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HOUSE BILL 772

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Sponsors: Representative (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary.

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO COMPLY WITH THE FEDERAL SEX OFFENDER REGISTRATION AND  
3 NOTIFICATION ACT.

4 The General Assembly of North Carolina enacts:

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

6 **"§ 14-208.6. Definitions.**

7 The following definitions apply in this Article:

8 (1a) ~~"Aggravated offense" means any criminal offense that includes either of the~~  
9 ~~following: (i) engaging in a sexual act involving vaginal, anal, or oral~~  
10 ~~penetration with a victim of any age through the use of force or the threat of~~  
11 ~~serious violence; or (ii) engaging in a sexual act involving vaginal, anal, or~~  
12 ~~oral penetration with a victim who is less than 12 years old.~~

13 (1b) "County registry" means the information compiled by the sheriff of a county  
14 in compliance with this Article.

15 (1c) "Division" means the Division of Criminal Information of the Department of  
16 Justice.

17 (1d) "Electronic mail" means the transmission of information or communication  
18 by the use of the Internet, a computer, a facsimile machine, a pager, a  
19 cellular telephone, a video recorder, or other electronic means sent to a  
20 person identified by a unique address or address number and received by that  
21 person.

22 (1e) "Employed" includes employment that is full-time or part-time for a period  
23 of time exceeding 14 days or for an aggregate period of time exceeding 30  
24 days during any calendar year, whether financially compensated,  
25 volunteered, or for the purpose of government or educational benefit.

26 (1f) "Entity" means a business or organization that provides Internet service,  
27 electronic communications service, remote computing service, online  
28 service, electronic mail service, or electronic instant message or chat  
29 services whether the business or organization is within or outside the State.

30 (1g) "Final conviction" means either of the following by any federal (including a  
31 court martial), State, territorial, tribal, or foreign court:

32 a. Any conviction, adjudication, or other judicial determination that has  
33 subjected the offender to possible penal consequences. This does not  
34 include juveniles adjudicated delinquent in this State, or judicial  
35 determinations involving juveniles from other jurisdictions.



- 1           b.    Any judicial determination involving a juvenile in another  
2           jurisdiction if that jurisdiction would require the juvenile to register  
3           on a public registry if the juvenile resided in that jurisdiction.  
4           c.    Any juvenile adjudication of delinquency in this State, or any judicial  
5           determination involving a juvenile in another jurisdiction, if the  
6           juvenile was at least 14 years of age at the time of the offense and the  
7           adjudication was for a violation of G.S. 14-27.2 (first-degree rape),  
8           G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first-degree sex  
9           offense), G.S. 14-27.5 (second degree sexual offense), or  
10           G.S. 14-27.6 (attempted rape or sexual offense), for an attempt or  
11           conspiracy to commit any of those offenses, or for a violation of, or  
12           attempt or conspiracy to commit, any offense in another jurisdiction  
13           which is substantially similar to any of those offenses.

14           Convictions from foreign countries are included unless the U.S. State  
15           Department has concluded an independent judiciary did not generally  
16           enforce the right to a fair trial in that country during the year in which the  
17           conviction occurred.

18       ~~(4g)~~(1h) "Instant Message" means a form of real-time text communication  
19           between two or more people. The communication is conveyed via computers  
20           connected over a network such as the Internet.

21       ~~(4h)~~(1i) "Institution of higher education" means any postsecondary public or  
22           private educational institution, including any trade or professional  
23           institution, college, or university.

24       ~~(4i)~~(1j) "Internet" means the global information system that is logically linked  
25           together by a globally unique address space based on the Internet Protocol or  
26           its subsequent extensions; that is able to support communications using the  
27           Transmission Control Protocol/Internet Protocol suite, its subsequent  
28           extensions, or other Internet Protocol compatible protocols; and that  
29           provides, uses, or makes accessible, either publicly or privately, high-level  
30           services layered on the communications and related infrastructure described  
31           in this subdivision.

32       ~~(4j)~~(1k) "Mental abnormality" means a congenital or acquired condition of a  
33           person that affects the emotional or volitional capacity of the person in a  
34           manner that predisposes that person to the commission of criminal sexual  
35           acts to a degree that makes the person a menace to the health and safety of  
36           others.

