail** is defined in N.C.G.S. § 14-208.6(1d) as the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

The sheriff shall provide the registrant with written proof of registration at the time of registration upon registration completion.

Note, the registrant may not be required to pay any fees for the photographs or fingerprints taken at the time of registration.

2. **Mandatory Verification**

N.C.G.S. §§ 14-208.9A, 14-208.11(a)(3), 14-208.24
[1995 S.L. 545; 1997 S.L. 516; 2001 S.L. 373; 2002 S.L. 147; 2006 S.L. 247;
2008 S.L. 220]

The CIIS shall mail a nonforwardable verification form to the registrant. The offender has three (3) business days from receipt of the letter to appear IN PERSON at the offender's local sheriff's office to complete the verification process.⁶ Failure to comply with these verification procedures is a Class F Felony.

All verifications must be made IN PERSON. The frequency of the required verifications will depend on the classification of the offender.

N.C.G.S. §	Classification of Offender	Frequency of Mandatory Verification
14-208.9A	Offenders (Part 2 Registrants)	Every year on the anniversary date of the initial registration, and again six (6) months after that date
14-208.24	Aggravated Offenders, Recidivists, and Sexually Violent Predators (Part 3 Registrants)	Every 90 days after the person's initial registration date

The following information shall be verified:

- a. Offender's Address.
- b. Online Identifier (Effective May 1, 2009) Every offender must verify whether they still use or intend to use any previously reported online identifiers. The offender must also must report any new or different online identifiers they use or intend to use.
- c. Photograph. During verification, if it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, the sheriff shall take a new photograph of the offender.

⁶ Prior to Dec. 1, 2008, offenders must report in person within 10 days of receipt of letter.

3. **Sheriff Authorized to Conduct Additional Verification**

- a. **Address**. During the period that an offender is required to be registered, the sheriff is authorized to attempt to verify that the offender continues to reside at the last registered address.
- b. **Photograph**. If it appears to the sheriff that the current photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, the offender shall allow the sheriff to take another photograph of the offender at the time of the sheriff's request. If requested by the sheriff, the offender shall appear IN PERSON at the sheriff's office during normal business hours within three business days of being requested to do so, and shall allow the sheriff to take another photograph of the sex offender.⁷

E. **Registrant's Duty to Update Registry Information**

N.C.G.S. § 14-208.9

[1995 S.L. 545; 1997 S.L. 516; 2001 S.L. 373; 2002 S.L. 147; 2006 S.L. 247; 2007 S.L. 213, 484]

N.C.G.S. §	Event	Notification Required	Deadline
14-208.9(a)	Offender changes address - new address in a same county	Report IN PERSON and provide written notification of new address to the sheriff's office of the county with whom the offender last registered.	Within 3 business days of change of address ⁸
14-208.9(a) [2007 S.L. 213]	Offender changes address - new address in a different North Carolina county	Report IN PERSON and provide written notification of new address to both the sheriff's office of the county with whom the offender last registered and the sheriff's office of the new county.	Must report within 3 business days to sheriff of the county of current residence and within 10 days to the sheriff of the new county ⁹
14-208.9(b) [2006 S.L. 247]	Offender intends to move to another state	Report IN PERSON and provide written notification of the address, municipality, county and state of intended residence to the sheriff's office of the county of current residence	At least 3 business days before person intends to leave North Carolina to establish residence in other state or jurisdiction ¹⁰

⁷ Prior to Dec. 1, 2008, offenders must report within 72 hours.

⁸ Prior to Dec. 1, 2008, offenders must report within 10 days of change of address.

⁹ Prior to Dec. 1, 2008, offenders must report within 10 days to both sheriffs.

¹⁰ Prior to Dec. 1, 2008, offenders must report at least 10 days before date.

N.C.G.S. §	Event	Notification Required	Deadline
14-208.9(b1)	Offender who indicated their intent to reside in another state or jurisdiction decides to remain in state	Report IN PERSON to the sheriff's office to which the offender reported their intent to move out-of-state	Within 3 business days after the date the offender indicated they would leave this state ¹¹
14-208.9 [2008 S.L. 220] Effective May 1, 2009 ¹²	A person required to register changes or obtains a new online identifier (For the definition of online identifier see Section VII. D. 1. "Initial Registration" of this publication..)	Report IN PERSON to the sheriff of the county with whom the person registered to provide the new or changed online information	Within 10 days of changing or obtaining a new online identifier
14-208.8A [2006 S.L. 247; 2007 S.L. 484]]	<p>1. The offender is employed or carries on a vocation in a North Carolina county other than the county in which they are registered for more than ten (10) business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year, on a part-time or full-time basis, with or without compensation, or government, or educational benefit;</p> <p style="text-align: center;">AND</p> <p>2. They maintain a temporary residence in that county for more than ten (10) business days within a 30-day period, or for an aggregate period exceeding 30 days in a calendar year</p>	The offender shall notify the sheriff of the county with whom the offender is registered of their place of employment and temporary residence (includes hotels, motels, or other transient lodging places)	<p>1. Within 72 hours after the offender knows or should know that they will be working and maintaining a temporary residence in a county other than the county in which the offender resides, for more than ten (10) business days within a 30-day period; OR</p> <p>2. Within ten (10) days after the offender knows or should know that they will be working or maintaining a temporary residence in a county other than the county in which the person resides, for an aggregate period exceeding 30 days in a calendar year</p>
14-208.6(9) 14-208.9(c)	Offender changes academic status by enrolling as a student or terminating enrollment as a student (person enrolled on a full-time or part-time basis, in any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education)	Report IN PERSON to the sheriff of the county with whom the person is registered and provide written notice of offender's new status	Within 3 business days of enrollment or termination of enrollment ¹³ Note, this may only apply to persons convicted on or after Oct. 2, 2002. Law enforcement should consult with their district attorney before charging.

¹¹ Prior to Dec. 1, 2008, offenders must report at least 10 days after date.

¹² Any person registered prior to May 1, 2009, shall not be in violation of the online identifier requirements if they provide the required information at the first verification of information that occurs on or after May 1, 2009.

¹³ Prior to Dec. 1, 2008, offenders must report within 10 days of change.

N.C.G.S. §	Event	Notification Required	Deadline
14-208.6(1e) 14-208.9(d)	Offender changes employment status at institution of higher education (Postsecondary public or private education institution, including any trade or professional institution, college, or university)	Report IN PERSON to the sheriff of the county with whom the person is registered and provide written notice of offender's new status	Within 3 business days of obtaining employment or terminating employment at an institution of higher learning ¹⁴ Note, this may only apply to persons convicted on or after Oct. 2, 2002. Law enforcement should consult with their district attorney before charging.

The sheriff's office should immediately report updated information to CIIS.

F. Period of Registration

N.C.G.S. §§ 14-208.12A, 14-208.23
[2001 S.L. 373; 2006 S.L. 247]

N.C.G.S. §	Classification of Registrant	Period of Registration
14-208.6A 14-208.7 14-208.12A [2008 S.L. 117]	<u>Part 2 Registrants</u> registered on or after Dec. 1, 2008	<u>Ten (10) to thirty (30) years.</u> Offender will be registered for thirty (30) years following the date of initial county registration <u>unless</u> the offender successfully petitions the superior court to shorten their registration time period under N.C.G.S. § 14-208.12.A. Offender first eligible to petition ten (10) years after the date of initial county registration.
14-208.6A 14-208.7 14-208.12A [2008 S.L. 117]	<u>Part 2 Registrants</u> registered before Dec. 1, 2008	<u>Ten (10) years to life.</u> Offender will be registered for life following the date of initial county registration <u>unless</u> the offender successfully petitions the superior court to shorten their registration time period under N.C.G.S. § 14-208.12.A. Offender first eligible to petition ten (10) years after the date of initial county registration.
14-208.23	Aggravated Offenders, Recidivists, and Sexually Violent Predators (Part 3 Registrants)	Lifetime

Request for termination of registration requirement. A registered offender, who is not classified as a "Recidivist," "Sexually Violent Predator," or "Aggravated Offender" and has not been convicted of a subsequent offense requiring registration, may petition the superior court in the district where the offender resides, to terminate the registration requirement ten (10) years from the date of initial county registration. The petitioner should use the Administrative Office of the Courts' form AOC-CR-262 which is available on their website, www.nccourts.org, as well as at the local clerk's of court office.

¹⁴ Prior to Dec. 1, 2008, offenders must report within 10 days of change.

The court may grant relief and order the offender off the registry if:

1. The offender can show that since completing their sentence that they have not been arrested for any crime that would require registration;
2. The requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the termination of a registration requirement, or required to be met as a condition for the receipt of federal funds by the State; and
3. The court is otherwise satisfied that the petitioner is not a current or potential threat to public safety.

Additionally, the district attorney in the district in which the petition is filed shall be notified of the petition at least three (3) weeks before the hearing on the matter. The petitioner may present evidence in support of the petition and the district attorney may present evidence in opposition to the requested relief, or may otherwise demonstrate the reason(s) why the petition should be denied.

If the court denies the petition, the offender may again petition the court for relief one (1) year from the date of denial of the original petition to terminate the registration requirement. If the court grants the petition, the clerk of court shall forward a certified copy of the order to the CIIS to have the offender's name removed from the registry.

VIII. RESTRICTIONS

A. Residency Restrictions N.C.G.S. § 14-208.16 [2006 S.L. 247]

An offender who is required to register shall not knowingly reside within 1,000 feet of the property on which any public or non-public "school" or "child care center" is located. A "childcare center" is defined by N.C.G.S. § 110-86(3) as an arrangement where, at any one time, there are three (3) or more preschool-age children, or nine (9) or more school-age children receiving child care. For purposes of this restriction, "school" does not include home schools as defined in N.C.G.S. § 115C-563, or institutions of higher education.

This restriction does NOT apply to child care centers that are located on, or within 1,000 feet of the property of an institution of higher education where the offender is a student or is employed.

Changes in the ownership of or use of property within 1,000 feet of a registrant's registered address that occur after a registrant establishes residency at the registered address, shall not form the basis for finding that a registrant is in violation of this regulation. For purposes of this regulation, a residence is established when the registrant does any one of the following:

1. Purchases the residence or enters into a specifically enforceable contract to purchase the residence; or

2. Enters into a written lease contract for the residence and for as long as the offender is lawfully entitled to remain on the premises; or
3. Resides with an immediate family member who established residence in accordance with this provision. For purposes of this provision, "immediate family member" means a child or sibling who is 18 years of age or older, or a parent, grandparent, legal guardian, or spouse of the registrant.¹⁵

These residency restrictions became effective December 1, 2006, and apply to all offenders registered or required to register, on or after that date. These restrictions do NOT apply to an offender who has established a residence prior to December 1, 2006, in accordance with exceptions (1) through (3) listed above.

B. Limitation on Residential Use

N.C.G.S. § 14-208.17(b)
[2006 S.L. 247]

Offender's residence may not be used for child care. It is unlawful for any person to conduct any activity at their residence where the person:

1. Accepts a minor or minors into their care or custody from another, and
2. Knows that an offender who resides at the same location is required to register.

C. Employment and Volunteer Restrictions

N.C.G.S. § 14-208.17(a)
[2006 S.L. 247]

Offender may not instruct, supervise, or care for a minor. It is unlawful for any offender who is required to register to work for any person or as a sole proprietor, with or without compensation, at any place where a minor is present, and the offender's responsibilities or activities would include instruction, supervision, or care of a minor or minors.

D. Prohibition of Baby Sitting Service by Sex Offender or in Sex Offender's Home

N.C.G.S. § 14-321.1

No adult may provide or offer to provide a baby sitting service:

1. In a home where a resident of the home is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes, or
2. In which a provider of care for the baby sitting service is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

¹⁵ 2007 S.L. 213 revised the definition of immediate family member to require the child or sibling to be 18 years of age or older, and added grandparent, legal guardian, and spouse.

"Baby sitting service" is defined by N.C.G.S. § 14-321.1 as providing, for profit, supervision or care for a child under the age of 13 years who is unrelated to the provider by blood, marriage, or adoption, for more than two hours per day while the child's parents or guardian are not on the premises.

No adult may provide or offer to provide a baby sitting service where a provider of care for the baby sitting service is a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes.

A violation of this section that is a first offense is a Class 1 misdemeanor. A violation of this section that is a second or subsequent offense is a Class H felony. [2005 S.L.416]

E. Registered Offenders Prohibited from Commercial Social Networking Web Sites (Effective Dec 1, 2008)
N.C.G.S. § 14-202.5
[2008 S.L. 218]

It is unlawful for a sex offender who is registered under North Carolina's Sex Offender and Public Protection Programs to access a commercial social networking Web site where the sex offender knows that the site permits minor children to become members or to create or maintain personal Web pages on the commercial social networking Web site.

N.C.G.S. § 14-202.5(b) defines a "commercial social networking Web site" as an Internet Web site that meets all of the following requirements:

1. Is operated by a person who derives revenue membership fees, advertising, or other sources related to the operation of the Web site.
2. Facilitates the social introduction between two or more persons for the purposes of friendship, meeting other persons, or information exchanges.
3. Allows users to create Web pages or personal profiles that contain information such as the name or nickname of the user, photographs placed on the personal Web page by the user, other personal information about the user, and links to other personal Web pages on the commercial social networking Web site of friends or associates of the user that may be accessed by other users or visitors to the Web site.
4. Provides users or visitors to the commercial social networking Web site mechanisms to communicate with other users, such as a message board, chat room, electronic mail, or instant messenger.

A commercial social networking Web site does not include an Internet Web site that either:

1. Provides only one of the following discrete services: photo-sharing, electronic mail, instant messenger, or chat room or message board platform; or

2. Has as its primary purpose the facilitation of commercial transactions involving goods or services between its members or visitors.

Note, the offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

F. Prohibition on Name Changes by Sex Offenders (Effective Dec. 1, 2008)

N.C.G.S. § 14-202.6

[2008 S.L. 218]

It is unlawful for a sex offender registered under North Carolina's Sex Offender and Public Protection Programs to obtain a change of name under Chapter 101 of the North Carolina General Statutes.

G. Certain Offenders Prohibited from Protected Locations (Effective Dec. 1, 2008)

N.C.G.S. § 14-208.18

[2008 S.L. 117]

1. Which Offenders are Prohibited?

Only persons required to register under North Carolina Sex Offender and Public Protection Registration Programs because they have committed either:

- a. An offense under Article 7A of Chapter 14 of the North Carolina General Statutes; or
- b. An offense where the victim was under the age of 16 years at the time of offense.

(See Appendix I at the end of the publication.)

In situations in which an offender required to register has not committed an Article 7A crime and their crime does not clearly have an element requiring the victim to be under the age of 16 at the time of offense, in order to determine whether that offender is prohibited from certain locations under N.C.G.S. § 14-208.1, an examination of the facts of the case will be necessary to determine the age of the victim of the offense.

2. Where are they prohibited from going?

- a. The premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds;
- b. Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but

not limited to, places described above in the preceding paragraph that are located in malls, shopping centers, or other property open to the general public; and

- c. Any place where minors gather for regularly scheduled educational, recreational, or social programs.

3. Exceptions to the prohibition:

- a. A parent or guardian of a minor may take the minor to any location that can provide emergency medical care treatment if the minor is in need of emergency medical care.

- b. A parent or guardian of a student enrolled in a school may be present on school property if all of the following conditions are met:

- (1) The parent or guardian is on school property for the purpose for one of the following:

- (a) To attend a conference at the school with school personnel to discuss the academic or social progress of the parent's or guardian's child; or

- (b) The presence of the parent or guardian has been requested by the principal or his or her designee for any other reason relating to the welfare or transportation of the child, and

- (2) The parent or guardian complies with all of the following:

- (a) The parent or guardian shall notify the principal of the school of their registration and of their presence (upon arrival and departure) at the school unless they:

- (i) have written permission to be present from the superintendent or the local board of education, who shall notify the principal of the nature of the offender's visit and the hours when the offender will be present at the school; or

- (ii) the principal has granted ongoing permission in writing for regular visits of a routine nature.

- (b) A parent or guardian must be under the direct supervision of school personnel at all times they are on school property.

- c. There is an exception for persons eligible to vote at a prohibited location used as a voting place as defined by N.C.G.S. 163-165 . Such persons shall

be on the premises only for the purposes of voting and shall not be outside the voting enclosure other than for the purpose of entering and exiting the voting place. If the voting place is a school, then they shall notify the principal of the school that they are a registered offender.

- d. There is an exception for persons eligible under G.S. 115C-378 to attend public school to be present on school property if permitted by the local board of education. The student must be supervised by school personnel at all times.
- e. There is an exception for juveniles to be present at a location to receive medical treatment or mental health services if they remain under the direct supervision of an employee of the treating institution at all times.

