

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS35304-LHz-212A (11/03)

Short Title: Jessica's Law/Strengthen Sex Offender Laws. (Public)

Sponsors: Senators Allran, Atwater, Bingham, and Purcell.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE SEX OFFENDER AND PUBLIC PROTECTION
2 REGISTRATION PROGRAMS AND TO APPROPRIATE FUNDS TO
3 IMPLEMENT AN ACTIVE AND PASSIVE ELECTRONIC MONITORING
4 SYSTEM TO ASSIST WITH THE SUPERVISION OF CERTAIN SEX
5 OFFENDERS PLACED ON PROBATION, PAROLE, OR POST-RELEASE
6 SUPERVISION, AS RECOMMENDED BY THE CHILD FATALITY TASK
7 FORCE.
8

9 The General Assembly of North Carolina enacts:

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

11 **"§ 14-208.6A. Lifetime registration requirements for criminal offenders.**

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

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

26 The information obtained under these programs shall be immediately shared with the
27 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
2 record shall be readily available to and accessible by the public. However, the identity
3 of the victim is not public record and shall not be released as a public record."

4 **SECTION 2.** G.S. 14-208.6B reads as rewritten:

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

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

11 **SECTION 3.** G.S. 14-208.7 reads as rewritten:

12 **"§ 14-208.7. Registration.**

13 (a) A person who is a State resident and who has a reportable conviction shall be
14 required to maintain registration with the sheriff of the county where the person resides.
15 If the person moves to North Carolina from outside this State, the person shall register
16 within ~~10 days~~ 48 hours of establishing residence in this State, or whenever the person
17 has been present in the State for 15 days, whichever comes first. If the person is a
18 current resident of North Carolina, the person shall register:

- 19 (1) Within ~~10 days~~ 48 hours of release from a penal institution or arrival in
20 a county to live outside a penal institution; or
21 (2) Immediately upon conviction for a reportable offense where an active
22 term of imprisonment was not imposed.

23 Registration shall be maintained for a period of at least 10 years following release from
24 a penal institution. If no active term of imprisonment was imposed, registration shall be
25 maintained for a period of at least 10 years following each conviction for a reportable
26 offense.

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

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

- 35 (1) The person's full name, each alias, date of birth, sex, race, height,
36 weight, eye color, hair color, drivers license number, and home
37 address;
38 (2) The type of offense for which the person was convicted, the date of
39 conviction, and the sentence imposed;
40 (3) A current photograph;
41 (4) The person's fingerprints;
42 (5) A statement indicating whether the person is a student or expects to
43 enroll as a student within a year of registering. If the person is a
44 student or expects to enroll as a student within a year of registration,

1 then the registration form shall also require the name and address of
2 the educational institution at which the person is a student or expects
3 to enroll as a student; and

- 4 (6) A statement indicating whether the person is employed or expects to
5 be employed at an institution of higher education within a year of
6 registering. If the person is employed or expects to be employed at an
7 institution of higher education within a year of registration, then the
8 registration form shall also require the name and address of the
9 educational institution at which the person is or expects to be
10 employed.

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

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

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

23 **SECTION 4.** G.S. 14-208.9 reads as rewritten:

24 "**§ 14-208.9. Change of address; change of academic status or educational**
25 **employment status.**

26 (a) If a person required to register changes address, the person shall report in
27 person and provide written notice of the new address not later than ~~the tenth day~~⁴⁸
28 hours after the change to the sheriff of the county with whom the person had last
29 registered. Upon receipt of the notice, the sheriff shall immediately forward this
30 information to the Division. If the person moves to another county in this State, the
31 Division shall inform the sheriff of the new county of the person's new residence.

32 (b) If a person required to register ~~moves-intends to move~~ to another state, the
33 person shall report in person to the sheriff of the county of current residence at least 48
34 hours before the date the person intends to leave this State to establish residence in
35 another state or jurisdiction.~~provide written notice of the new address not later than 10~~
36 ~~days after the change to the sheriff of the county with whom the person had last~~
37 ~~registered. Upon receipt of the notice, the~~ The person shall provide to the sheriff a
38 written notification that includes all of the following information: the address,
39 municipality, county, and state of intended residence. The person shall also include a
40 current photograph with the information. The sheriff shall ~~notify-inform~~ the person that
41 the person must comply with the registration requirements in the new state of residence.
42 The sheriff shall also immediately forward the ~~change of address information~~ included
43 in the notification to the Division, and the Division shall inform the appropriate state

1 official in the state to which the registrant moves of the person's notification and new
2 address.

