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Short Title: Sex Offender Registration Changes.

(Public)

Sponsors:

Referred to:

May 11, 2006

A BILL TO BE ENTITLED

AN ACT TO (1) AMEND THE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS; (2) IMPLEMENT A SATELLITE-BASED MONITORING SYSTEM TO ASSIST WITH THE SUPERVISION OF CERTAIN SEX OFFENDERS AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE; (3) EXPAND THE DEFINITION OF 'SEXUAL CONTACT' AS IT RELATES TO THE OFFENSE OF SEXUAL BATTERY; (4) AUTHORIZE THE DEPARTMENT OF CORRECTION TO STUDY THE MENTAL HEALTH TREATMENT PRACTICES OF SEX OFFENDERS; (5) CREATE THE CRIMINAL OFFENSES OF HUMAN TRAFFICKING AND SEXUAL SERVITUDE; (6) AMEND THE OFFENSE OF INVOLUNTARY SERVITUDE; AND (7) ADD THE OFFENSE OF SEXUAL SERVITUDE TO THE LIST OF OFFENSES THAT REQUIRE REGISTRATION UNDER SEX OFFENDER REGISTRATION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-208.6(5) reads as rewritten:

"(5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious

1 indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of
2 a minor), G.S. 14-190.17 (second degree sexual exploitation of a
3 minor), G.S. 14-190.17A (third degree sexual exploitation of a minor),
4 G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19
5 (participating in the prostitution of a minor), G.S. 14-202.1 (taking
6 indecent liberties with children), or G.S. 14-202.3 (Solicitation of child
7 by computer to commit an unlawful sex act). The term also includes
8 the following: a solicitation or conspiracy to commit any of these
9 offenses; aiding and abetting any of these offenses."

10 **SECTION 1.(b)** This section becomes effective December 1, 2006, and
11 applies to offenses committed on or after that date.

12 **SECTION 2.(a)** G.S. 14-208.6A reads as rewritten:

13 **"§ 14-208.6A. Lifetime registration requirements for criminal offenders.**

14 It is the objective of the General Assembly to establish a 10-year registration
15 requirement for persons convicted of certain offenses against minors or sexually violent
16 offenses. It is the further objective of the General Assembly to establish a more
17 stringent set of registration requirements for recidivists, persons who commit
18 aggravated offenses, and for a subclass of highly dangerous sex offenders who are
19 determined by a sentencing court with the assistance of a board of experts to be sexually
20 violent predators.

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

28 The information obtained under these programs shall be immediately shared with the
29 appropriate local, State, federal, and out-of-state law enforcement officials and penal
30 institutions. In addition, the information designated under G.S. 14-208.10(a) as public
31 record shall be readily available to and accessible by the public. However, the identity
32 of the victim is not public record and shall not be released as a public record."

33 **SECTION 2.(b)** This section becomes effective December 1, 2006.

34 **SECTION 3.(a)** G.S. 14-208.6B reads as rewritten:

35 **"§ 14-208.6B. Registration requirements for juveniles transferred to and convicted
36 in superior court.**

37 A juvenile transferred to superior court pursuant to G.S. 7B-2200 who is convicted
38 of a sexually violent offense or an offense against a minor as defined in G.S. 14-208.6
39 shall register in person in accordance with this Article just as an adult convicted of the
40 same offense must register."

41 **SECTION 3.(b)** This section becomes effective December 1, 2006.

42 **SECTION 4.(a)** Part 2 of Article 27A of Chapter 14 of the General Statutes
43 is amended by adding a new section to read:

1 "§ 14-208.8A. Notification requirement for out-of-county employment if
2 temporary residence established.

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

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

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

15 (b) Time Period. – The notice required by subsection (a) of this section shall be
16 provided within 48 hours after the person knows or should know that he or she will be
17 working and maintaining a temporary residence in a county other than the county in
18 which the person resides for more than 10 business days within a 30-day period, or
19 within 10 days after the person knows or should know that he or she will be working
20 and maintaining a temporary residence in a county other than the county in which the
21 person resides for an aggregate period exceeding 30 days in a calendar year.

22 (c) Notice to Division. – Upon receiving the notice required under subsection (a)
23 of this section, the sheriff shall immediately forward the information to the Division.
24 The Division shall notify the sheriff of the county where the person is working and
25 maintaining a temporary residence of the person's place of employment and temporary
26 address in that county."

27 **SECTION 4.(b)** This section becomes effective June 1, 2007.

28 **SECTION 5.(a)** G.S. 14-208.7 reads as rewritten:

29 **"§ 14-208.7. Registration.**

30 (a) A person who is a State resident and who has a reportable conviction shall be
31 required to maintain registration with the sheriff of the county where the person resides.
32 If the person moves to North Carolina from outside this State, the person shall register
33 within 10 days of establishing residence in this State, or whenever the person has been
34 present in the State for 15 days, whichever comes first. If the person is a current resident
35 of North Carolina, the person shall register:

36 (1) Within 10 days of release from a penal institution or arrival in a county
37 to live outside a penal institution; or

38 (2) Immediately upon conviction for a reportable offense where an active
39 term of imprisonment was not imposed.