IX. SEX OFFENDER SATELLITE-BASED MONITORING PROGRAM

N.C.G.S. §§ 14-208.40, 14-208.40A, 14-208.40B
[2006 S.L. 247; 2007 S.L. 213, 484; 2008 S.L. 117]

The North Carolina Department of Correction oversees a sex offender monitoring program that uses a continuous satellite-based monitoring system for certain registered sex offenders. Part 3 sex offenders (aggravated offenders, recidivists, and sexually violent predators) and offenders convicted of N.C.G.S. §§ 14-27.2A and 14-27.4A are subject to satellite-based monitoring. Also, Part 2 sex offenders who meet both of the following criteria are subject to satellite-based monitoring:

- 1) They committed an offense involving the physical, mental, or sexual abuse of a minor, and
- 2) Who, based on the Department of Correction's risk assessment program, require the highest possible level of supervision and monitoring.¹⁶

As of December 1, 2007, when an offender is convicted in North Carolina, the district attorney will present evidence to the court during the sentencing phase, and the court will make a determination as to whether the offender must enroll in the satellite-based monitoring program.¹⁷ Also effective December 1, 2007, the Department of Correction will make initial determinations for offenders who have not had judicial determinations as to whether they must enroll in the satellite-based monitoring program.¹⁸ The Department of Correction will then schedule court hearings for those offenders who are initially determined to be subject to the monitoring program. Hearings will be scheduled in the counties where the offenders reside. The courts will make all final determinations. For additional information concerning this program, contact the North Carolina Department of Correction at (919) 716-3700.

¹⁶ N.C.G.S. § 14-208.40A [2007 S.L. 213; 2007 S.L. 484]

¹⁷ N.C.G.S. § 14-208.40A [2007 S.L. 213; 2007 S.L. 484]

¹⁸ N.C.G.S. § 14-208.40B [2007 S.L. 213; 2007 S.L. 484]

X. DUTIES TO REPORT AND ARREST

- A. Pursuant to N.C.G.S. § 14-208.11A, it is illegal for anyone who has reason to believe that an offender is in violation of the requirements of Article 27A (North Carolina’s Sex Offender and Public Protection Registration Programs) to intentionally assist the offender in eluding arrest by withholding information or failing to notify law enforcement of the offender’s noncompliance, and, if known, the whereabouts of the offender. For further details about a person’s duty to report noncompliance, see the chart below and N.C.G.S. § 14-208.11A.

- B. Pursuant to N.C.G.S. § 14-208.11, a probation officer, parole officer, or any other law enforcement officer, who is aware that a person has committed a violation of N.C.G.S. § 14-208.11(a), shall immediately arrest the person in violation in accordance with N.C.G.S. § 15A-401, or seek an order for the person's arrest in accordance with N.C.G.S. § 15A-305. For more information, see N.C.G.S. § 14-208.11, including subsection (c) that addresses offenders that are incarcerated in, or in custody, of a local, State, private, or federal correctional facility.

- C. (Effective May 1, 2009) Pursuant to N.C.G.S. § 14-208.15A, an entity that receives either a complaint that a person is using its service to solicit a minor by computer to commit an unlawful sex act as defined in N.C.G.S. § 14-202.3, or a report that a user may be violating N.C.G.S. § 14-190.17 or N.C.G.S. § 14-190.17A by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity, shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. (See Section XIII. B. 6. “Release of Online Identifiers” of this publication for the definition of “entity”.)

XI. CRIMES AND PENALTIES

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-202.5 (Effective Dec. 1, 2008)	Registered Offender	Accesses commercial social networking Web site where offender knows the site permits minor children to become members or create or maintain personal Web pages	Class 1 felony
14-208.9A(c)	Person required to register	Fails to comply with sheriff’s request for additional photograph as required by G.S. § 14-208.9A(c)	Class 1 misd.
14-208.11(a)(1)	Person required to register	Fails to register as required	Class F felony
14-208.11(a)(2)	Person required to register	Fails to notify the last registering sheriff of a change of address	Class F felony
14-208.11(a)(3)	Person required to register	Fails to return a verification notice as required under G.S. § 14-208.9A	Class F felony

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-208.11(a)(4)	Person required to register	Forges or submits under false pretenses the information or verification notices required under this Article	Class F felony
14-208.11(a)(5)	Person required to register	Fails to inform the registering sheriff of enrollment or termination of enrollment as a student	Class F felony
14-208.11(a)(6)	Person required to register	Fails to inform the registering sheriff of employment at an institution of higher education or termination of employment at an institution of higher education	Class F felony
14-208.11(a)(7)	Person required to register	Fails to report IN PERSON to the sheriff's office as required by G.S. §§ 14-208.7, 14-208.9, and 14-208.9A	Class F felony
14-208.11(a)(8)	Person required to register	Reports their intent to reside in another state or jurisdiction but remains in this State without reporting to the sheriff in the manner required by G.S. § 14-208.9.	Class F felony
14-208.11(a)(9)	Person required to register	(Effective June 1, 2007) Fails to notify the registering sheriff of out-of-county employment if temporary residence is established as required under G.S. § 14-208.8A	Class F felony
11-208.11(a)(10) [2008 S.L. 220]	Person required to register	Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use (Effective May 1, 2009, but persons registered prior to May 1, 2009, shall not be in violation of the online identifier requirements if they provide the required information at the first verification of information that occurs on or after May 1, 2009)	Class F felony
14-208.11A(a)(1)	Any person who has reason to believe an offender is in violation of Article 27A, and who has intent to assist the offender in eluding arrest	Withhold information from, or fail to notify, a law enforcement agency about the offender's noncompliance with the requirements of this Article, and, if known, the whereabouts of the offender as required by G.S. § 14-208.11A (This provision does not apply if the offender is incarcerated or is in the custody of a local, state, private, or federal correctional facility)	Class H felony
14-208.11A(a)(2)	Any person who has reason to believe an offender is in violation of Article 27A, and who has intent to assist the offender in eluding arrest	Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the offender (This provision does not apply if the offender is incarcerated or is in the custody of a local, state, private, or federal correctional facility)	Class H felony

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-208.11A(a)(3)	Any person who has reason to believe an offender is in violation of Article 27A, and who has intent to assist the offender in eluding arrest	Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the offender (This provision does not apply if the offender is incarcerated or is in the custody of a local, state, private, or federal correctional facility)	Class H felony
14-208.11A(a)(4)	Any person who has reason to believe an offender is in violation of Article 27A, and who has intent to assist the offender in eluding arrest	Provide information to a law enforcement agency regarding the offender that the person knows to be false information (This provision does not apply if the offender is incarcerated or is in the custody of a local, state, private, or federal correctional facility)	Class H felony
14-208.16(f)	Person required to register	Violates residential restrictions as established by G.S. § 14-208.16 (reside within 1,000 ft of school or child care center)	Class G felony
14-208.17(c)	Person required to register	Violates prohibition as established by G.S. § 14-208.17 against working or volunteering for child-involved activities	Class F felony
14-208.17(c)	Any person	Violates limitation as established by G.S. § 14-208.17 on residential use	Class F felony
14-208.18 (Effective Dec. 1, 2008)	Persons required to register who have committed any Article 7A offense <u>or</u> any offense where the victim of the offense was under the age of 16 years at the time of offense	Unlawfully on protected premises which are generally places intended primarily for the education, use, care, or supervision of minors. Must analyze each situation and statute to determine: 1. Is the offender covered by this statute? 2. Are the premises protected by the statute? 3. Does the offender fall into one of the statutory exceptions?	Class H felony
14-208.44(a)	Person required to enroll in a satellite-based monitoring program	Failure to enroll	Class F felony
14-208.44(b) [2007 S.L. 213]	Any person	Intentionally tampers with, removes, vandalizes, or otherwise interferes with the proper functioning of a device issued pursuant to a satellite-based monitoring program to a person duly enrolled in the program	Class E felony
14-208.44(c) [2007 S.L. 213]	Person required to enroll in a satellite-based monitoring program	Failure to provide necessary information to the Department of Correction, or fails to cooperate with the Department's guidelines and regulations for the program	Class 1 misd.

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-321.1(c)	Any person	Violation of prohibition established in G.S. § 14-321.1 against baby sitting service by sex offender or in the home of a sex offender	First offense is Class 1 misd.; Second or subsequent offense is Class H felony

XII. REGISTRATION PROCEDURES FOR JUVENILES

A. Juveniles Transferred to and Convicted in Superior Court

N.C.G.S. § 14-208.6B

[1997 S.L. 516]

A juvenile transferred to superior court pursuant to N.C.G.S. § 7B-2200 who is convicted of a "sexually violent offense" or an "offense against a minor" must register IN PERSON just as an adult convicted of the same offense must register. The effective date for this provision is April 1, 1998. (Session Law 1997-516 does not specify whether offense, conviction, or other triggering event must occur on or after April 1, 1998. At the least, it applies to offenses COMMITTED on or after that date.)

B. Juveniles Adjudicated Delinquent

Juveniles adjudicated delinquent are subject to Part 4 "Registration of certain juveniles adjudicated delinquent for committing certain offenses."

1. Registration Requirement

N.C.G.S. § 14-208.26

[1997 S.L. 516; 1999 S.L. 363]

Whenever a juvenile, who is at least eleven (11) years-of-age at the time of the commission of the offense, is adjudicated delinquent for one of offenses listed below, the court shall consider whether the juvenile is a danger to the community.

- N.C.G.S. § 14-27.2 First Degree Rape
- N.C.G.S. § 14-27.3 Second Degree Rape
- N.C.G.S. § 14-27.4 First Degree Sexual Offense
- N.C.G.S. § 14-27.5 Second Degree Sexual Offense
- N.C.G.S. § 14-27.6 Attempted Rape/Sexual Offense (Repealed in 1994)

This also includes the attempt, conspiracy, or solicitation of another to commit any of the preceding offenses, and, aiding and abetting of any of the preceding offenses.

If the presiding judge determines the juvenile is a danger to the community, the court must then consider whether the juvenile should be required to register with the county sheriff.

A juvenile may only be required to register if the court first determines the juvenile is a danger to the community. If the judge issues an order that the juvenile must register, the presiding judge shall conduct the notification procedures, as specified for adults. The chief court counselor of that district must then file the registration information for the juvenile with the appropriate sheriff.

2. Change of Address
N.C.G.S. § 14-208.27
[1997 S.L. 516]

If a juvenile, who is required to register, changes their place of residence, the court counselor for the juvenile must provide written notice of the new address, no later than the third business day after the address change, to the sheriff of the county with whom the juvenile had last registered.¹⁹ Upon receipt of this notice, the sheriff shall immediately forward this information to the CIIS. If the juvenile moves to another county in North Carolina, the CIIS shall inform the sheriff of the new county of the juvenile's new address.

3. Verification of Information
N.C.G.S. § 14-208.28
[1997 S.L. 516; 2006 S.L. 247]

Information provided to the sheriff must be verified on the anniversary date of the initial registration, and every six (6) months thereafter, for each juvenile registrant, as follows:

- a. Every year on the anniversary date of a juvenile's initial registration date and six (6) months after that date. The sheriff shall mail a verification form to the juvenile's assigned juvenile court counselor;
- b. The juvenile's assigned juvenile court counselor shall return the verification form to the sheriff within 3 business days, after receipt of the form;²⁰ and
- c. The verification form shall be signed by the juvenile court counselor and the juvenile, and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, the new address shall be indicated on the form.

¹⁹ Prior to Dec. 1, 2008, court counselors shall provide written notice to the sheriff within 10 days of the change.

²⁰ Prior to Dec. 1, 2008, court counselors shall return the form within 10 days of receipt of the form.

4. Juvenile Registration Information is Not Public Record

N.C.G.S. § 14-208.29
[1997 S.L. 516; 2008 S.L. 117]

Juvenile registration information is not public information, and is not available for public inspection. The registration information of a juvenile offender must be maintained separately by the sheriff and released only to law enforcement agencies. Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via the Internet.

As of December 1, 2008, juvenile registration may be released to the local board of education. Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education.

5. Termination of Registration Requirement

N.C.G.S. § 14-208.30
[1997 S.L. 516]

The requirement that a juvenile register automatically terminates on the juvenile's eighteenth (18th) birthday, or when the juvenile court's jurisdiction with the juvenile ends, whichever comes first.

XIII. COUNTY AND STATEWIDE REGISTRIES

A. County Registry

N.C.G.S. § 14-208.10
[1995 S.L. 545; 1997 S.L. 516]

1. Public Record. The following information in a county registry regarding a person required to register is public record, and will be available for public inspection:

- a. Name;
- b. Sex;
- c. Address;
- d. Physical description;
- e. Picture;
- f. Offense for which registration was required;
- g. Date of offense;
- h. Age of the victim at the time of offense;
- i. Conviction date;
- j. Sentence imposed as a result of the conviction; and
- k. Registration status.

A sheriff shall release any other relevant information that is necessary to protect the public concerning a specific offender, but cannot release the identity of the victim of the registerable offense.

2. **Restricted Information.** Information regarding an offender's medical records or documentation of treatment for the offender's mental abnormality or personality disorder shall not be part of the public record. A sheriff cannot release the identity of the victim of the registerable offense.
3. **Public Access to Information.** Any person may obtain a copy of an offender's registration form, a segment of the county registry, or all of the county registry, by submitting a written request to the sheriff. Again, however, the identity of the victim cannot be released. A sheriff may charge a reasonable fee for duplicating and mailing costs.

B. Statewide Registry
N.C.G.S. § 14-208.15
[1997 S.L. 516]

1. **The Statewide Registry Shall Include Registration Information:**
 - (a) Obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency;
 - (b) Received from a state or local law enforcement agency or penal institution in another state; and
 - (c) Received from a federal law enforcement agency or penal institution.
2. **Designated Custodian of Statewide Registry**
N.C.G.S. §§ 14-208.14, 14-208.15
[1997 S.L. 516; 2002 S.L. 147; 2008 S.L. 220]

The CIIS will compile and maintain a current, central statewide sex offender registry. As custodian of the registry, the CIIS has the following responsibilities:

- (a) To receive from any law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The CIIS shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.
- (b) To provide all need-to-know law enforcement agencies immediately upon receipt of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.
- (c) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the CIIS of relevant

information based on registration information or notice of a change of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the CIIS shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

- (d) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.
- (e) To provide public access to the statewide registry in accordance with this Article.
- (f) (Effective May 1, 2009) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.

3. Certain Statewide Registry Information is Public Record

Public record information in the statewide registry is the same as that set out in the county registry. The CIIS will release any other relevant information necessary to protect the public concerning a specific offender, but will not release the identity of a victim.

4. Public Access to Information.

The CIIS will provide free public access to automated data from the statewide registry, including a photograph provided by the registering sheriff via the Internet. The public will be able to access the statewide registry to view individual registration records, segments of the statewide registry, or all of the statewide registry. The CIIS will also provide copies of registry information to the public upon written request and may charge a reasonable fee for duplicating and mailing costs. The Internet address for the statewide registry is:

<http://www.ncfindoffender.gov/>

5. Required Use of Registry Information

- (a) **Principals and Day Care Center Licensees**
N.C.G.S. § 14-208.25A. (Effective Dec. 1, 2008)

The licensee for each licensed day care center and the principal of each elementary school, middle school, and high school shall register with the North Carolina Sex Offender and Public Protection Registry

to receive e-mail notification when a registered sex offender moves within a one-mile radius of the licensed day care center or school.

(b) Boards of Education and Contractual Personnel

N.C.G.S. § 115C-332.1. (Effective Dec. 1, 2008)

Local boards of education shall contractually prohibit any contractual personnel listed on the State Sex Offender and Public Protection Registries or the National Sex Offender Registry from having direct interaction with students. Each board of education shall require contractors to conduct an annual check of these registries to see if any of their employees whose jobs involves direct interaction with children are on these registries.

6. Release of Online Identifiers

N.C.G.S. § 14-208.15A. (Effective May 1, 2009)

CIIS may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.²¹ CIIS may charge an annual fee of \$100 for this service. This information shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

N.C.G.S. § 14-202.5A allows a commercial social networking site to be held civilly liable for damages for failing to make reasonable efforts to prevent a sex offender registered under North Carolina's Sex Offender and Public Protection Programs from accessing its Web site.

XIV. FREQUENTLY ASKED QUESTIONS

How can I learn if an offender has moved into my neighborhood?

You can search the public website or contact your county sheriff. You can also sign up at <http://www.ncfindoffender.gov/> to receive email notification when a sex offender registers to an address in your neighborhood.

What are some of the limitations of the Registry?

The North Carolina Sex Offender and Public Protection Registry is an important tool in promoting public safety. The Registry provides information pertaining to known offenders whose offenses require registration under North Carolina law. The Registry does not include information on those

²¹ Entity is defined by N.C.G.S. § 14-208.6(1f) as a business or organization that provides Internet service, electronic communications service, remote computing service, online service, electronic mail service, or electronic instant message or chat services whether the business or organization is within or outside the State.

individuals whose sexually violent behavior has not come to the attention of authorities. To be included on the Registry, the offender must have been convicted of a reportable offense. Whether an offense is reportable is determined by statute. There are persons whose offenses are not reportable and are not included on the Registry. For example, because of certain North Carolina General Statute provisions, juvenile offenders adjudicated delinquent are not included in the Registry.

Positive identification of a person you believe to be a sex offender can only be made by a fingerprint comparison between that person and the person in the state registry. Other information such as name, date of birth, and other information are not necessarily unique to one individual.

The State Bureau of Investigation and county sheriffs make every effort to ensure Registry information is accurate and current. Although the database is updated regularly, information can change quickly. If you have information or reason to believe that information on the Registry is inaccurate, immediately contact the sheriff of the county where the offender last registered.

How do offenders petition for removal from the sex offender registry? Whom should I contact if I have relevant information concerning such a petition?

Under N.C.G.S. § 14-208.12A, adult registrants not classified as recidivists, aggravated offenders, or sexually violent predators may petition to be removed from North Carolina's Sex Offender and Public Protection Registry website. To petition, offenders must have been registered for at least ten (10) years on the North Carolina Registry. Time spent on another state's registry is not considered towards the ten (10) year minimum requirement.