37       ~~(4k)~~(1l) "Nonresident student" means a person who is not a resident of North  
38           Carolina but who is enrolled in any type of school in the State on a part-time  
39           or full-time basis.

40       ~~(4l)~~(1m) "Nonresident worker" means a person who is not a resident of North  
41           Carolina but who has employment or carries on a vocation in the State, on a  
42           part-time or full-time basis, with or without compensation or government or  
43           educational benefit, for more than 14 days, or for an aggregate period  
44           exceeding 30 days in a calendar year.

45       ~~(4m)~~(1n) "Offense against a minor" means any of the following offenses if the  
46           offense is committed against a minor, and the person committing the offense  
47           is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of  
48           children), and G.S. 14-43.3 (felonious restraint). The term also includes the  
49           following if the person convicted of the following is not the minor's parent: a  
50           solicitation or conspiracy to commit any of these offenses; aiding and  
51           abetting any of these offenses.

- 1           ~~(1n)~~(1o) "Online identifier" means electronic mail address, instant message screen  
2           name, user ID, chat or other Internet communication name, but it does not  
3           mean social security number, date of birth, or pin number.
- 4           (2) "Penal institution" means:  
5           a. A detention facility operated under the jurisdiction of the Division of  
6           Prisons of the Department of Correction;  
7           b. A detention facility operated under the jurisdiction of another state or  
8           the federal government; or  
9           c. A detention facility operated by a local government in this State or  
10          another state.
- 11          (2a) "Personality disorder" means an enduring pattern of inner experience and  
12          behavior that deviates markedly from the expectations of the individual's  
13          culture, is pervasive and inflexible, has an onset in adolescence or early  
14          adulthood, is stable over time, and leads to distress or impairment.
- 15          (2b) "Recidivist" means a person who has a prior conviction for an offense that is  
16          described in G.S. 14-208.6(4).
- 17          (3) "Release" means discharged or paroled.
- 18          (3a) "Residence address" means the location of the person's home or other place  
19          where the person habitually lives, or a general description of the location of  
20          the place the person habitually lives, if that location has no fixed address.
- 21          (4) "Reportable conviction" means:  
22          a. ~~A final conviction for an offense against a minor, a sexually violent~~  
23          ~~offense, or a tier I offense, a tier II offense, or a tier III offense. an~~  
24          ~~attempt to commit any of those offenses unless the conviction is for~~  
25          ~~aiding and abetting. A final conviction for aiding and abetting is a~~  
26          ~~reportable conviction only if the court sentencing the individual finds~~  
27          ~~that the registration of that individual under this Article furthers the~~  
28          ~~purposes of this Article as stated in G.S. 14 208.5.~~  
29          b. A final conviction in another state jurisdiction of an offense, which if  
30          committed in this State, is substantially similar to ~~an offense against~~  
31          ~~a minor or a sexually violent offense~~ a tier I offense, a tier II offense,  
32          or a tier III offense as defined by this section, or a final conviction in  
33          another state jurisdiction of an offense that requires registration  
34          under the sex offender registration statutes of that state jurisdiction.  
35          e. ~~A final conviction in a federal jurisdiction (including a court martial)~~  
36          ~~of an offense, which is substantially similar to an offense against a~~  
37          ~~minor or a sexually violent offense as defined by this section.~~  
38          d. A final conviction for a violation of G.S. 14 202(d), (e), (f), (g), or  
39          (h), or a second or subsequent conviction for a violation of  
40          G.S. 14 202(a), (a1), or (c), only if the court sentencing the  
41          individual issues an order pursuant to G.S. 14 202(l) requiring the  
42          individual to register.
- 43          ~~(5) "Sexually violent offense" means a violation of G.S. 14 27.2 (first degree~~  
44          ~~rape), G.S. 14 27.2A (rape of a child; adult offender), G.S. 14 27.3 (second~~  
45          ~~degree rape), G.S. 14 27.4 (first degree sexual offense), G.S. 14 27.4A (sex~~  
46          ~~offense with a child; adult offender), G.S. 14 27.5 (second degree sexual~~  
47          ~~offense), G.S. 14 27.5A (sexual battery), G.S. 14 27.6 (attempted rape or~~  
48          ~~sexual offense), G.S. 14 27.7 (intercourse and sexual offense with certain~~  
49          ~~victims), G.S. 14 27.7A(a) (statutory rape or sexual offense of person who is~~  
50          ~~13, 14, or 15 years old where the defendant is at least six years older),~~  
51          ~~G.S. 14 43.13 (subjecting or maintaining a person for sexual servitude),~~