40 Registration shall be maintained for a period of at least 10 years following the date of
41 initial county registration.~~release from a penal institution. If no active term of~~
42 ~~imprisonment was imposed, registration shall be maintained for a period of 10 years~~
43 ~~following each conviction for a reportable offense.~~

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

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

- 9 (1) The person's full name, each alias, date of birth, sex, race, height,
10 weight, eye color, hair color, drivers license number, and home
11 address;
- 12 (2) The type of offense for which the person was convicted, the date of
13 conviction, and the sentence imposed;
- 14 (3) A current photograph;
- 15 (4) The person's fingerprints;
- 16 (5) A statement indicating whether the person is a student or expects to
17 enroll as a student within a year of registering. If the person is a
18 student or expects to enroll as a student within a year of registration,
19 then the registration form shall also require the name and address of
20 the educational institution at which the person is a student or expects
21 to enroll as a student; and
- 22 (6) A statement indicating whether the person is employed or expects to
23 be employed at an institution of higher education within a year of
24 registering. If the person is employed or expects to be employed at an
25 institution of higher education within a year of registration, then the
26 registration form shall also require the name and address of the
27 educational institution at which the person is or expects to be
28 employed.

29 The sheriff shall photograph the individual at the time of registration and take
30 fingerprints from the individual at the time of registration both of which will be kept as
31 part of the registration form. The registrant will not be required to pay any fees for the
32 photograph or fingerprints taken at the time of registration.

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

38 (d) Any person required to register under this section shall report in person at the
39 appropriate sheriff's office to comply with the registration requirements set out in this
40 section."

41 **SECTION 5.(b)** This section becomes effective December 1, 2006.

42 **SECTION 6.(a)** G.S. 14-208.9 reads as rewritten:

43 **"§ 14-208.9. Change of address; change of academic status or educational**
44 **employment status.**

1 (a) If a person required to register changes address, the person shall report in
2 person and provide written notice of the new address not later than the tenth day after
3 the change to the sheriff of the county with whom the person had last registered. Upon
4 receipt of the notice, the sheriff shall immediately forward this information to the
5 Division. If the person moves to another county in this State, the Division shall inform
6 the sheriff of the new county of the person's new residence.

7 (b) If a person required to register ~~moves~~ intends to move to another state, the
8 person shall report in person to the sheriff of the county of current residence at least 10
9 days before the date the person intends to leave this State to establish residence in
10 another state or jurisdiction. ~~provide written notice of the new address not later than 10~~
11 ~~days after the change to the sheriff of the county with whom the person had last~~
12 ~~registered. Upon receipt of the notice, the~~ The person shall provide to the sheriff a
13 written notification that includes all of the following information: the address,
14 municipality, county, and state of intended residence.

15 (1) If it appears to the sheriff that the record photograph of the sex
16 offender no longer provides a true and accurate likeness of the sex
17 offender, then the sheriff shall take a photograph of the offender to
18 update the registration.

19 (2) The sheriff shall ~~notify~~ inform the person that the person must comply
20 with the registration requirements in the new state of residence. The
21 sheriff shall also immediately forward the ~~change of address~~
22 information included in the notification to the Division, and the
23 Division shall inform the appropriate state official in the state to which
24 the registrant moves of the person's notification and new address.

25 (b1) A person who indicates his or her intent to reside in another state or
26 jurisdiction and later decides to remain in this State shall, within 10 days after the date
27 upon which the person indicated he or she would leave this State, report in person to the
28 sheriff's office to which the person reported the intended change of residence, of his or
29 her intent to remain in this State. If the sheriff is notified by the sexual offender that he
30 or she intends to remain in this State, the sheriff shall promptly report this information
31 to the Division.

32 (c) If a person required to register changes his or her academic status either by
33 enrolling as a student or by terminating enrollment as a student, then the person ~~shall~~
34 shall, within 10 days, report in person to the sheriff of the county with whom the person
35 registered and provide written notice of the person's new status not later than the tenth
36 day after the change to the sheriff of the county with whom the person registered. ~~status.~~
37 The written notice shall include the name and address of the institution of higher
38 education at which the student is or was enrolled. ~~Upon receipt of the notice, the~~ The
39 sheriff shall immediately forward this information to the Division.

40 (d) If a person required to register changes his or her employment status either by
41 obtaining employment at an institution of higher education or by terminating
42 employment at an institution of higher education, then the person ~~shall~~ shall, within 10
43 days, report in person to the sheriff of the county with whom the person registered and
44 provide written notice of the person's new status not later than the tenth day after the

1 change to the sheriff of the county with whom the person registered. The written notice
2 shall include the name and address of the institution of higher education at which the
3 person is or was employed. ~~Upon receipt of the notice, the~~ The sheriff shall immediately
4 forward this information to the Division."

5 **SECTION 6.(b)** This section becomes effective December 1, 2006.