An offender must petition the superior court in the district where they currently reside. Form AOC-CR-262 should be used, and can be downloaded from <http://www.nccourts.org>. If certain requirements are met, the court is satisfied the offender is not a current or potential threat to public safety, and the judge is satisfied removal does not violate federal law, the court will order the offender to be removed from the public Registry website.

The district attorney in the prosecutorial district must be given notice of the petition at least three weeks prior to the court hearing the matter. The district attorney may oppose the offender's petition for termination of registration, and may present evidence as to why the offender should not be removed from the Registry.

Anyone with information as to why an offender should remain on the Registry, or why an offender is a potential threat to public safety, should provide that information to the district attorney in the prosecutorial district where the offender is registered. The district attorney is the public official who can ensure relevant information is presented to the court when the offender's petition is heard. A list of district attorneys can be found at <http://www.ncdistrictattorney.org/>. Information can also be provided to the county sheriff where the offender is currently registered. A list of county sheriffs can be found at <http://www.ncsheriffs.org/ncmap.htm>.

If the court denies the petition, the offender may petition the court again in one (1) year. The offender may continue to petition the court annually, thereafter.

If the court grants the petition, the county clerk of court will forward a certified copy of the order to the SBI's Criminal Information and Identification Section. Provided the face of the order appears valid, the offender will be removed from the public Registry website.

Are there any changes in the registration programs expected?

The Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109) provides for a new comprehensive set of minimum standards for sex offender registration and notification in the United States. The deadline for implementation of the Adam Walsh Act is July 27, 2009 with an allowance for up to two 1-year extensions. It is very likely that North Carolina will pass new legislation in response to this federal law. For more information on the Adam Walsh Act, please visit the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office website at <http://www.ojp.usdoj.gov/smart/guidelines.htm>. The SMART Office is part of the U.S. Department of Justice.

APPENDIX I

Effective December 1, 2008, pursuant to N.C.G.S. § 14-208.18, persons required to register under North Carolina Sex Offender and Public Protection Registration Programs who have committed either:

- a. An offense under Article 7A of Chapter 14 of the North Carolina General Statutes; or
 - b. An offense where the victim was under the age of 16 years at the time of offense
- are prohibited from many premises that are regularly used by children. (See Section VIII. 8. "Certain Offenders Prohibited from Protected Locations" of this publication for more information.)

North Carolina Article 7A Offenses	
A person required to register under North Carolina law who has committed any of the following offenses is prohibited from going onto the premises described in Section VIII. G. of this publication regardless of the age of the victim.	
14-27.2	First Degree Rape
14-27.2A	Rape of a Child; Adult Offender
14-27.3	Second Degree Rape
14-27.4	First Degree Sexual Offense
14-27.4A	Sexual Offense with a child; adult offender
14-27.5	Second Degree Sexual Offense
14-27.5A	Sexual Battery
14-27.6	Attempted Rape or Sexual Offense (Repealed in 1994)
14-27.7	Intercourse and Sexual Offense With Certain Victims
14-27.7A(a)	Statutory Rape or Sexual Offense of a Person Who is 13, 14, or 15 Years -Of-Age, Where the Defendant is at Least Six (6) Years Older

North Carolina Offenses in which the Victim Will Always Be Under 16	
A person required to register under North Carolina law who has committed any of the following offenses is prohibited from going onto the premises described in Section VIII. G. of this publication. To be convicted of any of these offenses, the person must have offended against a victim under the age of 16.	
14-27.7A(a)	Statutory Rape or Sexual Offense of a Person Who is 13, 14, or 15 Years -Of-Age, Where the Defendant is at Least Six (6) Years Older
14-190.6	Employing or Permitting Minor to Assist in Offenses Against Public Morality and Decency
14-202.1	Taking Indecent Liberties with Children
14-318.4(a1)	Parent or Caretaker Commit or Permit Act of Prostitution with or by a Juvenile
14-318.4(a2)	Commission or Allowing Sexual Act upon a Juvenile by Parent or Guardian

Other North Carolina Offenses

If a person required to register has not committed a North Carolina offense that is listed in the previous charts, the person will be prohibited from going onto the premises described in Section VIII. G. of this publication if the person has committed a North Carolina offense in which the victim was under the age of 16 at the time of offense. Research must be done to determine the actual age(s) of the offender's victim(s) at the time of the offense(s)

Offenses from Other Jurisdictions

Neither a conviction from another state nor a federal convictions will qualify as an Article 7A offense. Thus, offenders not convicted in a North Carolina court, will be prohibited from going onto the premises described in Section VIII. G. of this publication only if the person has committed an offense in which the victim was under the age of 16 years at the time of offense. If the statute clearly has an element requiring the victim be under the age of 16 years old, then the offender is prohibited. If the statute does not have such a requirement, then research must be done to determine the actual age(s) of the offender's victim(s) at the time of the offense(s).

Offenses involving Aiding & Abetting, Attempt, Conspiracy, and Solicitation

Must analyze underlying offense and age of victim.



Attorney General Roy Cooper
North Carolina Department of Justice

Our SBI computer crimes experts work tirelessly to track down criminals and protect children. The SBI is also working to train more local officers to go online and catch these criminals so they can't hurt our children.

The SBI Computer Crimes Unit heads the NC Internet Crimes Against Children (ICAC) task force, which includes 70 law enforcement agencies across the state, and also works with the national ICAC task force on child exploitation cases that cross state lines.

The SBI also trains local law enforcement agencies across the state to conduct undercover investigations online.

DOJ has worked to toughen our laws against child predators and pornographers and added more investigators to root them out.

New state laws which DOJ pushed this year strengthened penalties for possession, dissemination and production of child pornography. The measure also increased the penalty for predators that solicit children over the Internet and then show up at a meeting place to assault a child.

DOJ will keep pushing for more help for law enforcement to protect kids and fight crime online.

- **DOJ will be seeking full funding for 8 new SBI Computer Crime and Computer Forensics Agents to increase proactive undercover law enforcement efforts and speed the analysis of computer forensic evidence in order to arrest and prosecute sexual predators who attempt to prey on our children.**

FY09-10 Appropriation required \$960,512



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Female Male

Missing within Year(s) >>>

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- Report a Sighting
- CyberTipline
- Get Involved
- AMBER Alert
- Donate
- Stay Informed

Resources for

- Parents & Guardians
- Law Enforcement
- Childcare Providers
- Attorneys
- Media

Topics of Focus

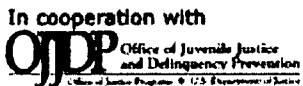
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- Child Safety
- Sex Offenders
- Success Stories
- Natural Disasters

Global Network

Learn More
Language

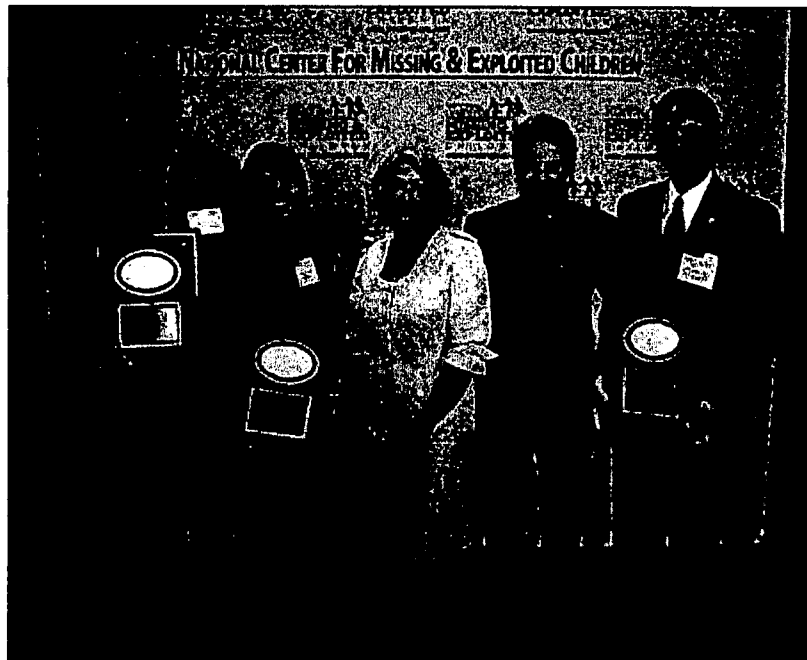
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Special Thanks



2008 National Missing and Exploited Children's Awards

Special Agent James Lewis and **Special Agent Alexis Carpinteri** of the Federal Bureau of Investigation in North Miami Beach, FL and **Special Agent Christopher Haas** of the North Carolina State Bureau of Investigation in Hickory were recognized for rescuing a dozen children from an online child pornography ring. The ring was abusing children as young as five years of age and webcasting the abuse live.



Left to Right: Special Agent James T. Lewis, Special Agent Alexis Carpinteri, Revé Walsh, John Walsh, and Special Agent Christopher R. Haas (Photo Credit: Robert Bird/NCMEC)

NC ICAC Task Force Members:
Alexander County SO
Asheville Police Department
Brunswick County SO
Buncombe County SO
Burlington PD
City-County Bureau of Identification
Caldwell County SO
Cary Police Dept.
Charlotte-Mecklenburg PD
Charlotte-Mecklenburg - School Law Enf.
Cherokee County SO
Clayton PD
Cleveland County SO
Cumberland County SO
Dare County SO
Durham PD
Eden PD-Investigative Bureau
Fayetteville PD
FBI - Raleigh
Forest City PD
Fuquay-Varina PD
Graham PD
Greene County SO
Greensboro PD
Greenville PD
Guilford County SO
Haywood County SO
Hendersonville PD
Hickory Police Department
Huntersville PD
Iredell County SO
Jacksonville PD
Johnston County SO
Kitty Hawk PD
Landis Police Department
Lenoir County SO
Madison PD
McDowell County Sheriff's Office
Nash County SO
NC State Bureau of Investigation
NC State University Police
New Bern Police Department
New Hanover Co. SO

Newton Police Department
Orange County SO
Pasquotank County SO
Pender County Sheriff's Office
Person County SO
Pinelake PD
Pitt County SO
Randolph County SO
Raeford Police Department
Raleigh PD
Rockingham PD
Statesville Police Department
Stokes County SO
Sylva PD
UNC Police Department
UNC Greensboro Dept. of
Union County Sheriff's Office
US Immigration and Customs Enforcement (ICE)
US Naval Criminal Investigative Service
US Postal Inspection Service
United States Secret Service
Wake County SO
Washington Police Department
Watauga County Sheriff's Office
Waynesville Police Department
Wilmington Police Dept.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

BILL DRAFT 2009-LHz-13 [v.2] (12/11)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
12/17/2008 5:18:25 PM

Short Title: Sex Offender Registry/Liberties w/ Student. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADD THE OFFENSE OF TAKING INDECENT LIBERTIES WITH A STUDENT TO THE LIST OF SEX OFFENSES THAT REQUIRE REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), 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. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), or G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex act), G.S. 14-202.4 (Taking indecent liberties

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1 with a student), G.S. 14-318.4(a1) (parent or caretaker commit or
2 permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)
3 (commission or allowing of sexual act upon a juvenile by parent or
4 guardian). The term also includes the following: a solicitation or
5 conspiracy to commit any of these offenses; aiding and abetting any of
6 these offenses."

7 **SECTION 2.** This act becomes effective December 1, 2009, and applies to
8 all persons convicted of a violation of G.S. 14-202.4 on or after that date, ~~and to all~~
9 ~~persons released from a penal institution on or after that date.~~



2009-LHZ-4B: Sex Offender/Register Temp. Residence

DRAFT BILL ANALYSIS

Committee: House Select Committee on Sex Offender Issues
Date: December 18, 2008
Summary by: Committee Counsel

SUMMARY: The draft bill does the following:

- Provides that a person who is required to register under the Sex Offender and Public Protection Registration Programs must report both the person's mailing address and the person's residential address to the appropriate sheriff for inclusion in the public registry.
- Requires a registrant to report in person to the appropriate sheriff any temporary residence maintained by the registrant. A temporary residence is defined as a place that is not located at the person's residential address and that is a place where the person abides, lodges, or sleeps: (i) for a period of five or more calendar days within a 30 calendar day period or (ii) for an aggregate period exceeding 30 calendar days in a calendar year.
- Directs the sheriff to remove any temporary residential address if the sheriff verifies that the registrant no longer maintains the temporary residence and has not been at the temporary residence for 30 days preceding the verification of the registrant's public registry information.
- Provides that the temporary residential address is to be included in the information available for public access through the public registry, unless removed from the registry by the sheriff pursuant to law.
- Creates a new criminal offense of failure to report a temporary residential address that is punishable as a Class F felony.
- Makes it a criminal offense knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony.
- Becomes effective December 1, 2009. The registration requirements apply both to persons who are already on the registry at the time of the effective date and to persons who are required to register on or after that date. The criminal offenses and penalties created by the draft bill apply only to offenses that occur on or after December 1, 2009.

SECTION BY SECTION DRAFT BILL ANALYSIS:

- Section 1.** Amends G.S. 14-208.6 to add definitions for two new terms: "mailing address" and "residential address."
- Section 2.** Amends G.S. 14-208.7 to provide that a registrant must provide both the registrant's mailing address and residential address to the sheriff to comply with registration requirements. Also clarifies in G.S. 14-208.7(b)(1a) that a registrant who has multiple residences must provide the residential address for each residence to the appropriate sheriff.
- Section 3.** Amends G.S. 14-208.9 to add a new subsection (a1) that requires a registrant to report in person to the sheriff of the county with whom the registrant is registered the address of any temporary

2009-LHZ-4B

Page 2

residence that the registrant maintains. The report must be made to the sheriff within 72 hours after the registrant knows or should know the registrant will be maintaining a temporary residence.

A temporary residence is defined as a place that is not located at the person's residential address and that is a place where the person abides, lodges, or sleeps: (i) for a period of five or more calendar days within a 30 calendar day period or (ii) for an aggregate period exceeding 30 calendar days in a calendar year.

The new subsection also requires the sheriff to forward the temporary residential address to the Division of Criminal Information of the Department of Justice and requires the Division to forward the notification to all affected county sheriffs.

The other amendments to the statute are conforming changes.

Section 4. Current law requires a registrant to verify at least semi-annually (and more often in some circumstances) that the information provided to the sheriff and the Division of Criminal Information of the Department of Justice for the county registry is still accurate. This section amends G.S. 14-208.9A to require as part of the information verification process that a registrant verify both the registrant's mailing and residential address and also indicate whether the registrant still maintains any temporary residence previously reported. If the registrant indicates that the registrant no longer maintains a temporary residence and has not been at that temporary residential address for the previous 30 days, then the sheriff is directed to remove the address from the public registry and to notify the Division of that fact. (Please note that in practice, the record of the temporary residence will continue to be included in the appropriate law enforcement data-base.)

The other changes to the statute are conforming changes.

Section 5. Amends G.S. 14-208.10(a) to include any reported temporary residential address of a registrant as part of the public registry available for public access and information unless the temporary residential address has been removed by the sheriff pursuant to law. (See G.S. 14-208.9A(a)(3)d.)

Section 6. Amends G.S. 14-208.11(a) to make a conforming change in subdivision (2) of that subsection and to add a new subdivision (11) that makes it a criminal offense to fail to report a temporary residential address. The offense is punishable as a Class F felony. Punishment for a Class F felony ranges from a minimum of 10 months intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 49 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 7. Amends G.S. 14-208.14(a) to make conforming changes.

Section 8. Current law prohibits a registrant from knowingly residing within 1000 feet of the property on which any public or nonpublic school or child care center is located. Section 8 of the legislative proposal amends G.S. 14-208.16(a) to make it unlawful for a registrant knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony. Punishment for a Class G felony ranges from a minimum of 8 months intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 36 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 9. Amends G.S. 14-208.28 to make conforming changes.

