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# THE NORTH CAROLINA SEX OFFENDER & PUBLIC PROTECTION REGISTRATION PROGRAMS

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LAW ENFORCEMENT LIAISON SECTION

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# **NORTH CAROLINA SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS**

## **I. INTRODUCTION**

The North Carolina Department of Justice has prepared this outline 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. 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.

## **II. 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 were 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.

### **III. 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.

### **IV. WHO IS REQUIRED TO REGISTER?**

Four groups of persons are required to register on the public registry:

- A. Residents who have a "reportable conviction." This applies to both current residents and new residents who move into the state; (N.C.G.S. § 14-208.7(a))
- B. Persons who have a "reportable conviction" and move to North Carolina from outside the State and are present in the State for 15 days; (N.C.G.S. § 14-208.7(a))
- C. 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))
- D. 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))

**V. 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.<sup>1</sup>

**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. For this statute, “parent” means biological or adoptive parent with parental rights. See State v. Stanley, \_\_\_ N.C. App. \_\_\_, 697 S.E.2d 389 (2010).

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 <u>or legal custodian</u> . [1999 S.L. 363]
14-41	Abduction of Children	
14-43.3	Felonious Restraint	

\* 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>
14-27.4	First Degree Sexual Offense	Convicted or Released from Penal Institution on or after <u>Jan. 1, 1996</u>

<sup>1</sup>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/>.

N.C.G.S. §	Sexually Violent Offense	Effective Date
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>
14-202.4(a) [2009 S.L. 498]	Indecent Liberties with a Student	Convicted or Released from Penal Institution on or after <u>Dec. 1, 2009</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 <b>only</b> if the <b>court</b> sentencing the individual <b>finds</b> 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(1m), 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(1m), 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 <b>court</b> sentencing the individual issues an <b>order</b> 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 <b>court</b> sentencing the individual issues an <b>order</b> 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 <b>court</b> sentencing the individual issues an <b>order</b> 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 <b>court</b> sentencing the individual issues an <b>order</b> 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 <b>court</b> sentencing the individual issues an <b>order</b> 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 <b>court</b> sentencing the individual issues an <b>order</b> 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 <b>substantially similar</b> to “an offense against a minor” or a “sexually violent offense” is a reportable conviction. <b>Includes <u>conspiracy or solicitation to commit any of these offenses</u> and <u>aiding and abetting any of these offenses</u>.</b>	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. <b>Includes <u>ANY</u> offense that requires registration in state of conviction.</b>	Applies to individuals who <b>MOVE</b> into North Carolina on or after <u>Dec. 1, 2006</u> .
14-208.6(4)(b) [2010 S.L. 174]	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. <b>Includes <u>ANY</u> offense that requires registration in state of conviction.</b>	Applies to individuals who: 1) moved into North Carolina prior to Dec. 1, 2006; <b>and</b> 2) met or meet <b>at least one</b> of the following conditions on or after Oct. 1, 2010: a) required to register in N.C. based on another conviction; <b>or</b> b) served an active sentence for any offense; <b>or</b> c) on supervised probation, parole, or post-release supervision for any offense; <b>or</b> d) convicted of any felony.

\* 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. <b>Includes <u>conspiracy or solicitation to commit any of these offenses</u> and <u>aiding and abetting any of these offenses</u>.</b>	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.

When deciding whether a judicial determination, such as an adjudication, from another state is a “final conviction,” one should look at that state’s law to see if that state treats the judicial determination as a final conviction for registry purposes. For example, some states’ registration laws define conviction to include adjudications.

**VI. 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]	<p><b>Nonresident Student</b></p> <p>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.</p>	<p><b>Either</b> has a “reportable conviction”(see above) <b>or</b> is required to register in their state of residency.</p>	Oct. 1, 2001
14-208.6 (1h), 14-208.7(a1) [2001 S.L. 373]	<p><b>Nonresident Worker</b></p> <p>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, <b>or</b> for an aggregate period exceeding 30 days in a calendar year.</p>	<p><b>Either</b> has a “reportable conviction” (see above) <b>or</b> is required to register in their state of residency</p>	Oct. 1, 2001

**VII. 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]	<b>Aggravated Offender</b> “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. *See following NOTE for further information.	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]	<b>Recidivist</b>	A person who has a prior conviction for an offense <u>described</u> in N.C.G.S. § 14-208.6(4). No effective date restriction on prior offense. <u>See State v. Wooten</u> , 194 N.C. App. 524, 669 S.E.2d 749 (2008).	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]	<b>Sexually Violent Predator</b>	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.)