6 **SECTION 7.(a)** G.S. 14-208.9A reads as rewritten:

7 "**§ 14-208.9A. Verification of registration information.**

8 (a) The information in the county registry shall be verified ~~annually~~ semiannually
9 for each registrant as follows:

10 (1) Every year on the anniversary of a person's initial registration date, and
11 again six months after that date, the Division shall mail a
12 nonforwardable verification form to the last reported address of the
13 person.

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

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

20 (3a) If it appears to the sheriff that the record photograph of the sex
21 offender no longer provides a true and accurate likeness of the sex
22 offender, then the sheriff shall take a photograph of the offender to
23 include with the verification form.

24 (4) If the person fails to return the verification form in person to the sheriff
25 within 10 days after receipt of the form, the person is subject to the
26 penalties provided in G.S. 14-208.11. ~~If the verification form is~~
27 ~~returned to the sheriff as undeliverable,~~ person fails to report in person
28 and provide the written verification as provided by this section, the
29 sheriff shall make a reasonable attempt to verify that the person is
30 residing at the registered address. If the person cannot be found at the
31 registered address and has failed to report a change of address, the
32 person is subject to the penalties provided in G.S. 14-208.11, unless
33 the person reports in person to the sheriff and proves that the person
34 has not changed his or her residential address.

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

39 (c) Additional Photograph May Be Required. – If it appears to the sheriff that the
40 current photograph of the sex offender no longer provides a true and accurate likeness
41 of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow
42 the sheriff to take another photograph of the sex offender at the time of the sheriff's
43 request. If requested by the sheriff, the sex offender shall appear in person at the
44 sheriff's office during normal business hours within 72 hours of being requested to do so

1 and shall allow the sheriff to take another photograph of the sex offender. A person who
2 willfully fails to comply with this subsection is guilty of a Class 1 misdemeanor."

3 **SECTION 7.(b)** This section becomes effective December 1, 2006, and
4 applies to offenses on or after that date.

5 **SECTION 8.(a)** G.S. 14-208.11(a) reads as rewritten:

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

- 8 (1) Fails to register, register as required by this Article.
- 9 (2) Fails to notify the last registering sheriff of a change of
10 address-address as required by this Article.
- 11 (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- 12 (4) Forges or submits under false pretenses the information or verification
13 notices required under this Article.
- 14 (5) Fails to inform the registering sheriff of enrollment or termination of
15 enrollment as a student.
- 16 (6) Fails to inform the registering sheriff of employment at an institution
17 of higher education or termination of employment at an institution of
18 higher education.
- 19 (7) Fails to report in person to the sheriff's office as required by
20 G.S. 14-208.7, 14-208.9, and 14-208.9A.
- 21 (8) Reports his or her intent to reside in another state or jurisdiction but
22 remains in this State without reporting to the sheriff in the manner
23 required by G.S. 14-208.9.
- 24 (9) Fails to notify the registering sheriff of out-of-county employment if
25 temporary residence is established as required under G.S. 14-208.8A."

26 **SECTION 8.(b)** This section becomes effective June 1, 2007, and applies to
27 offenses committed on or after that date.

28 **SECTION 9.1.(a)** Article 27A of Chapter 14 of the General Statutes is
29 amended by adding a new section to read:

30 **"§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure**
31 **to report in certain circumstances.**

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

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

1 (b) This section does not apply if the offender is incarcerated in or is in the
2 custody of a local, State, private, or federal correctional facility."

3 **SECTION 9.1.(b)** This section becomes effective December 1, 2006, and
4 applies to offenses committed on or after that date.

5 **SECTION 10.(a)** G.S. 14-208.12A reads as rewritten:

6 **"§ 14-208.12A. ~~Termination~~ Request for termination of registration requirement.**

7 (a) A person required to register under this Part who has served his or her
8 sentence may petition the superior court in the district where the person resides to
9 terminate the registration requirement~~The requirement that a person register under this~~
10 ~~Part automatically terminates~~ 10 years from the date of initial county registration if the
11 person has not been convicted of a subsequent offense requiring registration under this
12 Article.

13 (a1) The court may grant or deny the relief if:

14 (1) The petitioner demonstrates to the court that he or she has not been
15 arrested for any crime that would require registration under this Article
16 since completing the sentence,

17 (2) The requested relief complies with the provisions of the federal Jacob
18 Wetterling Act, as amended, and any other federal standards applicable
19 to the termination of a registration requirement or required to be met as
20 a condition for the receipt of federal funds by the State, and

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

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

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

32 (b) If there is a subsequent offense, the county registration records shall be
33 retained until the registration requirement for the subsequent offense is
34 ~~terminated.~~terminated by the court under subsection (a) of this section."

35 **SECTION 10.(b)** This section becomes effective December 1, 2006, and
36 applies to persons for whom the period of registration would terminate on or after that
37 date.

38 **SECTION 11.(a)** Part 3 of Article 27A of Chapter 14 of the General Statutes
39 is amended by adding a new section to read:

40 **"§ 14-208.24A. Sexual predator prohibited from working or volunteering for**
41 **child-involved activities; organizations.**

42 (a) It shall be unlawful for any person required to register under this Part because
43 he or she is classified as a sexually violent predator, is a recidivist, or is a person
44 convicted of an aggravated offense, to work for any person, with or without

1 compensation, at any business, school, day care center, park, playground, or other place
2 where the employer conducts any activity where a minor is present and the person's
3 responsibilities include instruction, supervision, or care of a minor or minors.