Section 10. Provides that the legislative proposal becomes effective December 1, 2009. Provides that the registration requirements, including the new requirement to report a temporary residential address, apply to persons who are currently on the registry as well as to persons who commit offenses on or after December 1, 2008, that require registration. Provides that the new criminal offenses enacted by the legislative proposal apply only to offenses that occur on or after December 1, 2008.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2009

H

D

BILL DRAFT 2009-LHz-4B [v.3] (10/16)

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

12/17/2008 3:59:40 PM

Short Title: Sex Offender/Register Temp. Residence.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, MUST ALSO REPORT IN PERSON TO AND NOTIFY THE APPROPRIATE SHERIFF OF THE ADDRESS OF ANY TEMPORARY RESIDENCES MAINTAINED BY THE REGISTRANT, AND TO MAKE VARIOUS CONFORMING CHANGES TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.
- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

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- 1 (1e) "Employed" includes employment that is full-time or part-time for a
2 period of time exceeding 14 days or for an aggregate period of time
3 exceeding 30 days during any calendar year, whether financially
4 compensated, volunteered, or for the purpose of government or
5 educational benefit.
- 6 (1f) "Entity" means a business or organization that provides Internet
7 service, electronic communications service, remote computing service,
8 online service, electronic mail service, or electronic instant message or
9 chat services whether the business or organization is within or outside
10 the State.
- 11 (1g) "Instant Message" means a form of real-time text communication
12 between two or more people. The communication is conveyed via
13 computers connected over a network such as the Internet.
- 14 (1h) "Institution of higher education" means any postsecondary public or
15 private educational institution, including any trade or professional
16 institution, college, or university.
- 17 (1i) "Internet" means the global information system that is logically linked
18 together by a globally unique address space based on the Internet
19 Protocol or its subsequent extensions; that is able to support
20 communications using the Transmission Control Protocol/Internet
21 Protocol suite, its subsequent extensions, or other Internet Protocol
22 compatible protocols; and that provides, uses, or makes accessible,
23 either publicly or privately, high-level services layered on the
24 communications and related infrastructure described in this
25 subdivision.
- 26 (1j) "Mailing address" means the location where a person receives his or
27 her mail.
- 28 (~~1j~~)(1k) "Mental abnormality" means a congenital or acquired condition of
29 a person that affects the emotional or volitional capacity of the person
30 in a manner that predisposes that person to the commission of criminal
31 sexual acts to a degree that makes the person a menace to the health
32 and safety of others.
- 33 (~~1k~~)(1l) "Nonresident student" means a person who is not a resident of
34 North Carolina but who is enrolled in any type of school in the State
35 on a part-time or full-time basis.
- 36 (~~1l~~)(1m) "Nonresident worker" means a person who is not a resident of
37 North Carolina but who has employment or carries on a vocation in the
38 State, on a part-time or full-time basis, with or without compensation
39 or government or educational benefit, for more than 14 days, or for an
40 aggregate period exceeding 30 days in a calendar year.
- 41 (~~1m~~)(1n) "Offense against a minor" means any of the following offenses if
42 the offense is committed against a minor, and the person committing
43 the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S.
44 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint).

The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

~~(1n)~~(1o) "Online identifier" means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.

(2) "Penal institution" means:

- a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;
- b. A detention facility operated under the jurisdiction of another state or the federal government; or
- c. A detention facility operated by a local government in this State or another state.

(2a) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

(2b) "Recidivist" means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).

(3) "Release" means discharged or paroled.

(4) "Reportable conviction" means:

- 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

1 individual issues an order pursuant to G.S. 14-202(l) requiring
2 the individual to register.

3 (4a) "Residential address" means the address of a person's residence.

4 (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first
5 degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S.
6 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual
7 offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S.
8 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual
9 battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7
10 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a)
11 (statutory rape or sexual offense of person who is 13-, 14-, or
12 15-years-old where the defendant is at least six years older), G.S.
13 14-43.13 (subjecting or maintaining a person for sexual servitude),
14 G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing
15 or permitting minor to assist in offenses against public morality and
16 decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S.
17 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17
18 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third
19 degree sexual exploitation of a minor), G.S. 14-190.18 (promoting
20 prostitution of a minor), G.S. 14-190.19 (participating in the
21 prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with
22 children), or G.S. 14-202.3 (Solicitation of child by computer to
23 commit an unlawful sex act), G.S. 14-318.4(a1) (parent or caretaker
24 commit or permit act of prostitution with or by a juvenile), or G.S.
25 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by
26 parent or guardian). The term also includes the following: a solicitation
27 or conspiracy to commit any of these offenses; aiding and abetting any
28 of these offenses.

29 (6) "Sexually violent predator" means a person who has been convicted of
30 a sexually violent offense and who suffers from a mental abnormality
31 or personality disorder that makes the person likely to engage in
32 sexually violent offenses directed at strangers or at a person with
33 whom a relationship has been established or promoted for the primary
34 purpose of victimization.

35 (7) "Sheriff" means the sheriff of a county in this State.

36 (8) "Statewide registry" means the central registry compiled by the
37 Division in accordance with G.S. 14-208.14.

38 (9) "Student" means a person who is enrolled on a full-time or part-time
39 basis, in any postsecondary public or private educational institution,
40 including any trade or professional institution, or other institution of
41 higher education."

42 SECTION 2. G.S. 14-208.7 reads as rewritten:

43 "§ 14-208.7. Registration.

1 (a) A person who is a State resident and who has a reportable conviction shall be
2 required to maintain registration with the sheriff of the county where the person resides.
3 If the person moves to North Carolina from outside this State, the person shall register
4 within three business days of establishing residence in this State, or whenever the
5 person has been present in the State for 15 days, whichever comes first. If the person is
6 a current resident of North Carolina, the person shall register:

7 (1) Within three business days of release from a penal institution or arrival
8 in a county to live outside a penal institution; or

9 (2) Immediately upon conviction for a reportable offense where an active
10 term of imprisonment was not imposed.

11 Registration shall be maintained for a period of at least 30 years following the date of
12 initial county registration unless the person, after 10 years of registration, successfully
13 petitions the superior court to shorten his or her registration time period under G.S.
14 14-208.12A.

15 (a1) A person who is a nonresident student or a nonresident worker and who has a
16 reportable conviction, or is required to register in the person's state of residency, is
17 required to maintain registration with the sheriff of the county where the person works
18 or attends school. In addition to the information required under subsection (b) of this
19 section, the person shall also provide information regarding the person's school or place
20 of employment as appropriate and the person's mailing and residential address in his or
21 her state of residence.

22 (b) The Division shall provide each sheriff with forms for registering persons as
23 required by this Article. The registration form shall require all of the following:

24 (1) The person's full name, each alias, date of birth, sex, race, height,
25 weight, eye color, hair color, ~~drivers license number, and home~~
26 ~~address-license number.~~

27 (1a) The person's mailing address and also the person's residential address
28 if the person resides at a location other than the mailing address. If a
29 person has multiple residential addresses, then the person shall provide
30 the address for each residential address.

31 (2) The type of offense for which the person was convicted, the date of
32 conviction, and the sentence imposed.

33 (3) A current photograph taken by the sheriff, without charge, at the time
34 of registration.

35 (4) The person's fingerprints taken by the sheriff, without charge, at the
36 time of registration.

37 (5) A statement indicating whether the person is a student or expects to
38 enroll as a student within a year of registering. If the person is a
39 student or expects to enroll as a student within a year of registration,
40 then the registration form shall also require the name and address of
41 the educational institution at which the person is a student or expects
42 to enroll as a student.

43 (6) A statement indicating whether the person is employed or expects to
44 be employed at an institution of higher education within a year of

1 registering. If the person is employed or expects to be employed at an
2 institution of higher education within a year of registration, then the
3 registration form shall also require the name and address of the
4 educational institution at which the person is or expects to be
5 employed.

6 (7) Any online identifier that the person uses or intends to use.

7 (c) When a person registers, the sheriff with whom the person registered shall
8 immediately send the registration information to the Division in a manner determined
9 by the Division. The sheriff shall retain the original registration form and other
10 information collected and shall compile the information that is a public record under
11 this Part into a county registry.

12 (d) Any person required to register under this section shall report in person at the
13 appropriate sheriff's office to comply with the registration requirements set out in this
14 section. The sheriff shall provide the registrant with written proof of registration at the
15 time of registration."

16 SECTION 3. G.S. 14-208.9 reads as rewritten:

17 "**§ 14-208.9. Change of address; notification of temporary residence; change of**
18 **academic status or educational employment status; change of online**
19 **identifier.**

20 (a) If-Unless provided otherwise by law, if a person required to register changes
21 the person's mailing address or residential address, the person shall report in person and
22 provide written notice of the new address not later than the third business day after the
23 change to the sheriff of the county with whom the person had last registered. If the
24 person moves to another county, the person shall also report in person to the sheriff of
25 the new county and provide written notice of the person's mailing address and
26 residential address not later than the tenth day after the change of address. Upon receipt
27 of the notice, the sheriff shall immediately forward this information to the Division.
28 When the Division receives notice from a sheriff that a person required to register is
29 moving to another county in the State, the Division shall inform the sheriff of the new
30 county of the person's new residence.

31 (a1) A person required to register under GS 14-208.7 shall report in person to and
32 notify the sheriff of the county with whom the person is registered if the person intends
33 to maintain a temporary residence for a period of 5 or more calendar days within a 30
34 calendar day period, or for an aggregate period exceeding 30 calendar days in a calendar
35 year. The person shall report to that sheriff within 72 hours after the person knows or
36 should know that he or she will be maintaining a temporary residence. A temporary
37 residence is a place where the person abides, lodges, or sleeps at a location other than
38 their reported residential address. Upon receipt of this notice, the sheriff shall
39 immediately forward this information to the Division. The Division shall in turn
40 forward this notification to all affected county sheriffs.

41 (b) If a person required to register intends to move to another state, the person
42 shall report in person to the sheriff of the county of current residence at least three
43 business days before the date the person intends to leave this State to establish residence
44 in another state or jurisdiction. The person shall provide to the sheriff a written

1 notification that includes all of the following information: the mailing address,
2 residential address, municipality, county, and state of intended residence.

3 (1) If it appears to the sheriff that the record photograph of the sex
4 offender no longer provides a true and accurate likeness of the sex
5 offender, then the sheriff shall take a photograph of the offender to
6 update the registration.

7 (2) The sheriff shall inform the person that the person must comply with
8 the registration requirements in the new state of residence. The sheriff
9 shall also immediately forward the information included in the
10 notification to the Division, and the Division shall inform the
11 appropriate state official in the state to which the registrant moves of
12 the person's notification and new mailing address and residential
13 address.

14 (b1) A person who indicates his or her intent to reside in another state or
15 jurisdiction and later decides to remain in this State shall, within three business days
16 after the date upon which the person indicated he or she would leave this State, report in
17 person to the sheriff's office to which the person reported the intended change of
18 residence, of his or her intent to remain in this State. If the sheriff is notified by the
19 sexual offender that he or she intends to remain in this State, the sheriff shall promptly
20 report this information to the Division.

21 (c) If a person required to register changes his or her academic status either by
22 enrolling as a student or by terminating enrollment as a student, then the person shall,
23 within three business days, report in person to the sheriff of the county with whom the
24 person registered and provide written notice of the person's new status. The written
25 notice shall include the name and address of the institution of higher education at which
26 the student is or was enrolled. The sheriff shall immediately forward this information to
27 the Division.

28 (d) If a person required to register changes his or her employment status either by
29 obtaining employment at an institution of higher education or by terminating
30 employment at an institution of higher education, then the person shall, within three
31 business days, report in person to the sheriff of the county with whom the person
32 registered and provide written notice of the person's new status not later than the tenth
33 day after the change to the sheriff of the county with whom the person registered. The
34 written notice shall include the name and address of the institution of higher education
35 at which the person is or was employed. The sheriff shall immediately forward this
36 information to the Division.

37 (e) If a person required to register changes an online identifier, or obtains a new
38 online identifier, then the person shall, within 10 days, report in person to the sheriff of
39 the county with whom the person registered to provide the new or changed online
40 identifier information to the sheriff. The sheriff shall immediately forward this
41 information to the Division."

42 **SECTION 4. G.S. 14-208.9A reads as rewritten:**

43 **"§ 14-208.9A. Verification of registration information.**

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

3 (1) Every year on the anniversary of a person's initial registration date, and
4 again six months after that date, the Division shall mail a
5 nonforwardable verification form to the last reported mailing address
6 of the person.

7 (2) The person shall return the verification form in person to the sheriff
8 within three business days after the receipt of the form.

9 (3) The verification form shall be signed by the person and shall indicate
10 the following:

11 a. Whether the person still resides at the address last reported to
12 the ~~sheriff.~~ sheriff as the person's residential address. If the
13 person has a different residential address, then the person shall
14 indicate that fact and the new residential address.

15 b. Whether the person still uses or intends to use any online
16 identifiers last reported to the sheriff. If the person has any new
17 or different online identifiers, then the person shall provide
18 those online identifiers to the sheriff.

19 c. Whether the person still receives his or her mail at the mailing
20 address last reported to the sheriff as the person's mailing
21 address. If the person has a different mailing address, then the
22 person shall indicate that fact and the new mailing address.

23 d. Whether the person still maintains any temporary residence
24 previously reported. If the person verifies that the person no
25 longer maintains a previously reported temporary residence and
26 has not been at that temporary residence for the previous 30
27 days, the sheriff shall remove the address of the temporary
28 residence from the public registry and shall notify the Division
29 of that fact.

30 (3a) If it appears to the sheriff that the record photograph of the sex
31 offender no longer provides a true and accurate likeness of the sex
32 offender, then the sheriff shall take a photograph of the offender to
33 include with the verification form.

34 (4) If the person fails to return the verification form in person to the sheriff
35 within three business days after receipt of the form, the person is
36 subject to the penalties provided in G.S. 14-208.11. If the person fails
37 to report in person and provide the written verification as provided by
38 this section, the sheriff shall make a reasonable attempt to verify that
39 the person is residing at the registered residential address or at a
40 reported temporary residential address. If the person cannot be found
41 at the registered residential address or a reported temporary residential
42 address and has failed to report a change of residential address or a
43 reported temporary residential address, the person is subject to the
44 penalties provided in G.S. 14-208.11, unless the person reports in

1 person to the sheriff and proves that the person has not changed his or
2 her residential address.

3 (b) Additional Verification May Be Required. – During the period that an
4 offender is required to be registered under this Article, the sheriff is authorized to
5 attempt to verify that the offender continues to reside at the residential or temporary
6 residential address last registered by the offender.

7 (c) Additional Photograph May Be Required. – If it appears to the sheriff that the
8 current photograph of the sex offender no longer provides a true and accurate likeness
9 of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow
10 the sheriff to take another photograph of the sex offender at the time of the sheriff's
11 request. If requested by the sheriff, the sex offender shall appear in person at the
12 sheriff's office during normal business hours within three business days of being
13 requested to do so and shall allow the sheriff to take another photograph of the sex
14 offender. A person who willfully fails to comply with this subsection is guilty of a Class
15 1 misdemeanor."

16 SECTION 5. G.S. 14-208.10(a) reads as rewritten:

17 "(a) The following information regarding a person required to register under this
18 Article is public record and shall be available for public inspection: name, sex, address,
19 mailing address, residential address, address of any temporary residence maintained by
20 the person unless removed by the sheriff pursuant to G.S. 14-208.9A(a)(3)d., physical
21 description, picture, conviction date, offense for which registration was required, the
22 sentence imposed as a result of the conviction, and registration status. The information
23 obtained under G.S. 14-208.22 regarding a person's medical records or documentation
24 of treatment for the person's mental abnormality or personality disorder shall not be a
25 part of the public record.

26 The sheriff shall release any other relevant information that is necessary to protect
27 the public concerning a specific person, but shall not release the identity of the victim of
28 the offense that required registration under this Article."

29 SECTION 6. G.S. 14-208.11(a) reads as rewritten:

30 "(a) A person required by this Article to register who willfully does any of the
31 following is guilty of a Class F felony:

- 32 (1) Fails to register as required by this Article.
- 33 (2) Fails to notify the last registering sheriff of a change of mailing
34 address or residential address as required by this Article.
- 35 (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- 36 (4) Forges or submits under false pretenses the information or verification
37 notices required under this Article.
- 38 (5) Fails to inform the registering sheriff of enrollment or termination of
39 enrollment as a student.
- 40 (6) Fails to inform the registering sheriff of employment at an institution
41 of higher education or termination of employment at an institution of
42 higher education.
- 43 (7) Fails to report in person to the sheriff's office as required by G.S.
44 14-208.7, 14-208.9, and 14-208.9A.

- 1 (8) Reports his or her intent to reside in another state or jurisdiction but
2 remains in this State without reporting to the sheriff in the manner
3 required by G.S. 14-208.9.
4 (9) Fails to notify the registering sheriff of out-of-county employment if
5 temporary residence is established as required under G.S. 14-208.8A.
6 (10) **(Effective May 1, 2009)** Fails to inform the registering sheriff of any
7 new or changes to existing online identifiers that the person uses or
8 intends to use.

9 (11) Fails to notify the registering sheriff of a temporary residence."

10 **SECTION 7.** G.S. 14-208.14(a) reads as rewritten:

11 "(a) The Division of Criminal Statistics shall compile and keep current a central
12 statewide sex offender registry. The Division is the State agency designated as the
13 custodian of the statewide registry. As custodian the Division has the following
14 responsibilities:

- 15 (1) To receive from the sheriff or any other law enforcement agency or
16 penal institution all sex offender registrations, changes of address,
17 temporary residential addresses, changes of academic or educational
18 employment status, and prerelease notifications required under this
19 Article or under federal law. The Division shall also receive notices of
20 any violation of this Article, including a failure to register or a failure
21 to report a change of address.
22 (2) To provide all need-to-know law enforcement agencies (local, State,
23 campus, federal, and those located in other states) immediately upon
24 receipt by the Division of any of the following: registration
25 information, a prerelease notification, a change of address, a change of
26 academic or educational employment status, or notice of a violation of
27 this Article.
28 (2a) To notify the appropriate law enforcement unit at an institution of
29 higher education as soon as possible upon receipt by the Division of
30 relevant information based on registration information or notice of a
31 change of academic or educational employment status. If an institution
32 of higher education does not have a law enforcement unit, then the
33 Division shall provide the information to the local law enforcement
34 agency that has jurisdiction for the campus.
35 (3) To coordinate efforts among law enforcement agencies and penal
36 institutions to ensure that the registration information, changes of
37 address, prerelease notifications, and notices of failure to register or to
38 report a change of address are conveyed in an appropriate and timely
39 manner.
40 (4) To provide public access to the statewide registry in accordance with
41 this Article.
42 (5) To maintain a system allowing an entity to access a list of online
43 identifiers of persons in the central sex offender registry."