**NOTE:** The North Carolina Court of Appeals has issued an opinion that when a court is making a determination as to whether an offender has been convicted of an "aggravated offense" for satellite-based monitoring purposes, "the trial court is only to consider the elements of the offense of which a defendant was convicted and is not to consider the underlying factual scenario giving rise to the conviction." State v. Davison, \_\_\_ N.C. App. \_\_\_, 689 S.E.2d. 510, 517 (2009). The North Carolina Supreme Court declined to review this decision in November 2010.

The North Carolina Court of Appeals again examined "aggravated offenses" in the context of satellite-based monitoring in State v. Singleton, \_\_\_ N.C.App. \_\_\_, 689 S.E.2d 562 (2010). The offender in that case had pled guilty to the reduced charge of indecent liberties with a minor. The offender was 16 years old at the time of offense. At the satellite-based monitoring determination hearing, the offender's probation officer testified that the offender had anally penetrated a 4 year old boy who was a friend of the family. The Court held that the trial court erred by conducting a factual based analysis of the offense. The

Court held that when determining whether the offender had committed an "aggravated offense", the trial court should only look at the statutory elements of the specific crime that the offender was convicted.

Please note, these cases do not directly address the issues as to whether the Sheriffs or Courts are similarly bound by a strict elemental analysis of an offense in determining whether the offense was an "aggravated offense" for registration purposes. Thus, one may wish to consult with legal counsel to determine the proper analysis for determining whether an offense is "aggravated."

**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.<sup>2</sup>  
(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.<sup>3</sup>  
(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.)

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<sup>2</sup> 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

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

## VIII. 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.

### 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) [2008 S.L. 117]	Current North Carolina resident who received an active sentence.	Within 3 business days of release from a correctional institution. Prior to Dec. 1, 2008, offenders had 10 days.
14-208.7(a) [2008 S.L. 117]	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, <b>whichever comes first</b> . Prior to Dec. 1, 2008, offenders had 10 days.
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 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. Residential Address**

Every offender “does, at all times, have an ‘address’ of some sort, even if it is a homeless shelter, a location under a bridge or some similar place.” State v. Worley, 198 N.C. App. 329, 337-338, 679 S.E.2d 857, 863-864,(2009). Every offender must register their address and their address should appear on the registry.

An offender’s mere presence at a location does not establish a residence, but a residence is established when certain “activities of life” occur at the particular location. State v. Abshire, 363 N.C. 322, 332, 677 S.E.2d 444, 451 (2009). Activities of life “possibly indicative of a person’s place of residence are numerous and diverse, and there are a multitude of facts a jury might look to when answering whether a sex offender has changed his or her address.” State v. Abshire, 363 N.C. 322, 332, 677 S.E.2d 444, 451 (2009). In State v. Abshire, the North Carolina Supreme Court found that “[t]he jury could have reasonably inferred that [Abshire’s] spending the night at her father’s house for this amount of time, or for even a shorter duration, indicated that defendant carried out the core necessities of daily living at Gragg Price Lane and that she had made her father’s residence her own for that period of time.” Abshire, 363 N.C. 322, 333, 677 S.E.2d 444, 452 (2009). Thus, one must consider what “activities of life” occur at a location in order to determine whether that location is a person’s residence.

**2. 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 imposed<sup>4</sup>;
- 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

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<sup>4</sup> 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.

- 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.<sup>5</sup>
- 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.

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.

### **3. 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.<sup>6</sup> Failure to comply with these verification procedures is a Class F Felony.

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<sup>5</sup> **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.

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

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.

**4. 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.<sup>7</sup>

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<sup>7</sup> Prior to Dec. 1, 2008, offenders were required to report within 72 hours.

**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 <b>changes address</b> - new address in a <b>same county</b>	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 <sup>8</sup>
14-208.9(a) [2007 S.L. 213]	Offender <b>changes address</b> - new address in a <b>different North Carolina county</b>	Report IN PERSON and provide written notification of new address to <b>both</b> the sheriff’s office of the county with whom the offender last registered <b>and</b> 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 <sup>9</sup>
14-208.9(b) [2006 S.L. 247]	Offender intends to <b>move to another state</b>	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 <sup>10</sup>
14-208.9(b1)	Offender who indicated their intent to reside in another state or jurisdiction <b>decides to remain in state</b>	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 <sup>11</sup>
14-208.9 [2008 S.L. 220] <b>Effective May 1, 2009<sup>12</sup></b>	A person required to register changes or obtains a new online identifier (For the definition of online identifier see Section VIII. D. 2. “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

<sup>8</sup> Prior to Dec. 1, 2008, offenders were required to report within 10 days of change of address.

<sup>9</sup> Prior to Dec. 1, 2008, offenders were required to report within 10 days to both sheriffs.

<sup>10</sup> Prior to Dec. 1, 2008, offenders were required to report at least 10 days before date.