~~G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.~~

- (6) "Sexually violent predator" means a person who has been convicted of a sexually violent offenses tier I offense, a tier II offense, or a tier III offense that is not an offense against a minor and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.
- (7) "Sheriff" means the sheriff of a county in this State.
- (8) "Statewide registry" means the central registry compiled by the Division in accordance with G.S. 14-208.14.
- (9) "Student" means a person who is enrolled on a full-time or part-time basis, in (i) any public or nonpublic school, or (ii) any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education.
- (10) "Temporary lodging" means a place where a person abides or lodges for seven or more days that is a location other than the person's reported residence address.
- (11) "Tier I offense" means a violation of any of the following:
- a. G.S. 14-27.5A (sexual battery).
  - b. G.S. 14-43.13 (subjection or maintaining a person for sexual servitude) where the facts of the case show the victim was not a minor at the time of the offense.
  - c. G.S. 14-178 (incest between near relatives) where the facts of the case show the victim was not a minor at the time of the offense.
  - d. G.S. 14-190.9(a1) (felonious indecent exposure).
  - e. G.S. 14-190.17A (third degree sexual exploitation of a minor).
  - f. G.S. 14-202(d), (e), (f), (g), or (h), or a second or subsequent violation of G.S. 14-202(a), (a1), or (c) (secretly peeping into room occupied by another person), only if the court sentencing the individual issues an order pursuant to G.S. 14-202(l) requiring the individual to register.
  - g. G.S. 14-202.1 (taking indecent liberties with children) when there is no sexual contact.
  - h. G.S. 14-202.1 (taking indecent liberties with children) when there is sexual contact, but only if the court sentencing the individual finds that the victim was at least 13 years old, the offender was no more

1 than eight years older than the victim, no force was used in the  
2 commission of the offense, and it is appropriate for the offense to be  
3 classified as a tier I offense.

4 The term also includes the following: an attempt, solicitation, or conspiracy  
5 to commit any of these offenses; aiding and abetting any of these offenses.

6 (12) "Tier II offense" means a violation of any of the following:

- 7 a. G.S. 14-27.7 (intercourse and sexual offense with certain victims)  
8 where the facts of the case show the victim was at least 13 years old  
9 at the time of the offense.
- 10 b. G.S. 14-27.7A (statutory rape or sexual offense of person who is 13,  
11 14, or 15 years old).
- 12 c. G.S. 14-43.13 (subjecting or maintaining a person for sexual  
13 servitude) where the facts of the case show the victim was at least 13  
14 but less than 18 years old at the time of the offense.
- 15 d. G.S. 14-178 (incest between near relatives) where the facts of the  
16 case show the victim was at least 13 but less than 18 years old at the  
17 time of the offense.
- 18 e. G.S. 14-190.6 (employing or permitting minor to assist in offenses  
19 against public morality and decency).
- 20 f. G.S. 14-190.16 (first-degree sexual exploitation of a minor).
- 21 g. G.S. 14-190.17 (second degree sexual exploitation of a minor).
- 22 h. G.S. 14-190.18 (promoting prostitution of a minor).
- 23 i. G.S. 14-190.19 (participating in the prostitution of a minor).
- 24 j. G.S. 14-202.1 (taking indecent liberties with children) where the  
25 facts of the case show the victim was at least 13 but less than 16  
26 years old at the time of the offense and there was sexual contact with  
27 the victim.
- 28 k. G.S. 14-202.3 (solicitation of child by computer to commit an  
29 unlawful sex act).
- 30 l. G.S. 14-318.4(a1) (parent or caretaker commit or permit act of  
31 prostitution with or by a juvenile).
- 32 m. G.S. 14-318.4(a2) (commission or allowing of sexual act upon a  
33 juvenile by parent or guardian) where the facts of the case show the  
34 victim was at least 13 but less than 18 years old at the time of the  
35 offense.

36 The term also includes the following: an attempt, solicitation, or conspiracy  
37 to commit any of these offenses; aiding and abetting any of these offenses.