4 (b) A violation of this section is a Class F felony."

5 **SECTION 11.(b)** This section becomes effective December 1, 2006, and
6 applies to offenses on or after that date.

7 **SECTION 12.(a)** G.S. 14-27.1(5) reads as rewritten:

8 "(5) 'Sexual contact' means (i) touching the sexual organ, anus, breast,
9 groin, or buttocks of any person, ~~or~~(ii) a person touching another
10 person with their own sexual organ, anus, breast, groin, or
11 ~~buttocks.~~buttocks, or (iii) a person ejaculating, emitting, or placing
12 semen, urine, or feces upon any part of another person."

13 **SECTION 12.(b)** This section becomes effective December 1, 2006, and
14 applies to offenses committed on or after that date.

15 **SECTION 13.** G.S. 14-208.28 reads as rewritten:

16 "**§ 14-208.28. Verification of registration information.**

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

- 19 (1) Every year on the anniversary of a juvenile's initial registration
20 ~~date,~~date and six months after that date, the sheriff shall mail a
21 verification form to the juvenile court counselor assigned to the
22 juvenile.
- 23 (2) The juvenile court counselor for the juvenile shall return the
24 verification form to the sheriff within 10 days after the receipt of the
25 form.
- 26 (3) The verification form shall be signed by the juvenile court counselor
27 and the juvenile and shall indicate whether the juvenile still resides at
28 the address last reported to the sheriff. If the juvenile has a different
29 address, then that fact and the new address shall be indicated on the
30 form."

31 **SECTION 14.** G.S. 15A-1341 is amended by adding a new subsection to
32 read:

33 "(d) Search of Sex Offender Registration Information Required When Placing a
34 Defendant on Probation. – When the court places a defendant on probation, the
35 probation officer assigned to the defendant shall conduct a search of the defendant's
36 name or other identifying information against the registration information regarding sex
37 offenders compiled by the Division of Criminal Statistics of the Department of Justice
38 in accordance with Article 27A of Chapter 14 of the General Statutes. The probation
39 officer may conduct the search using the Internet site maintained by the Division of
40 Criminal Statistics."

41 **SECTION 15.(a)** Article 27A of Chapter 14 of the General Statutes is
42 amended by adding a new Part to read:

43 "Part 5. Sex Offender Monitoring.

44 "**§ 14-208.33. Establishment of program; creation of guidelines; duties.**

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

5 (1) Any offender who is convicted of a reportable conviction as defined by
6 G.S. 14-208.6(4) and who is required to register under Part 3 of Article
7 27A of Chapter 14 of the General Statutes because the defendant is
8 classified as a sexually violent predator, is a recidivist, or was
9 convicted of an aggravated offense as those terms are defined in
10 G.S. 14-208.6. An offender in this category who is ordered by the
11 court to submit to satellite-based monitoring is subject to that
12 requirement for the person's natural life, unless the requirement is
13 terminated pursuant to G.S. 14-208.36.

14 (2) Any offender who satisfies all of the following criteria: (i) is
15 convicted of a reportable conviction as defined by G.S. 14-208.6(4),
16 (ii) is required to register under Part 2 of Article 27A of Chapter 14 of
17 the General Statutes, (iii) has committed an offense involving the
18 physical, mental, or sexual abuse of a minor, and (iv) based on the
19 Department's risk assessment program requires the highest possible
20 level of supervision and monitoring. An offender in this category who
21 is ordered by the court to submit to satellite-based monitoring is
22 subject to that requirement only for the period of time ordered by the
23 court and is not subject to a requirement of lifetime satellite-based
24 monitoring.

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

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

34 (1) Time-correlated and continuous tracking of the geographic location of
35 the subject using a global positioning system based on satellite and
36 other location tracking technology.

37 (2) Reporting of subject's violations of prescriptive and proscriptive
38 schedule or location requirements. Frequency of reporting may range
39 from once a day (passive) to near real-time (active).

40 (d) The Department may contract with a single vendor for the hardware services
41 needed to monitor subject offenders and correlate their movements to reported crime
42 incidents. The contract may provide for services necessary to implement or facilitate
43 any of the provisions of this Part.

1 **"§ 14-208.34. Enrollment in satellite-based monitoring programs mandatory;**
2 **length of enrollment.**

3 (a) Any person described by G.S. 14-208.33(a)(1) shall enroll in a satellite-based
4 monitoring program with the Division of Community Corrections office in the county
5 where the person resides. The person shall remain enrolled in the satellite-based
6 monitoring program for the registration period imposed under G.S. 14-208.23 which is
7 the person's life, unless the requirement to enroll in the satellite-based monitoring
8 program is terminated pursuant to G.S. 14-208.35.

9 (b) Any person described by G.S. 14-208.33(a)(2) who is ordered by the court to
10 enroll in a satellite-based monitoring program shall do so with the Division of
11 Community Corrections office in the county where the person resides. The person shall
12 remain enrolled in the satellite-based monitoring program for the period of time ordered
13 by the court.