44 **SECTION 8.** G.S. 14-208.16 reads as rewritten:

1 **"§ 14-208.16. Residential restrictions.**

2 (a) A registrant under this Article shall not knowingly reside or maintain a
3 temporary residence within 1,000 feet of the property on which any public or nonpublic
4 school or child care center is located.

5 (b) As used in this section, "school" does not include home schools as defined in
6 G.S. 115C-563 or institutions of higher education, and the term "child care center" is
7 defined by G.S. 110-86(3). The term "registrant" means a person who is registered, or is
8 required to register, under this Article.

9 (c) This section does not apply to child care centers that are located on or within
10 1,000 feet of the property of an institution of higher education where the registrant is a
11 student or is employed.

12 (d) Changes in the ownership of or use of property within 1,000 feet of a
13 registrant's registered address that occur after a registrant establishes residency at the
14 registered address shall not form the basis for finding that an offender is in violation of
15 this section. For purposes of this subsection, a residence is established when the
16 registrant does any of the following:

- 17 (1) Purchases the residence or enters into a specifically enforceable
18 contract to purchase the residence.
19 (2) Enters into a written lease contract for the residence and for as long as
20 the person is lawfully entitled to remain on the premises.
21 (3) Resides with an immediate family member who established residence
22 in accordance with this subsection. For purposes of this subsection,
23 "immediate family member" means a child or sibling who is 18 years
24 of age or older, or a parent, grandparent, legal guardian, or spouse of
25 the registrant.

26 (e) Nothing in this section shall be construed as creating a private cause of action
27 against a real estate agent or landlord for any act or omission arising out of the
28 residential restriction in this section.

29 (f) A violation of this section is a Class G felony."

30 **SECTION 9.** G.S. 14-208.28 reads as rewritten:

31 **"§ 14-208.28. Verification of registration information.**

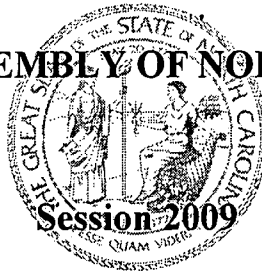
32 The information provided to the sheriff shall be verified semiannually for each
33 juvenile registrant as follows:

- 34 (1) Every year on the anniversary of a juvenile's initial registration date
35 and six months after that date, the sheriff shall mail a verification form
36 to the juvenile court counselor assigned to the juvenile.
37 (2) The juvenile court counselor for the juvenile shall return the
38 verification form to the sheriff within three business days after the
39 receipt of the form.
40 (3) The verification form shall be signed by the juvenile court counselor
41 and the juvenile and shall indicate whether the juvenile still resides at
42 the residential address last reported to the sheriff. If the juvenile has a
43 different residential address, then that fact and the new residential
44 address shall be indicated on the form."

1 **SECTION 10.** This act becomes effective December 1, 2009. This act
2 applies to persons whose initial registration under Article 27A of Chapter 14 of the
3 General Statutes occurs on or after December 1, 2009, and to persons who are registered
4 under Article 27A of Chapter 14 of the General Statutes prior to December 1, 2009, and
5 continue to be registered on or after December 1, 2009. The criminal penalties enacted
6 by this act apply to offenses occurring on or after December 1, 2009.
7

GENERAL ASSEMBLY OF NORTH CAROLINA

4



FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: December 17, 2008

TO: Rep. Bruce Goforth

FROM: Jean M. Sandaire, Fiscal Research Division

RE: 2009-LHz-4A Sex Offender/Register Temp. Residence

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

FY 2009-10 FY 2010-11 FY 2011-12 FY 2012-13 FY 2013-14

REVENUES:

EXPENDITURES:

Department of Correction	Additional costs anticipated for the Department of Correction and the Administrative Office of the Courts. However, specific cost amounts can not be determined.
Administrative Office of the Courts	
Department of Justice	\$122,400

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction (DOC), Department of Justice (DOJ), Administrative Office of the Courts (AOC) and local sheriffs' offices

EFFECTIVE DATE: December 1, 2009

BILL SUMMARY:

This bill:

- Provides that a person who is required to register under the Sex Offender and Public Protection Registration Programs must report both their mailing and residential addresses to the appropriate sheriff for inclusion in the public registry.
- Requires a registrant to report in person to the appropriate sheriff any temporary residence maintained by the registrant. A temporary residence is defined as a place that is not located at the person's residential address and that is a place where the person abides, lodges, or sleeps: (i) for a period of five or more calendar days within a 30 calendar day period or (ii) for an aggregate period exceeding 30 calendar days in a calendar year.
- Directs the sheriff to remove any temporary residential address if the sheriff verifies that the registrant no longer maintains the temporary residence and has not been at the temporary residence for 30 days preceding the verification of the registrant's public registry information.
- Provides that the temporary residential address is to be included in the information available for public access through the public registry, unless removed from the registry by the sheriff pursuant to law.
- Creates a new criminal offense of failure to report a temporary residential address that is punishable as a Class F felony.
- Makes it a criminal offense knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony.
- Becomes effective December 1, 2009. The registration requirements apply both to persons who are already on the registry at the time of the effective date and to persons who are required to register on or after that date. The criminal offenses and penalties created by the draft bill apply only to offenses that occur on or after December 1, 2009.

ASSUMPTIONS AND METHODOLOGY:

General

This bill will create additional costs for the Department of Correction (DOC), Department of Justice (DOJ), Administrative Office of the Courts (AOC) and local sheriffs' offices. However, specific amounts can not be determined for most of the bill's requirements since it creates new criminal offenses as well as new administrative and monitoring activities for law enforcement agencies.

Department of Correction – Division of Prisons

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

The bill creates new criminal offenses. Section 6 of the bill amends G.S. 14-208.11, Failure to register; falsification of verification notice; failure to return verification form; order for arrest. Subdivision (a) (2) makes it a criminal offense for a person who is required to register as a sex offender to willfully fail to notify the last registering sheriff of a change of address as required by Article 27A of Chapter 14 of the General Statutes. **This Section expands the requirement to include mailing address and residential address. Failure to comply with registration requirements at any point during the registration period is a Class F felony.**

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2006/07, 51% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

Section 6 also adds subdivision (a) (11) which creates a new criminal offense for a person who is required to register as a sex offender to willfully fail to notify the registering sheriff of a temporary residence. **Failure to comply with registration requirements at any point during the registration period is a Class F felony. In FY 2006/07, there were 291 convictions for failure to register under G.S. 14-208.11(a).**

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2006/07, 51% of Class F convictions resulted in active sentences, with an average estimated time served of 20 months. If, for example, there were two Class F convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year.

Section 8 of the bill amends G.S. 14-208.16, Residential restrictions. Subsection (a) makes it a criminal offense for a registrant under Article 27A of Chapter 14 of the General Statutes to knowingly reside within 1,000 feet of the property on which any public or nonpublic school or child care center is located. **This Section expands the requirement to include maintaining a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. Violation is a Class G felony. G.S. 14-208.16 became effective on December 1, 2006, making it a relatively new offense in FY 2006/07; therefore, there were no convictions for violations of sex offender residential restrictions in FY 2006/07.**

It is not known how many additional registration violations might occur as a result of the proposed change. In FY 2006/07, 41% of Class G convictions resulted in active sentences, with an average estimated time served of 16 months. If, for example, there were two Class G convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.¹

General supervision of intermediate and community offenders by a probation officer costs DCC \$2.09 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.52 to \$16.53, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is \$16.53 for the initial six-month intensive duration, and \$2.09 for general supervision each day thereafter. In FY 2006/07, 49% of Class F and 59% Class G felony offenders received intermediate punishment. Community punishment is not provided for Class F or Class G offenders under current structured sentencing guidelines.

Offenders supervised by DCC are required to pay a \$30 supervision fee monthly, while those serving community service pay a one-time fee of \$200. Offenders on house arrest with electronic monitoring must also pay a one-time \$90 fee. These fees are collected by the Court System and are credited to the General Fund. Conversely, sex offenders who must submit to GPS monitoring (S.L. 2006-247) pay a one-time fee of \$90, which is credited to the Department of Correction. Overall, the collection rate for FY 2005-06 was 66%.

Judicial Branch

The Administrative Office of the Courts provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

¹ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

With regard to the newly created felonies and misdemeanors, the AOC has no data from which to estimate the number of new charges that would arise from this bill's provisions. However, there is an expected increase in the workload of superior court judges, court reporters, deputy clerks, district attorneys, and indigent defense counsel as a result of the additional violations this bill will create.

Department of Justice (DOJ)

DOJ staff report that the agency will need additional funds to upgrade the sex offender registry to capture the new information to be collected from offenders registered in the database. The agency will also need funds to monitor changes and impacts related to mailings and notification requirements. The agency submitted the following list of tasks to be completed to implement the proposal:

Additional sex offender database capabilities to be established as a result of the requirements of this bill:

- *Upgraded to allow for an out-of-state "mailing" address into the database.*
- *Must send additional notifications to all affected sheriffs based on a registrant's temporary address.*
- *Must revise/expand data entry fields in the sex offender database that concern offenders that move out of State to comply with proposed policy changes)(Intended Move Out of State) to include mailing address(es).*
- *Verification letters will have to be sent to multiple addresses*
- *Public site will need to be upgraded to include "temporary" addresses.*
- *Volume of e-mail notifications will be heavily impacted due to notification of "temporary" addresses.*

DOJ estimates that its cost to implement the provisions of this bill will be approximately \$122,400 non-recurring for IT (information technology) services: 1,440 hours X \$85.00/hour = \$122,400. While DOJ's estimate is based only on IT programming costs, it does not appear to include recurring postage/mail and email costs. The Fiscal Research Division cannot determine the validity of DOJ's estimate since no detailed, supporting documentation was provided. However, DOJ's estimate does appear to be excessive, given the minimal sex offender registration changes proposed e.g. add another address field to capture the temporary residence and send additional notifications.

Sheriff Department

Fiscal Research is unable to estimate the impact of the proposed bill on county sheriff departments. The NC Sheriffs' Association reports that the bill will result in increased operating costs for sheriffs' offices responsible for monitoring sex offenders. The additional costs will be incurred for new administrative and monitoring requirements. Specifically, the bill will:

- Increase the length of time a Sheriff's Office staff member must interact with a sex offender during the registration process;
- Require sex offenders to provide sex offender information more frequently to Sheriff's Office (temporary addresses)

- Create additional violations that must be investigated and prosecuted by Sheriff's Office personnel.
- Additional Sheriff's Office staff time will be necessary for monitoring activities and verification of multiple residences.

SOURCES OF DATA: North Carolina Sentencing and Policy Advisory Commission, Department of Justice and the North Carolina Sheriff's Association

TECHNICAL CONSIDERATIONS:

1. The bill's proposed effective date is December 1, 2009 and would apply to persons who are on the registry on and after that date. There is no provision requiring notification to sex offenders registered prior to the effective date. To minimize violations, DOJ would have to send a one-time notice to all registrants, resulting in additional costs for the Department of Justice and local sheriffs' offices.

VISITOR REGISTRATION SHEET

House Select Committee on Sex Offender Issues
Name of Committee

December 18, 2008
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Madler	NC Sentencing Commission
Ging Michl	NC ABO
Jeffery Walston	DPA-YA10
Amber Barwick	Conf. of DAs
Avon Gallagher	
Heather Laffler	DNHS-DCD
Eddie Caldwell	NC Sheriffs' Assn.
Gurwal Scott	WPTF-RADIO
Katy Parker	ACLU of NC
Charmaine They	Intern, Rep. Insko

Ann Jordan (Rep. Goforth)

From: Ann Jordan (Rep. Goforth)

Sent: Tuesday, November 18, 2008 1:02 PM

Subject: Meeting Notice for 2008 December 18.doc

November 18, 2008

MEMORANDUM

TO: Members of the House Select Committee on Sex Offender Issues

FROM: Rep. Bruce Goforth – Co-Chair
Rep. Karen Ray –Vice-Chair

SUBJECT: December 18, 2008 Meeting Notice (date change)

There will be a meeting of the House Select Committee on Sex Offender Issues on:

DAY: Thursday TIME: 9:00 AM

DATE: December, 18, 2008

LOCATION: Room 1124 – Legislative Building

DEC. 17th MEETING AND ROOM HAS BEEN CHANGED TO DEC. 18th IN 1124

Posted:

cc: Committee Record _____
Interested Parties _____

House Pages

House Select Comm.

on Sex offender issue

Name Of Committee: _____

Date: _____

12/19/08

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

1. Name: MARVIN LEE

2. Name: MARTHA PARRISH

3. Name: Judy Turner

4. Name: _____

5. Name: _____

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES

January 22, 2009 – 1:00 PM
Room 1228 – Legislative Building

The House Select Committee on Sex Offender Issues met January 22, 2009 in Room 1228.

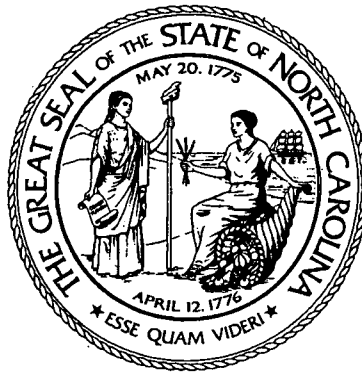
Chairman Bruce Goforth presided. He called the meeting to order at 10:05 am. and thanked members and visitors for their attendance. He recognized and thanked Sergeants-At-Arms for their help. The Visitor Roster is attached and made a part of these minutes.

Chairman Goforth recognized Susan Sitze, Staff Attorney to explain the draft report. She said the report contains 5 recommendations. As follows: (1) A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A PERSON REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, MUST ALSO REPORT IN PERSON TO AND NOTIFY THE APPROPRIATE SHERIFF OF THE ADDRESS OF ANY TEMPORARY RESIDENCES MAINTAINED BY THE REGISTRANT, AND TO MAKE VARIOUS CONFORMING CHANGES TO THE SEX OFFENDER AND PUBLIC PROTECTION STATUTES, (2) a BILL TO BE ENTITLED AN AT TO ADD TO THE OFFENSE OF TAKING INDECENT LIBERTIES WITH A STUDENT TO THE LIST OF SEX OFFENSES THAT REQUIRE REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION PROGRAM, (3) A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO SUPPORT NEW SBI COMPUTER CRIME AND COMPUTER FORENSICS AGENT POSITIONS TO INCREASE PROACTIVE UNDERCOVER LAW ENFORCEMENT EFFORTS AGAINST SEXUAL PREDATORS WHO ATTEMPT TO PREY ON CHILDREN, (4) THE COMMITTEE RECOMMENDS THAT G.S. 14-208.18(a) BE AMENDED TO CLARIFY THE APPLICABILITY OF THE RESTRICTIONS CONTAINED IN THE SUBSECTION AND (5) THE COMMITTEE RECOMMENDS THAT THE NORTH CAROLINA GENERAL ASSEMBLY EXAMINE THE RESTRICTIONS ON RENDERING STATE SERVICE FOR SIX MONTHS AFTER RETIREMENT CONTAINED IN G.S. 135-(20) TO DETERMINE IF CHANGE CAN AND SHOULD BE MADE TO THE RESTRICTION PROGRAM.

Rep. Goforth suggested removing #5 and have the entire General Assembly review the G.S. during session. Committee agreed.

Rep. Goforth recognized Emily Johnson, Staff Attorney, to explain the bills in the Draft Report. Ms. Johnson explained the changes

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES



**REPORT TO THE
2009 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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1. A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A PERSON REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, MUST ALSO REPORT IN PERSON TO AND NOTIFY THE APPROPRIATE SHERIFF OF THE ADDRESS OF ANY TEMPORARY RESIDENCES MAINTAINED BY THE REGISTRANT, AND TO MAKE VARIOUS CONFORMING CHANGES TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION STATUTES.
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5. THE COMMITTEE RECOMMENDS THAT THE NORTH CAROLINA GENERAL ASSEMBLY EXAMINE THE RESTRICTIONS ON RENDERING STATE SERVICE FOR SIX MONTHS AFTER RETIREMENT CONTAINED IN G.S. 135-1(20) TO DETERMINE IF CHANGES CAN AND SHOULD BE MADE TO THE RESTRICTION PERIOD.

DRAFT

January 27, 2009

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE
2009 GENERAL ASSEMBLY OF NORTH CAROLINA:

The House Select Committee on Sex Offender Issues herewith submits
to you for your consideration its report.

Respectfully submitted,

Representative Bruce Goforth

Chair

PREFACE

The House Select Committee on Sex Offender Issues, established by the Speaker of the House of Representatives on February 19, 2008, is authorized to study the sex offender issues in North Carolina.

The Committee is chaired by Representative Bruce Goforth. The committee clerk maintains a notebook containing the committee minutes and all information presented to the committee.