38 (13) "Tier III offense" means a violation of any of the following:

- 39 a. An offense against a minor.
- 40 b. G.S. 14-27.2 (first-degree rape).
- 41 c. G.S. 14-27.2A (rape of a child; adult offender).
- 42 d. G.S. 14-27.3 (second degree rape).
- 43 e. G.S. 14-27.4 (first-degree sexual offense).
- 44 f. G.S. 14-27.4A (sex offense with a child; adult offender).
- 45 g. G.S. 14-27.5 (second degree sexual offense).
- 46 h. G.S. 14-27.6 (attempted rape or sexual offense).
- 47 i. G.S. 14-27.7 (intercourse and sexual offense with certain victims)  
48 where the facts of the case show the victim was under the age of 13  
49 at the time of the offense.

- 1 j. G.S. 14-43.13 (subjecting or maintaining a person for sexual  
 2 servitude) where the facts of the case show the victim was under the  
 3 age of 13 at the time of the offense.  
 4 k. G.S. 14-178 (incest between near relatives) where the facts of the  
 5 case show the victim was under the age of 13 at the time of the  
 6 offense.  
 7 l. G.S. 14-202.1 (taking indecent liberties with children) where the  
 8 facts of the case show the victim was under the age of 13 at the time  
 9 of the offense and there was sexual contact with the victim.  
 10 m. G.S. 14-318.4(a2) (commission or allowing of sexual act upon a  
 11 juvenile by parent or guardian) where the facts of the case show the  
 12 victim was under the age of 13 at the time of the offense.

13 The term also includes the following: an attempt, solicitation, or conspiracy  
 14 to commit any of these offenses; aiding and abetting any of these offenses.

15 (14) "Tier I registrant" means any person with a reportable conviction for a Tier I  
 16 offense.

17 (15) "Tier II registrant" means any person who:

18 a. Has a reportable conviction for a tier II offense; or

19 b. Has a reportable conviction for a tier I offense and has a previous  
 20 reportable conviction for a tier I offense.

21 (16) "Tier III registrant" means any person who:

22 a. Has a reportable conviction for a tier III offense;

23 b. Has a reportable conviction for a tier I or tier II offense and has a  
 24 previous reportable conviction for a tier II offense; or

25 c. Has a reportable conviction for a tier I or tier II offense and has  
 26 previously been required to register in accordance with Part 2A of  
 27 this Article."

28 **SECTION 2.** G.S. 14-208.6A reads as rewritten:

29 **"§ 14-208.6A. Lifetime registration requirements for criminal offenders.**

30 It is the objective of the General Assembly to establish a 30-year registration requirement  
 31 for persons convicted of ~~certain offenses against minors or sexually violent offenses~~ tier I  
 32 offenses with an opportunity for those persons to petition in superior court to shorten their  
 33 registration time period after 10 years of registration. It is also the objective of the General  
 34 Assembly to establish a mandatory 30-year registration requirement for persons convicted of  
 35 tier II offenses and certain recidivists. It is the further objective of the General Assembly to  
 36 establish a more stringent set of registration requirements for recidivists, persons who commit  
 37 aggravated offenses, lifetime registration requirement for a person convicted of tier III offenses,  
 38 certain recidivists, and for a subclass of highly dangerous sex offenders who are determined by  
 39 a sentencing court with the assistance of a board of experts to be sexually violent predators.

40 To accomplish this objective, there are established ~~two~~ three registration programs: the Tier  
 41 I Sex Offender and Public Protection Registration Program ~~Program~~, the Tier II Sex Offender  
 42 and Public Protection Registration Program, and the Tier III Sex Offender and Sexually Violent  
 43 Predator Registration Program. Any ~~person convicted of an offense against a minor or of a~~  
 44 ~~sexually violent offense~~ tier I registrant as defined by this Article shall register in person as an  
 45 offender in accordance with Part 2 of this Article. Any tier II registrant as defined by this  
 46 Article shall register in person as an offender in accordance with Part 2A of this Article. Any  
 47 person who is a recidivist, who commits an aggravated offense, or tier III registrant as defined  
 48 by this Article or any person who is determined to be a sexually violent predator shall register  
 49 in person as ~~such an~~ offender in accordance with Part 3 of this Article.

