

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

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a reoffender, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

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

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a reoffender, (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a reoffender, has committed an aggravated offense, or was convicted of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment and all relevant evidence, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a reoffender, the court shall order that the Department of Adult Correction do a risk assessment of the offender. The Department shall have up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

(e) Upon receipt of a risk assessment from the Department of Adult Correction pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment and all relevant evidence, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court, not to exceed 10 years. (2007-213, s. 2; 2008-117, s. 16.1; 2011-145, s. 19.1(h); 2015-181, s. 41; 2017-186, s. 2(u); 2021-138, s. 18(d); 2021-180, s. 19C.9(jj); 2021-182, s. 2(b).)