14 **"§ 14-208.35. Lifetime registration offenders required to submit to satellite-based**
15 **monitoring for life and to continue on unsupervised probation upon**
16 **completion of sentence.**

17 Notwithstanding any other provision of law, when the court sentences an offender
18 who is in the category described by G.S. 14-208.33(a)(1) for a reportable conviction as
19 defined by G.S. 14-208.6(4), and orders the offender to enroll in a satellite-based
20 monitoring program, the court shall also order that the offender, upon completion of the
21 offender's sentence and any term of parole, post-release supervision, intermediate
22 punishment, or supervised probation that follows the sentence, continue to be enrolled
23 in the satellite-based monitoring program for the offender's life and be placed on
24 unsupervised probation unless the requirement that the person enroll in a satellite-based
25 monitoring program is terminated pursuant to G.S. 14-208.36.

26 **"§ 14-208.36. Request for termination of satellite-based monitoring requirement.**

27 (a) An offender described by G.S. 14-308.33(a)(1) who is required to submit to
28 satellite-based monitoring for the offender's life may file a request for termination of
29 monitoring requirement with the Post-Release Supervision and Parole Commission. The
30 request to terminate the satellite-based monitoring requirement and to terminate the
31 accompanying requirement of unsupervised probation may not be submitted until at
32 least one year after the offender: (i) has served his or her sentence for the offense for
33 which the satellite-based monitoring requirement was imposed, and (ii) has also
34 completed any period of probation, parole, or post-release supervision imposed as part
35 of the sentence.

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

42 (c) If it is determined that the person has not received any additional reportable
43 convictions during the period of satellite-based monitoring and the person has
44 substantially complied with the provisions of this Article, the Commission may

1 terminate the monitoring requirement if the Commission finds that the person is not
2 likely to pose a threat to the safety of others.

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

7 (e) The Commission shall not consider any request to terminate a monitoring
8 requirement except as provided by this section. The Commission has no authority to
9 consider or terminate a monitoring requirement for an offender described in
10 G.S. 14-208.33(a)(2).

11 **"§ 14-208.37. Failure to enroll; tampering with device.**

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

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

17 **"§ 14-208.38. Fees.**

18 (a) There shall be a one-time fee of ninety dollars (\$90.00) assessed to each
19 person required to enroll pursuant to this Part. The court may exempt a person from
20 paying the fee only for good cause and upon motion of the person placed on
21 satellite-based monitoring. The court may require that the fee be paid in advance or in a
22 lump sum or sums, and a probation officer may require payment by those methods if the
23 officer is authorized by subsection (c) of this section to determine the payment schedule.
24 This fee is intended to offset only the costs associated with the time-correlated tracking
25 of the geographic location of subjects using the location tracking crime correlation
26 system.

27 (b) The fee shall be payable to the clerk of superior court, and the fees shall be
28 remitted quarterly to the Department of Correction.

29 (c) If a person placed on supervised probation, parole, or post-release supervision
30 is required as a condition of that probation, parole, or post-release supervision to pay
31 any moneys to the clerk of superior court, the court may delegate to a probation officer
32 the responsibility to determine the payment schedule."

33 **SECTION 15.(b)** G.S. 15A-1343(b2) reads as rewritten:

34 "(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of
35 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special
36 conditions of probation, a defendant who has been convicted of an offense which is a
37 reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical,
38 mental, or sexual abuse of a minor, must:

39 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
40 conviction as defined by G.S. 14-208.6(4).

41 (2) Participate in such evaluation and treatment as is necessary to
42 complete a prescribed course of psychiatric, psychological, or other
43 rehabilitative treatment as ordered by the court.

- 1 (3) Not communicate with, be in the presence of, or found in or on the
2 premises of the victim of the offense.
- 3 (4) Not reside in a household with any minor child if the offense is one in
4 which there is evidence of sexual abuse of a minor.
- 5 (5) Not reside in a household with any minor child if the offense is one in
6 which there is evidence of physical or mental abuse of a minor, unless
7 the court expressly finds that it is unlikely that the defendant's harmful
8 or abusive conduct will recur and that it would be in the minor child's
9 best interest to allow the probationer to reside in the same household
10 with a minor child.
- 11 (6) Satisfy any other conditions determined by the court to be reasonably
12 related to his rehabilitation.
- 13 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
14 of Chapter 14 of the General Statutes, if the defendant is described by
15 G.S. 14-208.33(a)(1).
- 16 (8) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
17 of Chapter 14 of the General Statutes, if the defendant is in the
18 category described by G.S. 14-208.33(a)(2), and the Department of
19 Correction, based on the Department's risk assessment program,
20 recommends that the defendant submit to the highest possible level of
21 supervision and monitoring.

22 Defendants subject to the provisions of this subsection shall not be placed on
23 unsupervised ~~probation~~-probation, except as provided in G.S. 14-208.35."