50 The information obtained under these programs shall be immediately shared with the  
 51 appropriate local, State, federal, and out-of-state law enforcement officials and penal

1 institutions. In addition, the information designated under G.S. 14-208.10(a) as public record  
2 shall be readily available to and accessible by the public. However, the identity of the victim is  
3 not public record and shall not be released as a public record."

4 **SECTION 3.** G.S. 14-208.6B reads as rewritten:

5 "**§ 14-208.6B. Registration requirements for juveniles transferred to and convicted in**  
6 **superior court.**

7 A juvenile transferred to superior court pursuant to G.S. 7B-2200 who is convicted of a  
8 ~~sexually violent offense or an offense against a minor~~ a tier I offense, a tier II offense, or a tier  
9 III offense as defined in G.S. 14-208.6 shall register in person in accordance with this Article  
10 just as an adult convicted of the same offense must register."

11 **SECTION 4.** The title of Part 2 of Article 27A of Chapter 14 of the General  
12 Statutes reads as rewritten:

13 "Part 2. Tier I Sex Offender and Public Protection Registration Program."

14 **SECTION 5.** G.S. 14-208.7 reads as rewritten:

15 "**§ 14-208.7. Registration.**

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

22 (1) ~~Within three business days of~~ Prior to release from a ~~penal institution or~~  
23 ~~arrival in a county to live outside a~~ penal institution; or

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

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

29 (a1) A person who is a nonresident student or a nonresident worker and who has a  
30 reportable conviction, or is required to register in the person's state of residency, is required to  
31 maintain registration with the sheriff of the county where the person works or attends school. In  
32 addition to the information required under ~~subsection (b)~~ subsections (b) and (b1) of this  
33 section, the person shall also provide information regarding the person's school or place of  
34 employment as appropriate and the person's address in his or her state of residence.

35 (a2) Any person who has been convicted of a reportable conviction prior to July 1, 2011,  
36 shall be required to register for that conviction pursuant to this Article if any of the following  
37 apply:

38 (1) On July 1, 2011, the person is required to register for another offense  
39 pursuant to this Article.

40 (2) On July 1, 2011, the person is serving an active term of imprisonment for  
41 any criminal offense.

42 (3) On July 1, 2011, the person is on probation, parole, or post-release  
43 supervision for any criminal offense.

44 (4) On or after July 1, 2011, the person is convicted of any felony offense.

45 A person required to register pursuant to subdivision (1) or (3) of this subsection shall  
46 register for the prior reportable conviction on or before July 6, 2011. A person required to  
47 register pursuant to subdivision (2) or (4) of this subsection shall register as provided in  
48 subsection (a) of this section.

49 Notwithstanding the provisions of this subsection, if (i) the conviction of a reportable  
50 conviction prior to July 1, 2011, was for a tier I or tier II offense, (ii) the conviction occurred 30  
51 years or more prior to the date the person is required to register pursuant to this subsection, and

1 (iii) the person has no other reportable convictions requiring registration under this Article, the  
2 person shall not be required to register pursuant to this subsection.

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

- 5 (1) The person's full name, each alias, date of birth, sex, race, height, weight,  
6 eye color, hair color, tattoos, birthmarks, scars, or other identifying marks,  
7 drivers license number, number and a photocopy of the drivers license, social  
8 security number, any telephone numbers, including mobile phone numbers,  
9 and home-residence address.
- 10 (2) The type of offense for which the person was convicted, the date of  
11 conviction, and the sentence imposed.
- 12 (3) A current photograph taken by the sheriff, without charge, at the time of  
13 registration.
- 14 (4) The person's fingerprints and palm prints taken by the sheriff, without  
15 charge, at the time of registration.
- 16 (5) A statement indicating whether the person is a student or expects to enroll as  
17 a student within a year of registering. If the person is a student or expects to  
18 enroll as a student within a year of registration, then the registration form  
19 shall also require the name and address of the school or educational  
20 institution at which the person is a student or expects to enroll as a student.
- 21 (6) ~~A statement indicating whether~~ The name and address of any place the  
22 ~~person is employed or expects to be employed at an institution of higher~~  
23 ~~education within a year of registering. If the person is employed or expects~~  
24 ~~to be employed at an institution of higher education within a year of~~  
25 ~~registration, then the registration form shall also require the name and~~  
26 ~~address of the educational institution at which the person is or expects to be~~  
27 ~~employed.~~
- 28 (7) Any online identifier that the person uses or intends to use.
- 29 (8) Copies of or information on the person's passport or immigration documents,  
30 if any.
- 31 (9) Any professional licenses the person may hold authorizing the person to  
32 engage in an occupation or carry out a trade or business.
- 33 (10) A description of any motor vehicle, moped, aircraft, or watercraft the person  
34 owns or regularly operates for personal or employment use, including any  
35 license plate, registration, or other identification number and information on  
36 where the motor vehicle, moped, aircraft, or watercraft is regularly parked,  
37 docked, or otherwise located.