DRAFT

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES
MEMBERSHIP LIST

Representative Bruce Goforth – Chair
Representative Karen Ray – Vice Chair
Representative Alice L. Bordsen
Representative Jean Farmer-Butterfield
Representative Rick Glazier
Representative W. Robert Grady
Representative Verla Insko
Representative Joe L. Kiser
Representative Ray Warren
Representative Roger West

DRAFT

COMMITTEE PROCEEDINGS

September 30, 2008

The House Select Committee on Sex Offender Issues held its first meeting on September 30, 2008

Susan Sitze, Committee Co-Counsel, presented information concerning a N.C. Court of Appeals decision concerning the definition of "residence" as it applies to persons who are required to register as sex offenders. Ms. Sitze then reviewed G.S. 14-208.8A, which requires persons who must register as sex offenders to notify the sheriff of the person's place of employment and temporary residence (hotel, motel, or other transient lodging place) if the person works in a county other than the county in which the person is registered and maintains a temporary residence in that county for more than 10 business days within a 30-day period. Ms. Sitze also reviewed the following statutes: G.S. 14-208.16, which defines residential restrictions; G.S. 153-A, which covers the definition of a legal residence for social service purposes; and G.S. 163-57, which defines residence for the purpose of registration and voting.

After some discussion the committee agreed that if a registered sex offender is residing in a location for 10 days or more within a one-month period, the sheriff should be notified. Committee staff was asked to present one or more proposals to the Attorney General's office and to provide the information to Committee members prior to the next meeting. The suggestion was made that the Committee utilize a provision in the State's election law that defines "residence" for voting purposes. Questions were also raised about the impact of proposed legislation on the State's budget. Committee members agreed that the type of activity committed by a sex offender and where the offense occurred should be factors in imposing additional registration requirements.

The meeting adjourned after additional discussion by the committee members.

November 13, 2008

The House Select Committee on Sex Offender Issues held its second meeting on November 13, 2008.

The Committee heard from **Mr. Grier Weeks from the National Organization to Protect Children (PROTECT)**. According to its mission statement, PROTECT is a national pro-child, anti-crime membership association. Mr. Weeks introduced **David Keith, National Chairman for PROTECT**. Mr. Keith is also a well know actor who has starred in a number of films. Mr. Keith indicated that United States consumers are

responsible for more than 50% of pornography. According to Mr. Keith, 83% of the children in pornographic films are 6 to 12 years of age, 39% are 3-5 years old and 20% are less than the age of three. Mr. Keith indicated that so-called "stranger danger" affects only about 4% of abused kids; the other 96% are abused by a member of the family or a trusted adult. He described a study of 62 prisoners who were given amnesty on any additional charges to discuss their crimes. Over 80% of the offenders admitted to assaulting more than 27 children each. Mr. Keith said there are more than 750,000 traffickers in pornography, and the use of a computer program that allows law enforcement to analyze computer hard drives has resulted in the rescue of a child 40% of the time. However, due to manpower and money shortages only about 2% of leads result in a full investigation and the percentage of leads that eventually result in a conviction is even lower, generally because of plea bargains.

The Committee heard from **Mr. Bob Carbo, Co-Director of the Sex Offender Accountability and Responsibility (SOAR) program for the N.C. Department of Correction.** The SOAR Program provides treatment of incarcerated sexual offenders. Through the program participants learn that sexually abusive behavior is both controllable and manageable. The SOAR program, which is strictly voluntary, is located at the Harnett Correctional Institution in Lillington. Of more than 250 applicants only 60 per year are admitted due to staff & space shortage.

Emily Johnson, Committee Co-Counsel, presented draft legislation for consideration by the Committee. The legislation addresses the definition of a "residence" and a "temporary residence" and creates a new criminal offense for the failure to report a temporary residential address. The new criminal offense would be punishable as a Class F felony. The new criminal penalties would only apply to offenses which occurring on or after December 1, 2009. The proposed legislation was discussed and approved by the Committee.

December 18, 2008

The House Select Committee on Sex Offender Issues held its third meeting on December 18, 2008.

The Committee heard from **Mr. Kevin West, Special Agent in Charge, of the SBI Computer Crimes Unit/NC Internet Crimes against Children (ICAC).** Mr. West discussed the sources of information about Computer Crimes, including requests from local agencies, requests from federal partners, the Cyber-tip line, undercover operations and referrals from other ICAC units across the country. There are 60 National ICAC Task Forces and 70 local, State and Federal partners. Referrals on the Cyber-tip line are made by Internet companies (which are required to do so) and members of the public. Agent West described a typical cyber-tip case from receipt of the information to the issuance of a subpoena, then verification and research to the summary and assignment to

an SBI agent with a prepared warrant. **Mr. Greg McLeod, NC Department of Justice** was recognized. McLeod reported that some special federal funding had enabled the SBI to purchase a high tech training laboratory.

The Committee discussed and adopted a recommendation to provide additional funding for new agents. The Committee also adopted a recommendation to add a statutory provision concerning address changes.

Susan Sitze, Committee Co-Counsel, gave an overview of the new G.S. 14-208.18 concerning sex offenders unlawfully on certain premises intended primarily for the use or care of minors. She also gave the committee a copy of "The North Carolina Sex Offender & Public Protection Registration Programs", and shared comments from Attorney General Roy Cooper regarding the SBI Computer Crimes Unit and the positive work done by that Unit.

Representative Rick Glazier was appointed to coordinate a special working group to consider various issues related to sex offender registration requirements.

Emily Johnson, Committee Co-Counsel, was recognized to give a review of draft legislation to require the registration of persons conviction of the offense of indecent liberties with a minor. After discussion and the adoption of several changes proposed by members of the committee, the draft was approved. **Jean Sandaire of the legislature's Fiscal Research Division** reviewed a Fiscal Analysis Memorandum related to the draft legislation.

Before the committee adjourned Representative Goforth recognized Representative Karen Ray for her dedicated work as Vice-Chair of this Committee.

January 22, 2009

The House Select Committee on Sex Offender Issues held its fourth and final meeting on January 22, 2009 to discuss its recommendations to the 2009 General Assembly.

COMMITTEE RECOMMENDATIONS

1. A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A PERSON REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, MUST ALSO REPORT IN PERSON TO AND NOTIFY THE APPROPRIATE SHERIFF OF THE ADDRESS OF ANY TEMPORARY RESIDENCES MAINTAINED BY THE REGISTRANT, AND TO MAKE VARIOUS CONFORMING CHANGES TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION STATUTES.
2. A BILL TO BE ENTITLED AN ACT TO ADD THE OFFENSE OF TAKING INDECENT LIBERTIES WITH A STUDENT TO THE LIST OF SEX OFFENSES THAT REQUIRE REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAM.
3. A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO SUPPORT NEW SBI COMPUTER CRIME AND COMPUTER FORENSICS AGENT POSITIONS TO INCREASE PROACTIVE UNDERCOVER LAW ENFORCEMENT EFFORTS AGAINST SEXUAL PREDATORS WHO ATTEMPT TO PREY ON CHILDREN.
4. THE COMMITTEE RECOMMENDS THAT G.S. 14-208.18(a) BE AMENDED TO CLARIFY THE APPLICABILITY OF THE RESTRICTIONS CONTAINED IN THE SUBSECTION.
5. THE COMMITTEE RECOMMENDS THAT THE NORTH CAROLINA GENERAL ASSEMBLY EXAMINE THE RESTRICTIONS ON RENDERING STATE SERVICE FOR SIX MONTHS AFTER RETIREMENT CONTAINED IN G.S. 135-1(20) TO DETERMINE IF CHANGES CAN AND SHOULD BE MADE TO THE RESTRICTION PERIOD.

ATTACHMENTS

DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

BILL DRAFT 2009-LHz-4C [v.3] (10/16)

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

1/22/2009 8:40:50 AM

Short Title: Sex Offender/Register Temp. Residence.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON REQUIRED TO REGISTER PURSUANT TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, MUST ALSO REPORT IN PERSON TO AND NOTIFY THE APPROPRIATE SHERIFF OF THE ADDRESS OF ANY TEMPORARY RESIDENCES MAINTAINED BY THE REGISTRANT, AND TO MAKE VARIOUS CONFORMING CHANGES TO THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

- (1a) "Aggravated offense" means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.
- (1b) "County registry" means the information compiled by the sheriff of a county in compliance with this Article.
- (1c) "Division" means the Division of Criminal Information of the Department of Justice.
- (1d) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.



- 1 (1e) "Employed" includes employment that is full-time or part-time for a
2 period of time exceeding 14 days or for an aggregate period of time
3 exceeding 30 days during any calendar year, whether financially
4 compensated, volunteered, or for the purpose of government or
5 educational benefit.
- 6 (1f) "Entity" means a business or organization that provides Internet
7 service, electronic communications service, remote computing service,
8 online service, electronic mail service, or electronic instant message or
9 chat services whether the business or organization is within or outside
10 the State.
- 11 (1g) "Instant Message" means a form of real-time text communication
12 between two or more people. The communication is conveyed via
13 computers connected over a network such as the Internet.
- 14 (1h) "Institution of higher education" means any postsecondary public or
15 private educational institution, including any trade or professional
16 institution, college, or university.
- 17 (1i) "Internet" means the global information system that is logically linked
18 together by a globally unique address space based on the Internet
19 Protocol or its subsequent extensions; that is able to support
20 communications using the Transmission Control Protocol/Internet
21 Protocol suite, its subsequent extensions, or other Internet Protocol
22 compatible protocols; and that provides, uses, or makes accessible,
23 either publicly or privately, high-level services layered on the
24 communications and related infrastructure described in this
25 subdivision.
- 26 (1j) "Mailing address" means the location where a person receives his or
27 her mail.
- 28 ~~(1j)~~(1k) "Mental abnormality" means a congenital or acquired condition of
29 a person that affects the emotional or volitional capacity of the person
30 in a manner that predisposes that person to the commission of criminal
31 sexual acts to a degree that makes the person a menace to the health
32 and safety of others.
- 33 ~~(1k)~~(1l) "Nonresident student" means a person who is not a resident of
34 North Carolina but who is enrolled in any type of school in the State
35 on a part-time or full-time basis.
- 36 ~~(1l)~~(1m) "Nonresident worker" means a person who is not a resident of
37 North Carolina but who has employment or carries on a vocation in the
38 State, on a part-time or full-time basis, with or without compensation
39 or government or educational benefit, for more than 14 days, or for an
40 aggregate period exceeding 30 days in a calendar year.
- 41 ~~(1m)~~(1n) "Offense against a minor" means any of the following offenses if
42 the offense is committed against a minor, and the person committing
43 the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S.
44 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint).

1 The term also includes the following if the person convicted of the
2 following is not the minor's parent: a solicitation or conspiracy to
3 commit any of these offenses; aiding and abetting any of these
4 offenses.

5 ~~(1n)~~(1o) "Online identifier" means electronic mail address, instant message
6 screen name, user ID, chat or other Internet communication name, but
7 it does not mean social security number, date of birth, or pin number.

8 (2) "Penal institution" means:

- 9 a. A detention facility operated under the jurisdiction of the
10 Division of Prisons of the Department of Correction;
11 b. A detention facility operated under the jurisdiction of another
12 state or the federal government; or
13 c. A detention facility operated by a local government in this State
14 or another state.

15 (2a) "Personality disorder" means an enduring pattern of inner experience
16 and behavior that deviates markedly from the expectations of the
17 individual's culture, is pervasive and inflexible, has an onset in
18 adolescence or early adulthood, is stable over time, and leads to
19 distress or impairment.

20 (2b) "Recidivist" means a person who has a prior conviction for an offense
21 that is described in G.S. 14-208.6(4).

22 (3) "Release" means discharged or paroled.

23 (4) "Reportable conviction" means:

24 a. A final conviction for an offense against a minor, a sexually
25 violent offense, or an attempt to commit any of those offenses
26 unless the conviction is for aiding and abetting. A final
27 conviction for aiding and abetting is a reportable conviction
28 only if the court sentencing the individual finds that the
29 registration of that individual under this Article furthers the
30 purposes of this Article as stated in G.S. 14-208.5.

31 b. A final conviction in another state of an offense, which if
32 committed in this State, is substantially similar to an offense
33 against a minor or a sexually violent offense as defined by this
34 section, or a final conviction in another state of an offense that
35 requires registration under the sex offender registration statutes
36 of that state.

37 c. A final conviction in a federal jurisdiction (including a court
38 martial) of an offense, which is substantially similar to an
39 offense against a minor or a sexually violent offense as defined
40 by this section.

41 d. A final conviction for a violation of G.S. 14-202(d), (e), (f), (g),
42 or (h), or a second or subsequent conviction for a violation of
43 G.S. 14-202(a), (a1), or (c), only if the court sentencing the

1 individual issues an order pursuant to G.S. 14-202(l) requiring
2 the individual to register.

3 (4a) "Residential address" means the address of a person's residence.

4 (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first
5 degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S.
6 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual
7 offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S.
8 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual
9 battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7
10 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a)
11 (statutory rape or sexual offense of person who is 13-, 14-, or
12 15-years-old where the defendant is at least six years older), G.S.
13 14-43.13 (subjecting or maintaining a person for sexual servitude),
14 G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing
15 or permitting minor to assist in offenses against public morality and
16 decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S.
17 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17
18 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third
19 degree sexual exploitation of a minor), G.S. 14-190.18 (promoting
20 prostitution of a minor), G.S. 14-190.19 (participating in the
21 prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with
22 children), or G.S. 14-202.3 (Solicitation of child by computer to
23 commit an unlawful sex act), G.S. 14-318.4(a1) (parent or caretaker
24 commit or permit act of prostitution with or by a juvenile), or G.S.
25 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by
26 parent or guardian). The term also includes the following: a solicitation
27 or conspiracy to commit any of these offenses; aiding and abetting any
28 of these offenses.

29 (6) "Sexually violent predator" means a person who has been convicted of
30 a sexually violent offense and who suffers from a mental abnormality
31 or personality disorder that makes the person likely to engage in
32 sexually violent offenses directed at strangers or at a person with
33 whom a relationship has been established or promoted for the primary
34 purpose of victimization.

35 (7) "Sheriff" means the sheriff of a county in this State.

36 (8) "Statewide registry" means the central registry compiled by the
37 Division in accordance with G.S. 14-208.14.

38 (9) "Student" means a person who is enrolled on a full-time or part-time
39 basis, in any postsecondary public or private educational institution,
40 including any trade or professional institution, or other institution of
41 higher education.

42 (10) "Temporary residence" means a place where a person abides that is a
43 location other than the person's reported residential address.

44 SECTION 2. G.S. 14-208.7 reads as rewritten:

1 **"§ 14-208.7. Registration.**

2 (a) A person who is a State resident and who has a reportable conviction shall be
3 required to maintain registration with the sheriff of the county where the person resides.
4 If the person moves to North Carolina from outside this State, the person shall register
5 within three business days of establishing residence in this State, or whenever the
6 person has been present in the State for 15 days, whichever comes first. If the person is
7 a current resident of North Carolina, the person shall register:

8 (1) Within three business days of release from a penal institution or arrival
9 in a county to live outside a penal institution; or

10 (2) Immediately upon conviction for a reportable offense where an active
11 term of imprisonment was not imposed.

12 Registration shall be maintained for a period of at least 30 years following the date of
13 initial county registration unless the person, after 10 years of registration, successfully
14 petitions the superior court to shorten his or her registration time period under G.S.
15 14-208.12A.

16 (a1) A person who is a nonresident student or a nonresident worker and who has a
17 reportable conviction, or is required to register in the person's state of residency, is
18 required to maintain registration with the sheriff of the county where the person works
19 or attends school. In addition to the information required under subsection (b) of this
20 section, the person shall also provide information regarding the person's school or place
21 of employment as appropriate and the person's mailing and residential address in his or
22 her state of residence.

23 (b) The Division shall provide each sheriff with forms for registering persons as
24 required by this Article. The registration form shall require all of the following:

25 (1) The person's full name, each alias, date of birth, sex, race, height,
26 weight, eye color, hair color, drivers ~~license number, and home~~
27 address.license number.

28 (1a) The person's mailing address and also the person's residential address
29 if the person resides at a location other than the mailing address. If a
30 person has multiple residential addresses, then the person shall provide
31 the address for each residential address.

32 (2) The type of offense for which the person was convicted, the date of
33 conviction, and the sentence imposed.

34 (3) A current photograph taken by the sheriff, without charge, at the time
35 of registration.

36 (4) The person's fingerprints taken by the sheriff, without charge, at the
37 time of registration.

38 (5) A statement indicating whether the person is a student or expects to
39 enroll as a student within a year of registering. If the person is a
40 student or expects to enroll as a student within a year of registration,
41 then the registration form shall also require the name and address of
42 the educational institution at which the person is a student or expects
43 to enroll as a student.

1 (6) A statement indicating whether the person is employed or expects to
2 be employed at an institution of higher education within a year of
3 registering. If the person is employed or expects to be employed at an
4 institution of higher education within a year of registration, then the
5 registration form shall also require the name and address of the
6 educational institution at which the person is or expects to be
7 employed.

8 (7) Any online identifier that the person uses or intends to use.

9 (c) When a person registers, the sheriff with whom the person registered shall
10 immediately send the registration information to the Division in a manner determined
11 by the Division. The sheriff shall retain the original registration form and other
12 information collected and shall compile the information that is a public record under
13 this Part into a county registry.

14 (d) Any person required to register under this section shall report in person at the
15 appropriate sheriff's office to comply with the registration requirements set out in this
16 section. The sheriff shall provide the registrant with written proof of registration at the
17 time of registration."