<sup>11</sup> Prior to Dec. 1, 2008, offenders were required to report at least 10 days after date.

<sup>12</sup> 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.

N.C.G.S. §	Event	Notification Required	Deadline
14-208.8A [2006 S.L. 247; 2007 S.L. 484]]	<p>1. The offender is <b>employed or carries on a vocation in a North Carolina county other than the county in which they are registered</b> 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;"><b><u>AND</u></b></p> <p>2. They <b>maintain a temporary residence in that county</b> 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; <b>OR</b></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 <b>changes academic status</b> 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 <sup>13</sup> Note, this may only apply to persons convicted on or after Oct. 2, 2002. Law enforcement should consult with their district attorney before charging.
14-208.6(1e) 14-208.9(d)	Offender <b>changes employment status at institution of higher education</b> (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 <sup>14</sup> Note, this may only apply to persons convicted on or after Oct. 2, 2002. Law enforcement should consult with their district attorney before charging.

<sup>13</sup> Prior to Dec. 1, 2008, offenders were required to report within 10 days of change.

<sup>14</sup> Prior to Dec. 1, 2008, offenders were required to report within 10 days of change.

N.C.G.S. §	Event	Notification Required	Deadline
14-208.11(c)	Offender is incarcerated or in custody of local, State, private, or federal correctional facility	While incarcerated or in custody offender must notify official in charge of facility of offender's status as a person with a legal obligation to register	Offender must also meet all registration and verification requirements no later than 10 days after release

**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](http://www.nccourts.org), as well as at the local clerk's of court office.

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.

## **IX. 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. 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.<sup>15</sup>

For purposes of this statute, "childcare center" is defined by N.C.G.S. § 110-86(3). N.C.G.S. § 110-86(3)(a) provides "[a] child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving **child care**." Thus, to determine whether a location is a child care center, one must determine whether a location provides "child care." N.C.G.S. § 110-86(2) provides a very specific definition as to what activities constitute "child care." Consult N.C.G.S. § 110-86 to determine whether "child care" is being provided. (See Appendix I at the end of the publication.)

Furthermore, the residency 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

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<sup>15</sup> "Home school" means a nonpublic school in which one or more children of not more than two families or households receive academic instruction from parents or legal guardians, or a member of either household. N.C.G.S. § 115C-563.

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.<sup>16</sup>

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 to care for a child. 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.

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<sup>16</sup> 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.



**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.

"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. Commercial Drivers License (CDL) Restriction**  
**(Effective Dec 1, 2009)**

N.C.G.S. §§ 14-208.19, 20-17.9, 20-27.1, 20-37.14A  
[2009 S.L. 491]

A person required to register under Article 27A of Chapter 14 is disqualified from driving a commercial motor vehicle that requires a CDL with a P or S endorsement.

Exception: A person who was registered on December 1, 2009 and who has a valid CDL with a P or S endorsement that was issued before December 1, 2009 is not disqualified until their license expires, provided they do not commit a subsequent offense that requires registration.

A person who drives a commercial passenger vehicle or school bus and who does not have a valid CDL with a P or S endorsement because that person was convicted of a violation that requires registration is guilty of a Class F felony.

**F. 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 or is received in the State.

**G. 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.

**H. 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 II 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.

## **X. 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.<sup>17</sup>

For additional information concerning this program, contact the North Carolina Department of Correction at (919) 716-3700.

## **XI. 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 to elude 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

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

forward that report to an appropriate law enforcement official in this State. (See Section XIV. B. 6. “Release of Online Identifiers” of this publication for the definition of “entity”.)

## XII. CRIMES AND PENALTIES

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-202.5 <b>(Effective Dec. 1, 2008)</b>	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 I 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
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 <b>(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)</b>	Class F felony

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-208.11A(a)(1)	<b>Any person</b> 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)	<b>Any person</b> 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
14-208.11A(a)(3)	<b>Any person</b> 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)	<b>Any person</b> 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)	<b>Any person</b>	Violates limitation as established by G.S. § 14-208.17 on residential use	Class F felony

N.C.G.S. §	Who Can Be In Violation	Violation	Penalty
14-208.18 <b>(Effective Dec. 1, 2008)</b>	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]	<b>Any person</b>	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.
14-321.1(c)	<b>Any person</b>	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
20-27.1 [2009 S.L. 491] <b>(Effective Dec. 1, 2009)</b>	Person required to register	Drives a commercial passenger vehicle or school bus and does not have a valid CDL with a P or S endorsement because that person was convicted of a violation that requires registration	Class F felony
20-37.14A [2009 S.L. 491] <b>(Effective Dec. 1, 2009)</b>	<b>Any person</b>	Makes a false affidavit, or knowingly swears or affirms falsely, to any matter or thing required to be affirmed to or be sworn to by terms of G.S. § 20-37.14A (Prohibit issuance/renewal of CDL with P or S endorsement to person required to register)	Class I felony



### **XIII. 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 in North Carolina are subject to Part 4 “Registration of certain juveniles adjudicated delinquent for committing certain offenses.”