38 (b1) In addition to the information required by subsection (b) of this section, the sheriff  
39 with whom the person registers shall obtain a sample of the person's DNA, if a sample has not  
40 already been obtained and stored in the State DNA Database.

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

45 (d) Any person required to register under this section shall report in person at the  
46 appropriate sheriff's office to comply with the registration requirements set out in this section.  
47 The sheriff shall provide the registrant with a written explanation of the duty to register under  
48 this Article, and shall require the registrant to sign a written acknowledgment that the  
49 explanation has been provided and that the registrant understands the registration requirement.  
50 The sheriff shall provide the registrant with written proof of registration at the time of  
51 registration."

1           **SECTION 6.** G.S. 14-208.8 reads as rewritten:

2   "**§ 14-208.8. Prerelease notification.**

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

6           (1) Inform the person of the person's duty to register under this Article and  
7 require the person to sign a written statement that the person was so  
8 informed or, if the person refuses to sign the statement, certify that the  
9 person was so informed.

10          (2) Obtain the registration information required under ~~G.S. 14-208.7(b)(1), (2),~~  
11 ~~(5), (6), and (7),~~ G.S. 14-208.7 as well as the address where the person  
12 expects to reside upon the person's release.

13          (3) Send the Division and the sheriff of the county in which the person expects  
14 to reside the information collected in accordance with subdivision (2) of this  
15 subsection.

16       (b) If a person who is subject to registration under this Article does not receive an  
17 active term of imprisonment, the court pronouncing sentence shall conduct, at the time of  
18 sentencing, the notification procedures specified in subsection (a) of this section."

19           **SECTION 7.** Part 2 of Article 27A of Chapter 14 of the General Statutes is  
20 amended by adding a new section to read:

21   "**§ 14-208.8B. Notification requirement for temporary lodging or international travel.**

22       (a) A person required to register under this Article shall notify the sheriff of the county  
23 with whom the person is registered of any temporary lodging, including hotel, motel, or other  
24 transient lodging. The notice shall be provided within 72 hours after the person knows or  
25 should know that he or she will be maintaining temporary lodging and shall include  
26 information on the period of time the person will be residing in the temporary lodging.

27       (b) A person required to register under this Article shall notify the sheriff of the county  
28 with whom the person is registered of any intent to leave the United States 21 days or more  
29 prior to leaving the United States.

30       (c) Upon receiving the notice required under subsection (a) or (b) of this section, the  
31 sheriff shall immediately forward the information to the Division. If the notice is of temporary  
32 lodging, pursuant to subsection (a) of this section, the Division shall notify the sheriff of the  
33 county where the person is maintaining temporary lodging. If the notice is of the intent to leave  
34 the United States, pursuant to subsection (b) of this section, the Division shall notify all other  
35 jurisdictions in which the person is required to register as a sex offender, shall notify the United  
36 States Marshals Service, and shall update the person's registration information in the national  
37 sex offender database."

38           **SECTION 8.** G.S. 14-208.10 reads as rewritten:

39   "**§ 14-208.10. Registration information is public record; access to registration**  
40 **information.**

41       (a) The following information regarding a person required to register under this Article  
42 is public record and shall be available for public inspection: name, sex, temporary lodging  
43 address, residence address, vehicle description and license plate, registration, or identification  
44 number, physical description, picture, conviction date, ~~offense dates,~~ all offenses for which  
45 registration was required, the sentence imposed as a result of ~~the conviction,~~ each conviction,  
46 and registration status. The information obtained under G.S. 14-208.22 regarding a person's  
47 medical records or documentation of treatment for the person's mental abnormality or  
48 personality disorder shall not be a part of the public record.