18 SECTION 3. G.S. 14-208.9 reads as rewritten:

19 "**§ 14-208.9. Change of address; notification of temporary residence; change of**
20 **academic status or educational employment status; change of online**
21 **identifier.**

22 (a) If-Unless provided otherwise by law, if a person required to register changes
23 the person's mailing address or residential address, the person shall report in person and
24 provide written notice of the new address not later than the third business day after the
25 change to the sheriff of the county with whom the person had last registered. If the
26 person moves to another county, the person shall also report in person to the sheriff of
27 the new county and provide written notice of the person's mailing address and
28 residential address not later than the tenth day after the change of address. Upon receipt
29 of the notice, the sheriff shall immediately forward this information to the Division.
30 When the Division receives notice from a sheriff that a person required to register is
31 moving to another county in the State, the Division shall inform the sheriff of the new
32 county of the person's new residence.

33 (a1) A person required to register under GS 14-208.7 shall report in person to and
34 notify the sheriff of the county with whom the person is registered if the person intends
35 to maintain a temporary residence at the same location for a period of 5 or more
36 calendar days within a 30 calendar day period, or for an aggregate period exceeding 30
37 calendar days in a calendar year. The person shall report to that sheriff within 72 hours
38 after the person knows or should know that he or she will be maintaining a temporary
39 residence. Upon receipt of this notice, the sheriff shall immediately forward this
40 information to the Division. The Division shall in turn forward this notification to all
41 affected county sheriffs.

42 The person shall also report in person to the sheriff of the county with whom the
43 person is registered when the person ceases to abide at the temporary residence. That
44 notice shall be provided within 72 hours after the person ceases to abide at the

1 temporary residence. Upon receipt of the notice, the sheriff shall immediately forward
2 the information regarding the termination of the temporary address to the Division and
3 shall also remove the temporary address from the public registry.

4 (b) If a person required to register intends to move to another state, the person
5 shall report in person to the sheriff of the county of current residence at least three
6 business days before the date the person intends to leave this State to establish residence
7 in another state or jurisdiction. The person shall provide to the sheriff a written
8 notification that includes all of the following information: the mailing address,
9 residential address, municipality, county, and state of intended residence.

10 (1) If it appears to the sheriff that the record photograph of the sex
11 offender no longer provides a true and accurate likeness of the sex
12 offender, then the sheriff shall take a photograph of the offender to
13 update the registration.

14 (2) The sheriff shall inform the person that the person must comply with
15 the registration requirements in the new state of residence. The sheriff
16 shall also immediately forward the information included in the
17 notification to the Division, and the Division shall inform the
18 appropriate state official in the state to which the registrant moves of
19 the person's notification and new mailing address and residential
20 address.

21 (b1) A person who indicates his or her intent to reside in another state or
22 jurisdiction and later decides to remain in this State shall, within three business days
23 after the date upon which the person indicated he or she would leave this State, report in
24 person to the sheriff's office to which the person reported the intended change of
25 residence, of his or her intent to remain in this State. If the sheriff is notified by the
26 sexual offender that he or she intends to remain in this State, the sheriff shall promptly
27 report this information to the Division.

28 (c) If a person required to register changes his or her academic status either by
29 enrolling as a student or by terminating enrollment as a student, then the person shall,
30 within three business days, report in person to the sheriff of the county with whom the
31 person registered and provide written notice of the person's new status. The written
32 notice shall include the name and address of the institution of higher education at which
33 the student is or was enrolled. The sheriff shall immediately forward this information to
34 the Division.

35 (d) If a person required to register changes his or her employment status either by
36 obtaining employment at an institution of higher education or by terminating
37 employment at an institution of higher education, then the person shall, within three
38 business days, report in person to the sheriff of the county with whom the person
39 registered and provide written notice of the person's new status not later than the tenth
40 day after the change to the sheriff of the county with whom the person registered. The
41 written notice shall include the name and address of the institution of higher education
42 at which the person is or was employed. The sheriff shall immediately forward this
43 information to the Division.

1 (e) If a person required to register changes an online identifier, or obtains a new
2 online identifier, then the person shall, within 10 days, report in person to the sheriff of
3 the county with whom the person registered to provide the new or changed online
4 identifier information to the sheriff. The sheriff shall immediately forward this
5 information to the Division."

6 SECTION 4. G.S. 14-208.9A reads as rewritten:

7 "§ 14-208.9A. Verification of registration information.

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

10 (1) Every year on the anniversary of a person's initial registration date, and
11 again six months after that date, the Division shall mail a
12 nonforwardable verification form to the last reported mailing address
13 of the person.

14 (2) The person shall return the verification form in person to the sheriff
15 within three business days after the receipt of the form.

16 (3) The verification form shall be signed by the person and shall indicate
17 the following:

18 a. Whether the person still resides at the address last reported to
19 the ~~sheriff~~ sheriff as the person's residential address. If the
20 person has a different residential address, then the person shall
21 indicate that fact and the new residential address.

22 b. Whether the person still uses or intends to use any online
23 identifiers last reported to the sheriff. If the person has any new
24 or different online identifiers, then the person shall provide
25 those online identifiers to the sheriff.

26 c. Whether the person still receives his or her mail at the mailing
27 address last reported to the sheriff as the person's mailing
28 address. If the person has a different mailing address, then the
29 person shall indicate that fact and the new mailing address.

30 d. Whether the person still maintains any temporary residence
31 previously reported. If the person verifies that the person no
32 longer maintains a previously reported temporary residence and
33 has not been at that temporary residence for the previous 30
34 days, the sheriff shall remove the address of the temporary
35 residence from the public registry and shall notify the Division
36 of that fact.

37 (3a) If it appears to the sheriff that the record photograph of the sex
38 offender no longer provides a true and accurate likeness of the sex
39 offender, then the sheriff shall take a photograph of the offender to
40 include with the verification form.

41 (4) If the person fails to return the verification form in person to the sheriff
42 within three business days after receipt of the form, the person is
43 subject to the penalties provided in G.S. 14-208.11. If the person fails
44 to report in person and provide the written verification as provided by

1 this section, the sheriff shall make a reasonable attempt to verify that
2 the person is residing at the registered residential address or at a
3 reported temporary residential address. If the person cannot be found
4 at the registered residential address or a reported temporary residential
5 address and has failed to report a change of residential address or a
6 reported temporary residential address, the person is subject to the
7 penalties provided in G.S. 14-208.11, unless the person reports in
8 person to the sheriff and proves that the person has not changed his or
9 her residential address.

10 (b) Additional Verification May Be Required. – During the period that an
11 offender is required to be registered under this Article, the sheriff is authorized to
12 attempt to verify that the offender continues to reside at the residential or temporary
13 residential address last registered by the offender.

14 (c) Additional Photograph May Be Required. – If it appears to the sheriff that the
15 current photograph of the sex offender no longer provides a true and accurate likeness
16 of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow
17 the sheriff to take another photograph of the sex offender at the time of the sheriff's
18 request. If requested by the sheriff, the sex offender shall appear in person at the
19 sheriff's office during normal business hours within three business days of being
20 requested to do so and shall allow the sheriff to take another photograph of the sex
21 offender. A person who willfully fails to comply with this subsection is guilty of a Class
22 1 misdemeanor."

23 **SECTION 5.** G.S. 14-208.10(a) reads as rewritten:

24 "(a) The following information regarding a person required to register under this
25 Article is public record and shall be available for public inspection: name, sex, address,
26 mailing address, residential address, address of any temporary residence maintained by
27 the person unless removed by the sheriff pursuant to G.S. 14-208.9(a1) or G.S. 14-
28 208.9A(a)(3)d., physical description, picture, conviction date, offense for which
29 registration was required, the sentence imposed as a result of the conviction, and
30 registration status. The information obtained under G.S. 14-208.22 regarding a person's
31 medical records or documentation of treatment for the person's mental abnormality or
32 personality disorder shall not be a part of the public record.

33 The sheriff shall release any other relevant information that is necessary to protect
34 the public concerning a specific person, but shall not release the identity of the victim of
35 the offense that required registration under this Article."

36 **SECTION 6.** G.S. 14-208.11(a) reads as rewritten:

37 "(a) A person required by this Article to register who willfully does any of the
38 following is guilty of a Class F felony:

- 39 (1) Fails to register as required by this Article.
- 40 (2) Fails to notify the last registering sheriff of a change of mailing
41 address or residential address as required by this Article.
- 42 (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- 43 (4) Forges or submits under false pretenses the information or verification
44 notices required under this Article.

- 1 (5) Fails to inform the registering sheriff of enrollment or termination of
2 enrollment as a student.
- 3 (6) Fails to inform the registering sheriff of employment at an institution
4 of higher education or termination of employment at an institution of
5 higher education.
- 6 (7) Fails to report in person to the sheriff's office as required by G.S.
7 14-208.7, 14-208.9, and 14-208.9A.
- 8 (8) Reports his or her intent to reside in another state or jurisdiction but
9 remains in this State without reporting to the sheriff in the manner
10 required by G.S. 14-208.9.
- 11 (9) Fails to notify the registering sheriff of out-of-county employment if
12 temporary residence is established as required under G.S. 14-208.8A.
- 13 (10) **(Effective May 1, 2009)** Fails to inform the registering sheriff of any
14 new or changes to existing online identifiers that the person uses or
15 intends to use.
- 16 (11) Fails to notify the registering sheriff of the establishment of a
17 temporary residence."

18 SECTION 7. Article 27A of Chapter 14 of the General Statutes is amended
19 by adding a new section to read:

20 "**§ 14-208.11B. Failure to report termination of temporary residence.**

21 A person who willfully fails to report that the person has ceased to abide at a
22 temporary residence as required by G.S. 14-208.9(a1) is guilty of a Class A1
23 misdemeanor for a first offense. A person is guilty of a Class H felony if the person
24 commits a second or subsequent offense under this section."

25 SECTION 8. G.S. 14-208.14(a) reads as rewritten:

26 "(a) The Division of Criminal Statistics shall compile and keep current a central
27 statewide sex offender registry. The Division is the State agency designated as the
28 custodian of the statewide registry. As custodian the Division has the following
29 responsibilities:

- 30 (1) To receive from the sheriff or any other law enforcement agency or
31 penal institution all sex offender registrations, changes of address,
32 temporary residential addresses, changes of academic or educational
33 employment status, and prerelease notifications required under this
34 Article or under federal law. The Division shall also receive notices of
35 any violation of this Article, including a failure to register or a failure
36 to report a change of address.
- 37 (2) To provide all need-to-know law enforcement agencies (local, State,
38 campus, federal, and those located in other states) immediately upon
39 receipt by the Division of any of the following: registration
40 information, a prerelease notification, a change of address, a change of
41 academic or educational employment status, or notice of a violation of
42 this Article.
- 43 (2a) To notify the appropriate law enforcement unit at an institution of
44 higher education as soon as possible upon receipt by the Division of

1 relevant information based on registration information or notice of a
2 change of academic or educational employment status. If an institution
3 of higher education does not have a law enforcement unit, then the
4 Division shall provide the information to the local law enforcement
5 agency that has jurisdiction for the campus.

6 (3) To coordinate efforts among law enforcement agencies and penal
7 institutions to ensure that the registration information, changes of
8 address, prerelease notifications, and notices of failure to register or to
9 report a change of address are conveyed in an appropriate and timely
10 manner.

11 (4) To provide public access to the statewide registry in accordance with
12 this Article.

13 (5) To maintain a system allowing an entity to access a list of online
14 identifiers of persons in the central sex offender registry."

15 **SECTION 9.** G.S. 14-208.16 reads as rewritten:

16 **"§ 14-208.16. Residential restrictions.**

17 (a) A registrant under this Article shall not knowingly reside or maintain a
18 temporary residence within 1,000 feet of the property on which any public or nonpublic
19 school or child care center is located.

20 (b) As used in this section, "school" does not include home schools as defined in
21 G.S. 115C-563 or institutions of higher education, and the term "child care center" is
22 defined by G.S. 110-86(3). The term "registrant" means a person who is registered, or is
23 required to register, under this Article.

24 (c) This section does not apply to child care centers that are located on or within
25 1,000 feet of the property of an institution of higher education where the registrant is a
26 student or is employed.

27 (d) Changes in the ownership of or use of property within 1,000 feet of a
28 registrant's registered address that occur after a registrant establishes residency at the
29 registered address shall not form the basis for finding that an offender is in violation of
30 this section. For purposes of this subsection, a residence is established when the
31 registrant does any of the following:

32 (1) Purchases the residence or enters into a specifically enforceable
33 contract to purchase the residence.

34 (2) Enters into a written lease contract for the residence and for as long as
35 the person is lawfully entitled to remain on the premises.

36 (3) Resides with an immediate family member who established residence
37 in accordance with this subsection. For purposes of this subsection,
38 "immediate family member" means a child or sibling who is 18 years
39 of age or older, or a parent, grandparent, legal guardian, or spouse of
40 the registrant.

41 (e) Nothing in this section shall be construed as creating a private cause of action
42 against a real estate agent or landlord for any act or omission arising out of the
43 residential restriction in this section.

44 (f) A violation of this section is a Class G felony."

1 **SECTION 10.** G.S. 14-208.28 reads as rewritten:

2 "**§ 14-208.28. Verification of registration information.**

3 The information provided to the sheriff shall be verified semiannually for each
4 juvenile registrant as follows:

5 (1) Every year on the anniversary of a juvenile's initial registration date
6 and six months after that date, the sheriff shall mail a verification form
7 to the juvenile court counselor assigned to the juvenile.

8 (2) The juvenile court counselor for the juvenile shall return the
9 verification form to the sheriff within three business days after the
10 receipt of the form.

11 (3) The verification form shall be signed by the juvenile court counselor
12 and the juvenile and shall indicate whether the juvenile still resides at
13 the residential address last reported to the sheriff. If the juvenile has a
14 different residential address, then that fact and the new residential
15 address shall be indicated on the form."

16 **SECTION 11.** This act becomes effective December 1, 2009. This act
17 applies to persons whose initial registration under Article 27A of Chapter 14 of the
18 General Statutes occurs on or after December 1, 2009, and to persons who are registered
19 under Article 27A of Chapter 14 of the General Statutes prior to December 1, 2009, and
20 continue to be registered on or after December 1, 2009. The criminal penalties enacted
21 by this act apply to offenses occurring on or after December 1, 2009.
22

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

BILL DRAFT 2009-LHz-13 [v.4] (12/11)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
12/18/2008 4:50:33 PM

Short Title: Sex Offender Registry/Liberties w/ Student.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADD THE OFFENSE OF TAKING INDECENT LIBERTIES WITH A
STUDENT TO THE LIST OF SEX OFFENSES THAT REQUIRE
REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION
REGISTRATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), 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. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), ~~or~~ G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex act), G.S. 14-202.4 (Taking indecent liberties

1 with a student), G.S. 14-318.4(a1) (parent or caretaker commit or
2 permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)
3 (commission or allowing of sexual act upon a juvenile by parent or
4 guardian). The term also includes the following: a solicitation or
5 conspiracy to commit any of these offenses; aiding and abetting any of
6 these offenses."

7 **SECTION 2.** This act becomes effective December 1, 2009, and applies to
8 all persons convicted of a violation of G.S. 14-202.4 on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

BILL DRAFT 2009-LHz-18 [v.3] (12/18)

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

1/21/2009 3:59:35 PM

Short Title: SBI Computer Crime/Forensic Agent Funds.

(Public)

Sponsors: Representative.

Referred to:

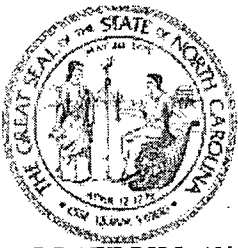
1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO
3 SUPPORT NEW SBI COMPUTER CRIME AND COMPUTER FORENSICS
4 AGENT POSITIONS TO INCREASE PROACTIVE UNDERCOVER LAW
5 ENFORCEMENT EFFORTS AGAINST SEXUAL PREDATORS WHO
6 ATTEMPT TO PREY ON CHILDREN.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. There is appropriated from the General Fund to the
9 Department of Justice the sum of nine hundred sixty thousand five hundred twelve
10 dollars (\$960,512) for the 2009-2010 fiscal year to support eight new SBI computer
11 crime and computer forensics agents to increase proactive undercover law enforcement
12 efforts and to speed-up the analysis of computer forensic evidence in order to arrest and
13 prosecute sexual predators who attempt to prey on children.

14 SECTION 2. This act becomes effective July 1, 2009.





2009-LHZ-4C: Sex Offender/Register Temp. Residence

DRAFT BILL ANALYSIS

Committee: House Select Committee on Sex Offender Issues

Date: January 22, 2009

Summary by: Committee Counsel

SUMMARY: The draft bill does the following:

- Adds the terms "mailing address", "residential address", and "temporary residence" to the list of definitions. "Mailing address" is defined as "the location where a person receives his or her mail." "Residential address" is defined as "the address of a person's residence." "Temporary residence" is defined as "a place where a person abides that is a location other than the person's reported residential address."
- Provides that a person who is required to register under the Sex Offender and Public Protection Registration Programs must report both the person's mailing address and the person's residential address to the appropriate sheriff for inclusion in the public registry.
- Requires a registrant to report in person to the appropriate sheriff any temporary residence maintained by the registrant for a period of five or more calendar days within a 30 calendar day period or for an aggregate period exceeding 30 calendar days in a calendar year.
- Requires a registrant to report in person to the appropriate sheriff when the person terminates the temporary residence.
- Directs the sheriff to remove a temporary residential address from the public registry when a registrant reports the termination of a temporary residence to the sheriff and also requires the sheriff to notify the Division of Criminal Statistics of the Department of Justice that the temporary residence has been terminated.
- Directs the sheriff to remove the temporary residential address if the sheriff verifies that the registrant no longer maintains the temporary residence and has not been at the temporary residence for 30 days preceding the verification of the registrant's public registry information.
- Provides that the temporary residential address is to be included in the information available for public access through the public registry, unless removed from the registry by the sheriff pursuant to law.
- Creates a new criminal offense of failure to report the establishment of a temporary residential address that is punishable as a Class F felony.
- Creates a new criminal offense of failure to report the termination of a temporary residence that is punishable as a Class A1 misdemeanor for a first offense and is punishable as a Class H felony for a second or subsequent offense.
- Makes it a criminal offense knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony.