24 **SECTION 15.(c)** G.S. 15A-1343.2 is amended by adding a new subsection
25 to read:

26 "(f1) Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders.
27 – Notwithstanding any other provision of this section, the court shall impose
28 satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the
29 General Statutes as a condition of probation on any offender who is described by
30 G.S. 14-208.33(a)(1)."

31 **SECTION 15.(d)** G.S. 15A-1343.2(f) is amended by adding a new
32 subdivision to read:

- 33 "(5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
34 of Chapter 14 of the General Statutes, if the defendant is described by
35 G.S. 14-208.33(a)(2)."

36 **SECTION 15.(e)** G.S. 15A-1344 is amended by adding a new subsection to
37 read:

38 "(e2) Mandatory Satellite-Based Monitoring Required for Extension of Probation
39 in Response to Violation by Certain Sex Offenders. – If a defendant who is in the
40 category described by G.S. 14-208.33(a)(1) or G.S. 14-208.33(a)(2) violates probation
41 and if the court extends the probation as a result of the violation, then the court shall
42 order satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the
43 General Statutes as a condition of the extended probation."

1 **SECTION 15.(f)** G.S. 15A-1368.2 is amended by adding a new subsection
2 to read:

3 "(c1) Notwithstanding subsection (c) of this section, a person required to submit to
4 satellite-based monitoring pursuant to G.S. 15A-1368.4(b1)(6) shall continue to
5 participate in satellite-based monitoring beyond the period of post-release supervision
6 until the Commission releases the person from that requirement pursuant to
7 G.S. 14-208.36."

8 **SECTION 15.(g)** G.S. 15A-1368.4 (b1) reads as rewritten:

9 "(b1) Additional Required Conditions for Sex Offenders and Persons Convicted of
10 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – In addition to the
11 required condition set forth in subsection (b) of this section, for a supervisee who has
12 been convicted of an offense which is a reportable conviction as defined in
13 G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor,
14 controlling conditions, violations of which may result in revocation of post-release
15 supervision, are:

- 16 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
17 conviction as defined by G.S. 14-208.6(4).
- 18 (2) Participate in such evaluation and treatment as is necessary to
19 complete a prescribed course of psychiatric, psychological, or other
20 rehabilitative treatment as ordered by the Commission.
- 21 (3) Not communicate with, be in the presence of, or found in or on the
22 premises of the victim of the offense.
- 23 (4) Not reside in a household with any minor child if the offense is one in
24 which there is evidence of sexual abuse of a minor.
- 25 (5) Not reside in a household with any minor child if the offense is one in
26 which there is evidence of physical or mental abuse of a minor, unless
27 a court of competent jurisdiction expressly finds that it is unlikely that
28 the defendant's harmful or abusive conduct will recur and that it would
29 be in the child's best interest to allow the supervisee to reside in the
30 same household with a minor child.
- 31 (6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
32 of Chapter 14 of the General Statutes, if the offense is a reportable
33 conviction as defined by G.S. 14-208.6(4) and the supervisee is in the
34 category described by G.S. 14-208.33(a)(1).
- 35 (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A
36 of Chapter 14 of the General Statutes, if the offense is a reportable
37 conviction as defined by G.S. 14-208.6(4) and the supervisee is in the
38 category described by G.S. 14-208.33(a)(2)."

39 **SECTION 15.(h)** G.S. 15A-1374 is amended by adding a new subsection to
40 read:

41 "(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for
42 Certain Offenders. – If a parolee is in a category described by G.S. 14-208.33(a)(1) or
43 G.S. 14-208.33(a)(2), the Commission must require as a condition of parole that the

1 parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
2 Chapter 14 of the General Statutes."

3 **SECTION 15.(i)** G.S. 143B-266 is amended by adding a new subsection to
4 read:

5 "(e) The Commission may accept and review requests from persons placed on
6 probation, parole, or post-release supervision to terminate a mandatory condition of
7 satellite-based monitoring as provided by G.S. 14-208.35. The Commission may grant
8 or deny those requests in compliance with G.S.14-208.35."

9 **SECTION 15.(j)** The Department of Correction shall have the program
10 enacted by subsection (a) of this section established by January 1, 2007.

11 **SECTION 15.(k)** This subsection is effective on July 1, 2006. Of the funds
12 appropriated by Senate Bill 1741 as enacted by the 2005 General Assembly, Regular
13 Session 2006, to the Department of Correction for the 2006-2007 fiscal year the sum of
14 one million three hundred seven thousand two hundred eighteen dollars (\$1,307,218)
15 shall be used to implement the sex offender monitoring program established pursuant to
16 this section. Notwithstanding G.S. 143-23(a2), the Department of Correction may use
17 available funds to implement this program during the 2006-2007 fiscal year if
18 expenditures are anticipated to exceed the amount appropriated by this act. Prior to
19 exceeding the amount appropriated for this program by this act, the Department of
20 Correction shall report to the Joint Legislative Commission on Governmental
21 Operations.