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

1 (b) Any person may obtain a copy of an individual's registration form, a part of the  
2 county registry, or all of the county registry, by submitting a written request for the information  
3 to the sheriff. However, the identity of the victim of an offense that requires registration under  
4 this ~~Article~~ Article, the registrant's social security number, the registrant's passport or  
5 immigration document numbers, and any information on any arrests of the registrant not  
6 resulting in conviction, shall not be released. The sheriff may charge a reasonable fee for  
7 duplicating costs and for mailing costs when appropriate."

8 **SECTION 9.** Article 27A of Chapter 14 of the General Statutes is amended by  
9 adding a new Part to read:

10 "Part 2A. Tier II Sex Offender and Public Protection Registration Program.

11 "**§ 14-208.19B. Mandatory 30-year registration procedure; application of Part 2 of this**  
12 **Article.**

13 Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a tier  
14 II registrant. The procedure for registering as a tier II registrant is the same as under Part 2 of  
15 this Article.

16 "**§ 14-208.19C. Length of registration.**

17 A tier II registrant shall maintain registration for a period of at least 30 years following the  
18 date of initial county registration. Except as provided under G.S. 14-208.6C, the requirement of  
19 registration shall not be terminated prior to the completion of the registration period."

20 **SECTION 10.** The title of Part 3 of Article 27A of Chapter 14 of the General  
21 Statutes reads as rewritten:

22 "Part 3. Tier III Sex Offender and Sexually Violent Predator Registration Program."

23 **SECTION 11.** G.S. 14-208.20(a) reads as rewritten:

24 "(a) When a person is charged by indictment or information with the commission of a  
25 ~~sexually violent offense, tier I offense, a tier II offense, or a tier III offense that is not an offense~~  
26 against a minor, the district attorney shall decide whether to seek classification of the offender  
27 as a sexually violent predator if the person is convicted. If the district attorney intends to seek  
28 the classification of a sexually violent predator, the district attorney shall within the time  
29 provided for the filing of pretrial motions under G.S. 15A-952 file a notice of the district  
30 attorney's intent. The court may for good cause shown allow late filing of the notice, grant  
31 additional time to the parties to prepare for trial, or make other appropriate orders."

32 **SECTION 12.** G.S. 14-208.21 reads as rewritten:

33 "**§ 14-208.21. Lifetime registration procedure; application of Part 2 of this Article.**

34 Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a tier  
35 III registrant or a person classified as a sexually violent predator, a person who is a recidivist,  
36 or a person who is convicted of an aggravated offense predator. The procedure for registering  
37 as a tier III registrant or a sexually violent predator, a recidivist, or a person convicted of an  
38 aggravated offense predator is the same as under Part 2 of this Article."

39 **SECTION 13.** G.S. 14-208.22(a) reads as rewritten:

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

44 (1) ~~Identifying factors.~~

45 (2) ~~Offense history.~~

46 (3) Documentation of any treatment received by the person for the person's  
47 mental abnormality or personality disorder."

48 **SECTION 14.** G.S. 14-208.23 reads as rewritten:

49 "**§ 14-208.23. Length of registration.**

50 A person who is a recidivist, who is convicted of an aggravated offense, tier III registrant or  
51 a person who is classified as a sexually violent predator shall maintain registration for the

1 person's life. Except as provided under ~~G.S. 14-208.6C~~, G.S. 14-208.6C or G.S. 14-208.23A,  
2 the requirement of registration shall not be terminated."

3 **SECTION 15.** Part 3 of Article 27A of Chapter 14 of the General Statutes is  
4 amended by adding a new section to read:

5 "**§ 14-208.23A. Request for termination of registration requirement for juveniles.**

6 (a) Thirty years from the date of initial county registration, a person required to register  
7 under this Part based on a final conviction as defined in sub-subdivision b. or c. of  
8 G.S. 14-208.6(1g) may petition the superior court in the district where the person resides to  
9 terminate the lifetime registration requirement if the person has not been convicted of a  
10 subsequent offense requiring registration under this Article.