- Becomes effective December 1, 2009. The registration requirements apply both to persons who are already on the registry at the time of the effective date and to persons who are required to register on or after that date. The criminal offenses and penalties created by the draft bill apply only to offenses that occur on or after December 1, 2009.

SECTION BY SECTION DRAFT BILL ANALYSIS:

Section 1. Amends G.S. 14-208.6 to add definitions for three new terms: "mailing address", "residential address", and "temporary residence". "Mailing address" is defined as "the location where a person receives his or her mail." "Residential address" is defined as "the address of a person's residence." "Temporary residence" is defined as "a place where a person abides that is a location other than the person's reported residential address."

Section 2. Amends G.S. 14-208.7 to provide that a registrant must provide both the registrant's mailing address and residential address to the sheriff to comply with registration requirements. Also clarifies in G.S. 14-208.7(b)(1a) that a registrant who has multiple residences must provide the residential address for each residence to the appropriate sheriff.

Section 3. Amends G.S. 14-208.9 to add a new subsection (a1) that requires a registrant to report in person to the sheriff of the county with whom the registrant is registered the address of any temporary residence at which the registrant abides for a period of five or more calendar days within a 30 calendar day period or for an aggregate period exceeding 30 calendar days in a calendar year. The report must be made to the sheriff within 72 hours after the registrant knows or should know the registrant will be maintaining a temporary residence. The sheriff must forward the temporary residential address to the Division of Criminal Information of the Department of Justice and the Division must forward the notification to all affected county sheriffs.

The new subsection also requires a registrant to report in person to the sheriff the termination of the temporary residence. That report must be made within 72 hours after the person ceases to abide at the temporary residence. The sheriff must then notify the Division of Criminal Information of the Department of Justice that the temporary residence has been terminated and must remove the address of the temporary residence from the public registry.

The other amendments to the statute are conforming changes.

Section 4. Current law requires a registrant to verify at least semi-annually (and more often in some circumstances) that the information provided to the sheriff and the Division of Criminal Information of the Department of Justice for the county registry is still accurate. This section amends G.S. 14-208.9A to require as part of the information verification process that a registrant verify both the registrant's mailing and residential address and also indicate whether the registrant still maintains any temporary residence previously reported. If the registrant indicates that the registrant no longer maintains a temporary residence and has not been at that temporary residential address for the previous 30 days, then the sheriff is directed to remove the address from the public registry and to notify the Division of that fact. (Please note that in practice, the record of the temporary residence will continue to be included in the appropriate law enforcement data-base.)

The other changes to the statute are conforming changes.

Section 5. Amends G.S. 14-208.10(a) to include any reported temporary residential address of a registrant as part of the public registry available for public access and information unless the temporary residential address has been removed by the sheriff pursuant to law. (See G.S. 14-208.9(a1) and G.S. 14-208.9A(a)(3)d.)

Section 6. Amends G.S. 14-208.11(a) to make a conforming change in subdivision (2) of that subsection and to add a new subdivision (11) that makes it a criminal offense to fail to report the

establishment of a temporary residence. The offense is punishable as a Class F felony. Punishment for a Class F felony ranges from a minimum of 10 months intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 49 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 7. Adds a new G.S. 14-208.11B that makes it a criminal offense willfully to fail to report the termination of a temporary residence. A first offense is punishable as a Class A1 misdemeanor and a second or subsequent offense is punishable as a Class H felony. Punishment for a Class A1 misdemeanor ranges from a minimum of 1-60 days community, intermediate or active punishment in the discretion of the court under Level I to a minimum of 1-150 days community, intermediate or active punishment in the discretion of the court for a person sentenced under Level III. Punishment for a Class H felony ranges from a minimum of 4 months community, intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 25 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 8. Amends G.S. 14-208.14(a) to make conforming changes.

Section 9. Current law prohibits a registrant from knowingly residing within 1000 feet of the property on which any public or nonpublic school or child care center is located. Section 8 of the legislative proposal amends G.S. 14-208.16(a) to make it unlawful for a registrant knowingly to maintain a temporary residence within 1,000 feet of the property on which any public or nonpublic school or child care center is located. The offense is punishable as a Class G felony. Punishment for a Class G felony ranges from a minimum of 8 months intermediate or active punishment in the discretion of the court for a person sentenced with mitigating circumstances under Level I to a minimum of 36 months mandatory active time for a person sentenced with aggravating circumstances under Level VI.

Section 10. Amends G.S. 14-208.28 to make conforming changes.

Section 11. Provides that the legislative proposal becomes effective December 1, 2009. Provides that the registration requirements, including the new requirement to report the establishment and termination of a temporary residence, apply to persons who are currently on the registry as well as to persons who commit offenses on or after December 1, 2009, that require registration. Provides that the new criminal offenses enacted by the legislative proposal apply only to offenses that occur on or after December 1, 2009.

VISITOR REGISTRATION SHEET

House Select Com. on Sex Offender Issues 1-22-09
 Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Monica Johnson Hester

NCCASA

Thomas C. Caves, Jr.

NC Dept. of Crime Control: Public Safety

Aaron Gallagher

OSBM

Hannah Rowland

DOL-DEC

Sarah Preston

ACLU-NC

Sheria Reid

IOG

Schmely

600 CASIE

Jeffrey Walston

DOA-YA10

Eddie Caldwell

NC Sheriff's Assn.

SARA THOMAS

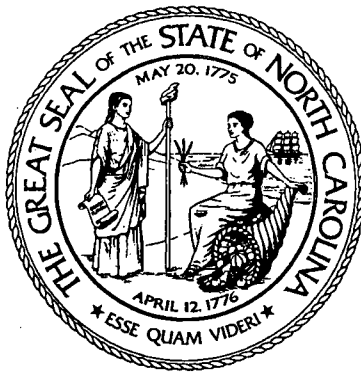
NC SENTENCING COMMISSION

John Madler

"

"

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES



**REPORT TO THE
2009 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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2. A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO SUPPORT NEW SBI COMPUTER CRIME AND COMPUTER FORENSICS AGENT POSITIONS TO INCREASE PROACTIVE UNDERCOVER LAW ENFORCEMENT EFFORTS AGAINST SEXUAL PREDATORS WHO ATTEMPT TO PREY ON CHILDREN.
3. THE COMMITTEE RECOMMENDS THAT A TEMPORARY STANDING COMMITTEE BE CREATED TO CONTINUE TO LOOK AT SEX OFFENDER ISSUES DURING THE 2009 LEGISLATIVE SESSION. SOME OF THE ISSUES THE TEMPORARY STANDING COMMITTEE SHOULD EXAMINE INCLUDE, BUT ARE NOT LIMITED TO, REGISTRATION OF TEMPORARY RESIDENCES, THE RESTRICTIONS OF G.S. 14-208.18, THE REQUIREMENTS OF RECENT FEDERAL LEGISLATION, AND WHETHER THE STATE SHOULD AMEND ITS LAWS TO CONFORM TO FEDERAL LEGISLATION.

January 27, 2009

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE
2009 GENERAL ASSEMBLY OF NORTH CAROLINA:

The House Select Committee on Sex Offender Issues herewith submits
to you for your consideration its report.

Respectfully submitted,

Representative Bruce Goforth

Chair

PREFACE

The House Select Committee on Sex Offender Issues, established by the Speaker of the House of Representatives on February 19, 2008, is authorized to study the sex offender issues in North Carolina.

The Committee is chaired by Representative Bruce Goforth. The committee clerk maintains a notebook containing the committee minutes and all information presented to the committee.

HOUSE SELECT COMMITTEE ON SEX OFFENDER ISSUES
MEMBERSHIP LIST

Representative Bruce Goforth – Chair
Representative Karen Ray – Vice Chair
Representative Alice L. Bordsen
Representative Jean Farmer-Butterfield
Representative Rick Glazier
Representative W. Robert Grady
Representative Verla Insko
Representative Joe L. Kiser
Representative Ray Warren
Representative Roger West

COMMITTEE PROCEEDINGS

September 30, 2008

The House Select Committee on Sex Offender Issues held its first meeting on September 30, 2008.

Susan Sitze, Committee Co-Counsel, presented information concerning a N.C. Court of Appeals decision concerning the definition of "residence" as it applies to persons who are required to register as sex offenders. Ms. Sitze then reviewed G.S. 14-208.8A, which requires persons who must register as sex offenders to notify the sheriff of the person's place of employment and temporary residence (hotel, motel, or other transient lodging place) if the person works in a county other than the county in which the person is registered and maintains a temporary residence in that county for more than 10 business days within a 30-day period. Ms. Sitze also reviewed the following statutes: G.S. 14-208.16, which defines residential restrictions; G.S. 153-A, which covers the definition of a legal residence for social service purposes; and G.S. 163-57, which defines residence for the purpose of registration and voting.

After some discussion the committee agreed that if a registered sex offender is residing in a location for 10 days or more within a one-month period, the sheriff should be notified. Committee staff was asked to present one or more proposals to the Attorney General's office and to provide the information to Committee members prior to the next meeting. The suggestion was made that the Committee utilize a provision in the State's election law that defines "residence" for voting purposes. Questions were also raised about the impact of proposed legislation on the State's budget. Committee members agreed that the type of activity committed by a sex offender and where the offense occurred should be factors in imposing additional registration requirements.

The meeting adjourned after additional discussion by the committee members.

November 13, 2008

The House Select Committee on Sex Offender Issues held its second meeting on November 13, 2008.

The Committee heard from **Mr. Grier Weeks from the National Organization to Protect Children (PROTECT)**. According to its mission statement, PROTECT is a national pro-child, anti-crime membership association. Mr. Weeks introduced **David Keith, National Chairman for PROTECT**. Mr. Keith is also a well know actor who has starred in a number of films. Mr. Keith indicated that United States consumers are

responsible for more than 50% of pornography. According to Mr. Keith, 83% of the children in pornographic films are 6 to 12 years of age, 39% are 3-5 years old and 20% are less than the age of three. Mr. Keith indicated that so-called "stranger danger" affects only about 4% of abused kids; the other 96% are abused by a member of the family or a trusted adult. He described a study of 62 prisoners who were given amnesty on any additional charges to discuss their crimes. Over 80% of the offenders admitted to assaulting more than 27 children each. Mr. Keith said there are more than 750,000 traffickers in pornography, and the use of a computer program that allows law enforcement to analyze computer hard drives has resulted in the rescue of a child 40% of the time. However, due to manpower and money shortages only about 2% of leads result in a full investigation and the percentage of leads that eventually result in a conviction is even lower, generally because of plea bargains.

The Committee heard from **Mr. Bob Carbo, Co-Director of the Sex Offender Accountability and Responsibility (SOAR) program for the N.C. Department of Correction.** The SOAR Program provides treatment of incarcerated sexual offenders. Through the program participants learn that sexually abusive behavior is both controllable and manageable. The SOAR program, which is strictly voluntary, is located at the Harnett Correctional Institution in Lillington. Of more than 250 applicants only 60 per year are admitted due to staff & space shortage.

Emily Johnson, Committee Co-Counsel, presented draft legislation for consideration by the Committee. The legislation addresses the definition of a "residence" and a "temporary residence" and creates a new criminal offense for the failure to report a temporary residential address. The new criminal offense would be punishable as a Class F felony. The new criminal penalties would only apply to offenses which occurring on or after December 1, 2009. The proposed legislation was discussed and approved by the Committee.

December 18, 2008

The House Select Committee on Sex Offender Issues held its third meeting on December 18, 2008.

The Committee heard from **Mr. Kevin West, Special Agent in Charge, of the SBI Computer Crimes Unit/NC Internet Crimes against Children (ICAC).** Mr. West discussed the sources of information about Computer Crimes, including requests from local agencies, requests from federal partners, the Cyber-tip line, undercover operations and referrals from other ICAC units across the country. There are 60 National ICAC Task Forces and 70 local, State and Federal partners. Referrals on the Cyber-tip line are made by Internet companies (which are required to do so) and members of the public. Agent West described a typical cyber-tip case from receipt of the information to the issuance of a subpoena, then verification and research to the summary and assignment to

an SBI agent with a prepared warrant. **Mr. Greg McLeod, NC Department of Justice** was recognized. McLeod reported that some special federal funding had enabled the SBI to purchase a high tech training laboratory.

The Committee discussed and adopted a recommendation to provide additional funding for new agents. The Committee also adopted a recommendation to add a statutory provision concerning address changes.

Susan Sitze, Committee Co-Counsel, gave an overview of the new G.S. 14-208.18 concerning sex offenders unlawfully on certain premises intended primarily for the use or care of minors. She also gave the committee a copy of "The North Carolina Sex Offender & Public Protection Registration Programs", and shared comments from Attorney General Roy Cooper regarding the SBI Computer Crimes Unit and the positive work done by that Unit.

Representative Rick Glazier was appointed to coordinate a special working group to consider various issues related to sex offender registration requirements.

Emily Johnson, Committee Co-Counsel, was recognized to give a review of draft legislation to require the registration of persons conviction of the offense of taking indecent liberties with a student. After discussion and the adoption of several changes proposed by members of the committee, the draft was approved. **Jean Sandaire of the legislature's Fiscal Research Division** reviewed a Fiscal Analysis Memorandum related to the draft legislation.

Before the committee adjourned Representative Goforth recognized Representative Karen Ray for her dedicated work as Vice-Chair of this Committee.

January 22, 2009

The House Select Committee on Sex Offender Issues held its fourth and final meeting on January 22, 2009 to discuss its recommendations to the 2009 General Assembly.

COMMITTEE RECOMMENDATIONS

1. A BILL TO BE ENTITLED AN ACT TO ADD THE OFFENSE OF TAKING INDECENT LIBERTIES WITH A STUDENT TO THE LIST OF SEX OFFENSES THAT REQUIRE REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAM.

2. A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO SUPPORT NEW SBI COMPUTER CRIME AND COMPUTER FORENSICS AGENT POSITIONS TO INCREASE PROACTIVE UNDERCOVER LAW ENFORCEMENT EFFORTS AGAINST SEXUAL PREDATORS WHO ATTEMPT TO PREY ON CHILDREN.

3. THE COMMITTEE RECOMMENDS THAT A TEMPORARY STANDING COMMITTEE BE CREATED TO CONTINUE TO LOOK AT SEX OFFENDER ISSUES DURING THE 2009 LEGISLATIVE SESSION. SOME OF THE ISSUES THE TEMPORARY STANDING COMMITTEE SHOULD EXAMINE INCLUDE, BUT ARE NOT LIMITED TO, REGISTRATION OF TEMPORARY RESIDENCES, THE RESTRICTIONS OF G.S. 14-208.18, THE REQUIREMENTS OF RECENT FEDERAL LEGISLATION, AND WHETHER THE STATE SHOULD AMEND ITS LAWS TO CONFORM TO FEDERAL LEGISLATION.

ATTACHMENTS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2009

H

D

BILL DRAFT 2009-LHz-13 [v.4] (12/11)

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

12/18/2008 4:50:33 PM

Short Title: Sex Offender Registry/Liberties w/ Student.

(Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADD THE OFFENSE OF TAKING INDECENT LIBERTIES WITH A STUDENT TO THE LIST OF SEX OFFENSES THAT REQUIRE REGISTRATION UNDER THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), 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. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), ~~or~~ G.S. 14-202.3 (Solicitation of child by computer to commit an unlawful sex act), G.S. 14-202.4 (Taking indecent liberties

1 with a student), G.S. 14-318.4(a1) (parent or caretaker commit or
2 permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)
3 (commission or allowing of sexual act upon a juvenile by parent or
4 guardian). The term also includes the following: a solicitation or
5 conspiracy to commit any of these offenses; aiding and abetting any of
6 these offenses."

7 **SECTION 2.** This act becomes effective December 1, 2009, and applies to
8 all persons convicted of a violation of G.S. 14-202.4 on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

BILL DRAFT 2009-LHz-18 [v.3] (12/18)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
1/21/2009 3:59:35 PM

Short Title: SBI Computer Crime/Forensic Agent Funds.

(Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF JUSTICE TO
3 SUPPORT NEW SBI COMPUTER CRIME AND COMPUTER FORENSICS
4 AGENT POSITIONS TO INCREASE PROACTIVE UNDERCOVER LAW
5 ENFORCEMENT EFFORTS AGAINST SEXUAL PREDATORS WHO
6 ATTEMPT TO PREY ON CHILDREN.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. There is appropriated from the General Fund to the
9 Department of Justice the sum of nine hundred sixty thousand five hundred twelve
10 dollars (\$960,512) for the 2009-2010 fiscal year to support eight new SBI computer
11 crime and computer forensics agents to increase proactive undercover law enforcement
12 efforts and to speed-up the analysis of computer forensic evidence in order to arrest and
13 prosecute sexual predators who attempt to prey on children.

14 SECTION 2. This act becomes effective July 1, 2009.