22 **SECTION 15.(l)** Unless otherwise provided in the section, this section is
23 effective when it becomes law and applies to offenses committed on or after that date.
24 This section also applies to any person sentenced to intermediate punishment on or after
25 that date and to any person released from prison by parole or post-release supervision on
26 or after that date. This section also applies to any person who completes his or her
27 sentence on or after the effective date of this section who is not on post-release
28 supervision or parole. However, the requirement to enroll in a satellite-based program
29 is not mandatory until January 1, 2007, when the program is established.

30 **SECTION 16.** The Department of Correction shall issue an RFP for passive
31 and active Global Positioning Systems for use as an intermediate sanction and to help
32 supervise certain sex offenders who are placed on probation, parole, or post-release
33 supervision. The RFP shall require separate bids: one for equipment, maintenance, and
34 technical support, and one for the aforementioned items plus monitoring services.

35 No less than 30 days prior to issuing the RFP, the Department shall provide
36 the Fiscal Research Division with copies of the draft RFP. The RFP shall be issued by
37 September 1, 2006, for contract terms to begin January 1, 2007.

38 The Department of Correction shall report by October 15, 2006, to the Chairs
39 of the House of Representatives and Senate Appropriations Committees and the Chairs
40 of the House of Representatives and Senate Appropriations Subcommittees on Justice
41 and Public Safety on the responses to the RFP.

42 **SECTION 17.** No later than January 1, 2007, the Department of Correction
43 shall develop a graduated risk assessment program that identifies, assesses, and closely
44 monitors a high-risk sex offender who, while not classified as a sexually violent

1 predator, a recidivist, or convicted of an aggravated offense as those terms are defined
2 in G.S. 14-208.6, may still require extraordinary supervision and may be placed on
3 probation, parole, or post-release supervision only on the conditions provided in
4 G.S. 15A-1343(b2) or G.S. 15A-1368.4(b1).

5 **SECTION 18.** The Department of Correction shall study and develop a plan
6 for offering mental health treatment for incarcerated sex offenders designed to reduce
7 the likelihood of recidivism. The Department shall study appropriate and effective
8 mental health treatment techniques and alternatives. Services must be best practices, as
9 determined by the Department. The Department will consult various stakeholders from
10 organizations dedicated to the prevention of sexual assault, victims' advocacy
11 organizations, and experts in the field of treatment of sexual offenders. The Department
12 shall consider the fiscal impact, if any, of implementing the plan developed pursuant to
13 this study.

14 The Department shall make a preliminary report to the Joint Legislative
15 Oversight Committee on Mental Health, Developmental Disabilities, and Substance
16 Abuse Services no later than January 15, 2007, and a final report to the Joint Legislative
17 Oversight Committee on Mental Health, Developmental Disabilities, and Substance
18 Abuse Services and the General Assembly on or before October 1, 2007.

19 **SECTION 19.(a)** G.S. 14-43.2 is repealed.

20 **SECTION 19.(b)** Chapter 14 of the General Statutes is amended by adding a
21 new Article to read:

22 "Article 10A.

23 "Human Trafficking.

24 **"§ 14-43.4. Definitions.**

25 (a) Definitions. – The following definitions apply in this Article:

26 (1) Coercion. – The term includes all of the following:

- 27 a. Causing or threatening to cause bodily harm to any person,
28 physically restraining or confining any person, or threatening to
29 physically restrain or confine any person.
30 b. Exposing or threatening to expose any fact or information that
31 if revealed would tend to subject a person to criminal or
32 immigration proceedings, hatred, contempt, or ridicule.
33 c. Destroying, concealing, removing, confiscating, or possessing
34 any actual or purported passport or other immigration
35 document, or any other actual or purported government
36 identification document, of any person.
37 d. Providing a controlled substance, as defined by G.S. 90-87, to a
38 person.

39 (2) Deception. – The term includes all of the following:

- 40 a. Creating or confirming another's impression of an existing fact
41 or past event that is false and which the accused knows or
42 believes to be false.
43 b. Maintaining the status or condition of a person arising from a
44 pledge by that person of his or her personal services as security

1 for a debt, if the value of those services as reasonably assessed
2 is not applied toward the liquidation of the debt or the length
3 and nature of those services are not respectively limited and
4 defined, or preventing a person from acquiring information
5 pertinent to the disposition of such debt.

6 c. Promising benefits or the performance of services that the
7 accused does not intend to deliver or perform or knows will not
8 be delivered or performed.

9 (3) Involuntary servitude. – The term includes the following:

10 a. The performance of labor, whether or not for compensation, or
11 whether or not for the satisfaction of a debt; and

12 b. By deception, coercion, or intimidation using violence or the
13 threat of violence or by any other means of coercion or
14 intimidation.

15 (4) Minor. – A person who is less than 18 years of age.

16 (5) Sexual servitude. – The term includes the following:

17 a. Any sexual activity as defined in G.S. 14-190.13 for which
18 anything of value is directly or indirectly given, promised to, or
19 received by any person, which conduct is induced or obtained
20 by coercion or deception or which conduct is induced or
21 obtained from a person under the age of 18 years; or

22 b. Any sexual activity as defined in G.S. 14-190.13 that is
23 performed or provided by any person, which conduct is induced
24 or obtained by coercion or deception or which conduct is
25 induced or obtained from a person under the age of 18 years.

