



# HOUSE BILL 1021: Amend Sex Off. Certain Premises.

2016-2017 General Assembly

<b>Committee:</b>	Senate Judiciary I	<b>Date:</b>	June 16, 2016
<b>Introduced by:</b>	Rep. Daughtry	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	PCS to Fourth Edition H1021-CSSA-114		Committee Counsel

**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 1021 would modify the law regarding sex offenders on certain premises to comply with the ruling in Doe v. Cooper.*

**CURRENT LAW:** G.S. 14-208.18(a) prohibits certain sex offenders from being in certain locations. In two separate orders, in the case of *Doe v. Cooper*, No. 1:13CV711 (M.D.N.C), the United States District Court for the Middle District of North Carolina has found G.S. 14-208.18(a)(2) and 14-208.18(a)(3) to be unconstitutional and has enjoined enforcement of those subsections.

**G.S. 14-208.18(a)(2)** prohibits certain sex offenders from knowingly being "[w]ithin 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, [schools, children's museums, child care centers, nurseries, and playgrounds] that are located in malls, shopping centers, or other property open to the general public."

**G.S. 14-208.18(a)(3)** prohibits certain sex offenders from knowingly being "[a]t any place where minors gather for regularly scheduled educational, recreational, or social programs."

In an order issued December 7, 2015, the court found G.S. 14-208.18(a)(3) [places where minors regularly gather] to be unconstitutionally vague. In an order issued April 22, 2016, the court found G.S. 14-208.18(a)(2) [300 foot rule] to be unconstitutionally overbroad in violation of the First Amendment.

## BILL ANALYSIS:

The PCS to House Bill 1021 would modify G.S. 14-208.18 to address the constitutional issues found by the court in *Doe v. Cooper* as follows:

- Subdivision (3) of subsection (a) would be amended to clarify that certain sex offenders are prohibited from being at any place where minors "frequently congregate, including, but not limited to, arcades, amusement parks, recreation parks, and swimming pools" and only "when minors are present".
- Subsection (c), which addresses which sex offenders are subject to the premises limitations of G.S. 14-208.18, would be amended to provide that the 300 foot rule only applies to offenders whose victims were under the age of 18 and to offenders that have been found by a court to present or possibly present a danger to minors under the age of 18.

**EFFECTIVE DATE:** The amendment would take effect September 1, 2016, and apply to offenses committed on or after that date. However, if either or both decisions are reversed, enjoined, made inoperable, or made ineffective by a higher court on appeal, the prior versions of the statute would again become effective.

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