##### **1. Registration Requirement**

N.C.G.S. §§ 7B-2509, 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.<sup>18</sup> 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;<sup>19</sup> 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.

**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.

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<sup>18</sup> Prior to Dec. 1, 2008, court counselors shall provide written notice to the sheriff within 10 days of the change.

<sup>19</sup> Prior to Dec. 1, 2008, court counselors shall return the form within 10 days of receipt of the form.

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 (18<sup>th</sup>) birthday, or when the juvenile court's jurisdiction with the juvenile ends, whichever comes first.

**XIV. 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://sexoffender.ncdoj.gov/>

**5. Required Use of Registry Information**

- (a) **Principals and Day Care Center Licensees**  
N.C.G.S. § 14-208.19 (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.

**(c) Information on Juvenile Offenders Enrolled in Local Schools**

N.C.G.S. § 14-208.29 (Effective Dec. 1, 2008)

Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education.

**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.<sup>20</sup> 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 provides that:

A commercial social networking site, as defined in G.S. 14-202.5, that complies with G.S. 14-208.15A or makes other reasonable efforts to prevent a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes from accessing its Web site shall not be held civilly liable for damages arising out of a person's communications on the social networking site's system or network regardless of that person's status as a registered sex offender in North Carolina or any other jurisdiction.

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<sup>20</sup>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.

#### **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. Furthermore, by registering with NC SAVAN (N.C. Statewide Automated Victim Assistance Notification) a person can request that they receive telephone notifications when an offender moves into their area. This service is available free of charge to any interested person. If a person wishes to receive these telephone alert notifications, they should call 877- 627 - 2826.

*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 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.



## APPENDIX I

N.C.G.S. § 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

- (1) Commission. – The Child Care Commission created under this Article.
- (2) Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. **Child care does not include the following:**
  - a. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
  - b. Recreational programs operated for less than four consecutive months in a year;
  - c. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
  - d. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
  - d1. Drop-in or short-term care provided by an employer for its part-time employees where (i) the child is provided care not to exceed two and one-half hours during that day, (ii) the parents are on the premises, and (iii) there are no more than 25 children in any one group in any one room;
  - e. Public schools;
  - f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school site;
  - g. Bible schools conducted during vacation periods;
  - h. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
  - i. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
  - j. Any child care program or arrangement consisting of two or more separate components, each of which operates for four hours or less per day with different children attending each component.
- (2a) Child care administrator. – A person who is responsible for the operation of a child care facility and is on-site on a regular basis.
- (3) Child care facility. – Includes child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.
  - a. A child care center is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
  - b. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.
- (4) Repealed by Session Laws 1997-506, s. 3.
- (4a) Department. – Department of Health and Human Services.
- (5) Repealed by Session Laws 1975, c. 879, s. 15.
- (5a) Lead teacher. – An individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility.
- (6) License. – A permit issued by the Secretary to any child care facility which meets the statutory standards established under this Article.
- (7) Operator. – Includes the owner, director or other person having primary responsibility for operation of a child care facility subject to licensing.
- (8) Secretary. – The Secretary of the Department of Health and Human Services. (1971, c. 803, s. 1; 1975, c. 879, s. 15; 1977, c. 4, ss. 1-3; 1983, c. 46, s. 1; c. 297, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1034, s. 78; 1985, c. 589, s. 36; c. 757, s. 155(c); 1987, c. 788, s. 2; 1989, c. 234; 1991, c. 273, s. 1; 1991 (Reg. Sess., 1992), c. 904, ss. 1, 2; c. 1024, s. 1; c. 1030, s. 51.12; 1997-443, ss. 11A.118(a), 11A.122; 1997-506, s. 3; 2005-416, s. 1.)

## APPENDIX II

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 IX. H. “Certain Offenders Prohibited from Protected Locations” of this publication for more information.)

<b>North Carolina Article 7A Offenses</b>	
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 VIX. H. 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

<b>North Carolina Offenses in which the Victim Will Always Be Under 16</b>	
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 VIX. H. 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

<b>Other North Carolina Offenses</b>
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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 VIX. H. 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)
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<b>Offenses from Other Jurisdictions</b>
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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 VIX. H. 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).
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<b>Offenses involving Aiding &amp; Abetting, Attempt, Conspiracy, and Solicitation</b>
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Must analyze underlying offense and age of victim.
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