26 **"§ 14-43.5. Human trafficking.**

27 (a) A person commits the offense of human trafficking when that person
28 knowingly recruits, entices, harbors, transports, provides, or obtains by any means
29 another person with the intent that the other person be held in involuntary servitude or
30 sexual servitude.

31 (b) A person who violates this section is guilty of a Class F felony if the victim of
32 the offense is an adult. A person who violates this section is guilty of a Class C felony if
33 the victim of the offense is a minor.

34 (c) Each violation of this section constitutes a separate offense and shall not
35 merge with any other offense. Evidence of failure to deliver benefits or perform services
36 standing alone shall not be sufficient to authorize a conviction under this section.

37 **"§ 14-43.6. Involuntary servitude.**

38 (a) A person commits the offense of involuntary servitude when that person
39 knowingly and willfully holds another in involuntary servitude.

40 (b) A person who violates this section is guilty of a Class F felony if the victim of
41 the offense is an adult. A person who violates this section is guilty of a Class C felony if
42 the victim of the offense is a minor.

1 (c) Each violation of this section constitutes a separate offense and shall not
2 merge with any other offense. Evidence of failure to deliver benefits or perform services
3 standing alone shall not be sufficient to authorize a conviction under this section.

4 (d) Nothing in this section shall be construed to affect the laws governing the
5 relationship between an unemancipated minor and his or her parents or legal guardian.

6 (e) If any person reports a violation of this section, which violation arises out of
7 any contract for labor, to any party to the contract, the party shall immediately report the
8 violation to the sheriff of the county in which the violation is alleged to have occurred
9 for appropriate action. A person violating this subsection shall be guilty of a Class 1
10 misdemeanor.

11 **"§ 14-43.7. Sexual servitude.**

12 (a) A person commits the offense of sexual servitude when that person
13 knowingly subjects or maintains another in sexual servitude.

14 (b) A person who violates this section is guilty of a Class F felony if the victim
15 of the offense is an adult. A person who violates this section is guilty of a Class C
16 felony if the victim of the offense is a minor.

17 (c) Each violation of this section constitutes a separate offense and shall not
18 merge with any other offense. Evidence of failure to deliver benefits or perform services
19 standing alone shall not be sufficient to authorize a conviction under this section."

20 **SECTION 19.(c)** G.S. 14-39(a) reads as rewritten:

21 "(a) Any person who shall unlawfully confine, restrain, or remove from one place
22 to another, any other person 16 years of age or over without the consent of such person,
23 or any other person under the age of 16 years without the consent of a parent or legal
24 custodian of such person, shall be guilty of kidnapping if such confinement, restraint or
25 removal is for the purpose of:

- 26 (1) Holding such other person for a ransom or as a hostage or using such
27 other person as a shield; or
- 28 (2) Facilitating the commission of any felony or facilitating flight of any
29 person following the commission of a felony; or
- 30 (3) Doing serious bodily harm to or terrorizing the person so confined,
31 restrained or removed or any other person; or
- 32 (4) Holding such other person in involuntary servitude in violation of
33 G.S. ~~14-43.2~~, 14-43.6.
- 34 (5) Trafficking another person with the intent that the other person be held
35 in involuntary servitude or sexual servitude in violation of
36 G.S. 14-43.5.
- 37 (6) Subjecting or maintaining such other person for sexual servitude in
38 violation of G.S. 14-43.7."

39 **SECTION 19.(d)** G.S. 14-208.6(5) reads as rewritten:

40 "(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first
41 degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first
42 degree sexual offense), G.S. 14-27.5 (second degree sexual offense),
43 G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or sexual
44 offense), G.S. 14-27.7 (intercourse and sexual offense with certain

1 victims), G.S. 14-43.7 (subjecting or maintaining a person for sexual
2 servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6
3 (employing or permitting minor to assist in offenses against public
4 morality and decency), G.S. 14-190.9(a1) (felonious indecent
5 exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor),
6 G.S. 14-190.17 (second degree sexual exploitation of a minor),
7 G.S. 14-190.17A (third degree sexual exploitation of a minor),
8 G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19
9 (participating in the prostitution of a minor), G.S. 14-202.1 (taking
10 indecent liberties with children), or G.S. 14-202.3 (Solicitation of child
11 by computer to commit an unlawful sex act). The term also includes
12 the following: a solicitation or conspiracy to commit any of these
13 offenses; aiding and abetting any of these offenses."

14 **SECTION 20.** The provisions of this act are severable. If any provision is
15 held invalid by a court of competent jurisdiction, the invalidity does not affect other
16 provisions of the act that can be given effect without the invalid provision.

17 **SECTION 21.** Section 15 of this act is effective as provided herein. Sections
18 14, 16, 17, 18, 20, and 21 are effective when this act becomes law. Prosecutions for
19 offenses committed before the effective date of this act are not abated or affected by this
20 act, and the statutes that would be applicable but for this act remain applicable to those
21 prosecutions. Except as otherwise provided in this act, the remainder of this act
22 becomes effective December 1, 2006, and applies to offenses committed on or after that
23 date.