11 (b) The court may grant the relief if:

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

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

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

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

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

31 **SECTION 16.** G.S. 14-208.26(a) reads as rewritten:

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

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

49 **SECTION 17.** G.S. 14-208.40(a) reads as rewritten:

50 "(a) The Department of Correction shall establish a sex offender monitoring program  
51 that uses a continuous satellite-based monitoring system and shall create guidelines to govern

1 the program. The program shall be designed to monitor three categories of offenders as  
2 follows:

- 3 (1) Any offender who is convicted of a reportable conviction as defined by  
4 G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A  
5 of Chapter 14 of the General Statutes because the defendant is classified as a  
6 sexually violent predator, is a recidivist, or was convicted of ~~an aggravated~~  
7 ~~offense~~ a tier III offense other than an offense against a minor as those terms  
8 are defined in G.S. 14-208.6.
- 9 (2) Any offender who satisfies all of the following criteria: (i) is convicted of a  
10 reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to  
11 register under Part 2 of Article 27A of Chapter 14 of the General Statutes,  
12 (iii) has committed an offense involving the physical, mental, or sexual  
13 abuse of a minor, and (iv) based on the Department's risk assessment  
14 program requires the highest possible level of supervision and monitoring.
- 15 (3) Any offender who is convicted of G.S. 14-27.2A or G.S. 14-27.4A, who  
16 shall be enrolled in the satellite-based monitoring program for the offender's  
17 natural life upon termination of the offender's active punishment."

18 **SECTION 18.** G.S. 14-208.40A reads as rewritten:

19 **"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

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

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

30 (b) After receipt of the evidence from the parties, the court shall determine whether the  
31 offender's conviction places the offender in one of the categories described in  
32 G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying  
33 whether (i) the offender has been classified as a sexually violent predator pursuant to  
34 G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was ~~an aggravated~~  
35 ~~offense~~, a tier III offense other than an offense against a minor, (iv) the conviction offense was a  
36 violation of G.S. 14-27.2A or G.S. 14-27.4A, or (v) the offense involved the physical, mental,  
37 or sexual abuse of a minor.

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

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

48 (e) Upon receipt of a risk assessment from the Department pursuant to subsection (d) of  
49 this section, the court shall determine whether, based on the Department's risk assessment, the  
50 offender requires the highest possible level of supervision and monitoring. If the court  
51 determines that the offender does require the highest possible level of supervision and

1 monitoring, the court shall order the offender to enroll in a satellite-based monitoring program  
2 for a period of time to be specified by the court."

3 **SECTION 19.** G.S. 14-208.40B(c) reads as rewritten:

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

7 If the court finds that (i) the offender has been classified as a sexually violent predator  
8 pursuant to G.S. 14-208.20, (ii) the offender is a recidivist, (iii) the conviction offense was ~~an~~  
9 ~~aggravated offense, a tier III offense other than an offense against a minor,~~ or (iv) the  
10 conviction offense was a violation of G.S. 14-27.2A or G.S. 14-27.4A, the court shall order the  
11 offender to enroll in satellite-based monitoring for life.

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

19 Upon receipt of a risk assessment from the Department, the court shall determine whether,  
20 based on the Department's risk assessment, the offender requires the highest possible level of  
21 supervision and monitoring. If the court determines that the offender does require the highest  
22 possible level of supervision and monitoring, the court shall order the offender to enroll in a  
23 satellite-based monitoring program for a period of time to be specified by the court."

24 **SECTION 20.** G.S. 14-208.43(d1) reads as rewritten:

25 "(d1) Notwithstanding the provisions of this section, if the Commission is notified by the  
26 Department of Correction that the offender has been released, pursuant to  
27 ~~G.S. 14-208.12A, G.S. 14-208.12A or G.S. 14-208.23A,~~ from the requirement to register under  
28 Part 2 or Part 3 of Article 27A of this Chapter, upon request of the offender, the Commission  
29 shall order the termination of the monitoring requirement."

30 **SECTION 21.** G.S. 50-13.1(a1) reads as rewritten:

31 "(a1) Notwithstanding any other provision of law, any person instituting an action or  
32 proceeding for custody ex parte who has been convicted of a ~~sexually violent offense as~~  
33 ~~defined in G.S. 14-208.6(5)~~ reportable conviction as defined in G.S. 14-208.6(4) shall disclose  
34 the conviction in the pleadings."

35 **SECTION 22.** Section 21 of this act becomes effective July 1, 2011. The  
36 remainder of this act becomes effective July 1, 2011, and applies to persons who are required to  
37 be registered pursuant to Article 27A of Chapter 14 of the General Statutes on or after that date.