

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 132
Judiciary II (Criminal) Committee Substitute Adopted 5/17/07
Third Edition Engrossed 5/23/07
House Committee Substitute Favorable 7/31/07

Short Title: Protect Children From Sexual Predators Act.

(Public)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE SCOPE OF CERTAIN PORNOGRAPHY LAWS BY AMENDING THE DEFINITION OF SEXUAL ACTIVITY; TO INCREASE THE PENALTY FOR FIRST, SECOND, AND THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR; TO MAKE IT A FELONY FOR A REGISTERED SEX OFFENDER TO ACCESS A COMMERCIAL SOCIAL NETWORKING WEB SITE; AND TO PROHIBIT A REGISTERED SEX OFFENDER FROM OBTAINING A NAME CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-190.13 reads as rewritten:

"§ 14-190.13. Definitions for certain offenses concerning minors.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; 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; ~~and~~ G.S. 14-190.19, participating in prostitution of a minor.

(1) Harmful to Minors. – That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

- a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
- b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is

- 1 patently offensive to prevailing standards in the adult
 2 community concerning what is suitable for minors; and
 3 c. The material or performance lacks serious literary, artistic,
 4 political, or scientific value for minors.
 5 (2) Material. – Pictures, drawings, video recordings, films or other visual
 6 depictions or representations but not material consisting entirely of
 7 written words.
 8 (3) Minor. – An individual who is less than 18 years old and is not
 9 married or judicially emancipated.
 10 (4) Prostitution. – Engaging or offering to engage in sexual activity with
 11 or for another in exchange for anything of value.
 12 (5) Sexual Activity. – Any of the following acts:
 13 a. Masturbation, whether done alone or with another human or an
 14 animal.
 15 b. Vaginal, anal, or oral intercourse, whether done with another
 16 human or with an animal.
 17 c. Touching, in an act of apparent sexual stimulation or sexual
 18 abuse, of the clothed or unclothed genitals, pubic area, or
 19 buttocks of another person or the clothed or unclothed breasts
 20 of a human female.
 21 d. An act or condition that depicts torture, physical restraint by
 22 being fettered or bound, or flagellation of or by a person clad in
 23 undergarments or in revealing or bizarre costume.
 24 e. Excretory functions; provided, however, that this
 25 sub-subdivision shall not apply to G.S. 14-190.17A.
 26 f. The insertion of any part of a person's body, other than the male
 27 sexual organ, or of any object into another person's anus or
 28 vagina, except when done as part of a recognized medical
 29 procedure.
 30 g. The lascivious exhibition of the genitals or pubic area of any
 31 person.
 32 (6) Sexually Explicit Nudity. – The showing of:
 33 a. Uncovered, or less than opaquely covered, human genitals,
 34 pubic area, or buttocks, or the nipple or any portion of the
 35 areola of the human female breast, except as provided in
 36 G.S. 14-190.9(b); or
 37 b. Covered human male genitals in a discernibly turgid state."

38 **SECTION 2.** G.S. 14-190.16(d) reads as rewritten:

39 "(d) Punishment and Sentencing. – Violation of this section is a ~~Class D~~
 40 ~~felony.~~Class C felony."

41 **SECTION 3.** G.S. 14-190.17(d) reads as rewritten:

42 "(d) Punishment and Sentencing. – Violation of this section is a ~~Class F~~
 43 ~~felony.~~Class E felony."

44 **SECTION 4.** G.S. 14-190.17A(d) reads as rewritten:

1 "(d) Punishment and Sentencing. – Violation of this section is a ~~Class I~~
2 ~~felony.~~Class H felony."

3 **SECTION 5.(a)** Article 26 of Chapter 14 of the General Statutes is amended
4 by adding a new section to read:

5 **"§ 14-202.5. Ban use of commercial social networking Web sites by sex offenders.**

6 (a) Offense. – It is unlawful for a sex offender who is registered in accordance
7 with Article 27A of Chapter 14 of the General Statutes to access a commercial social
8 networking Web site, as defined in G.S. 75-40, that the sex offender knows to permit
9 minor children to become members or to create or maintain personal Web pages on the
10 commercial social networking Web site.

11 (b) Jurisdiction. – The offense is committed in the State for purposes of
12 determining jurisdiction, if the transmission that constitutes the offense either originates
13 in the State or is received in the State.

14 (c) Punishment. – A violation of this section is a Class I felony."

15 **SECTION 5.(b)** Article 26 of Chapter 14 of the General Statutes is amended
16 by adding a new section to read:

17 **"§ 14-202.6. Ban on name changes by sex offenders.**

18 It is unlawful for a sex offender who is registered in accordance with Article 27A of
19 Chapter 14 of the General Statutes to obtain a change of name under Chapter 101 of the
20 General Statutes."

21 **SECTION 5.(c)** G.S. 101-6 is amended by adding a new subsection to read:

22 "(c) A sex offender who is registered in accordance with Article 27A of Chapter
23 14 of the General Statutes is prohibited from obtaining a change of name under this
24 Chapter."

25 **SECTION 6.** If any section or provision of this act is declared
26 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
27 provision does not affect the validity of this act as a whole or any part of this act other
28 than the part declared to be unconstitutional or invalid.

29 **SECTION 7.** This act becomes effective December 1, 2007, and applies to
30 offenses committed on or after that date.