3 (b1) A person who indicates his or her intent to reside in another state or
4 jurisdiction and later decides to remain in this State shall, within 48 hours after the date
5 upon which the person indicated he or she would leave this State, report in person to the
6 sheriff's office to which the person reported the intended change of residence, of his or
7 her intent to remain in this State. If the sheriff is notified by the sexual offender that he
8 or she intends to remain in this State, the sheriff shall promptly report this information
9 to the Division.

10 (c) If a person required to register changes his or her academic status either by
11 enrolling as a student or by terminating enrollment as a student, then the person ~~shall~~
12 shall, within 48 hours, report in person to the sheriff of the county with whom the
13 person registered and provide written notice of the person's new status not later than the
14 tenth day after the change to the sheriff of the county with whom the person
15 registered. status. The written notice shall include the name and address of the institution
16 of higher education at which the student is or was enrolled. ~~Upon receipt of the notice,~~
17 ~~the~~The sheriff shall immediately forward this information to the Division.

18 (d) If a person required to register changes his or her employment status either by
19 obtaining employment at an institution of higher education or by terminating
20 employment at an institution of higher education, then the person ~~shall~~ shall, within 48
21 hours, report in person to the sheriff of the county with whom the person registered and
22 provide written notice of the person's new status not later than the tenth day 48 hours
23 after the change to the sheriff of the county with whom the person registered. The
24 written notice shall include the name and address of the institution of higher education
25 at which the person is or was employed. Upon receipt of the notice, the
26 sheriff shall immediately forward this information to the Division."

27 **SECTION 5.** G.S. 14-208.9A reads as rewritten:

28 **"§ 14-208.9A. Verification of registration information.**

29 The information in the county registry shall be verified ~~annually~~ semiannually for
30 each registrant as follows:

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

35 (2) The person shall return the verification form in person to the sheriff
36 within ~~10 days~~ 48 hours after the receipt of the form.

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

41 (3a) The person shall include a current photograph of himself or herself
42 with the verification form. The photograph must be easy to view and
43 must provide a true and accurate likeness of the offender. If, in the
44 sheriff's discretion, the photograph does not satisfy that criteria, then

1 the sheriff may take a photograph of the offender to include with the
2 verification form.

- 3 (4) If the person fails to return the verification form in person to the sheriff
4 within ~~10 days~~48 hours after receipt of the form, the person is subject
5 to the penalties provided in G.S. 14-208.11. If the ~~verification form is~~
6 ~~returned to the sheriff as undeliverable,~~person fails to report in person
7 and provide the written verification as provided by this section, the
8 sheriff shall make a reasonable attempt to verify that the person is
9 residing at the registered address. If the person cannot be found at the
10 registered address and has failed to report a change of address, the
11 person is subject to the penalties provided in G.S. 14-208.11, unless
12 the person reports in person to the sheriff and proves that the person
13 has not changed his or her residential address."

14 **SECTION 6.** G.S. 14-208.11(a) reads as rewritten:

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

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

32 **SECTION 7.** Article 27A of Chapter 14 of the General Statutes is amended
33 by adding a new section to read:

34 "**§ 14-208.11A. Duty to report noncompliance of a sex offender; penalty for failure**
35 **to report in certain circumstances.**

36 (a) Any person who has reason to believe that an offender required to register
37 under this Article is not complying, or has not complied, with the requirements of this
38 Article and who, with the intent to assist the offender in eluding a law enforcement
39 agency that is seeking to find the offender to question the offender about, or to arrest the
40 offender for, his or her noncompliance with the requirements of this Article and who
41 does any of the following is guilty of a Class H felony:

- 42 (1) Withholds information from, or does not notify, the law enforcement
43 agency about the offender's noncompliance with the requirements of
44 this Article, and, if known, the whereabouts of the offender.

1 (2) Harbors, or attempts to harbor, or assists another person in harboring
2 or attempting to harbor, the offender.

3 (3) Conceals or attempts to conceal, or assist another person in concealing
4 or attempting to conceal, the offender.

5 (4) Provides information to the law enforcement agency regarding the
6 offender that the person knows to be false information.

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

9 **SECTION 8.** G.S. 14-208.12A reads as rewritten:

10 "**§ 14-208.12A. ~~Termination~~ Request for termination of registration requirement.**

11 (a) A person required to register under this Part who has served his or her
12 sentence may petition the superior court in the district court where the person resides to
13 terminate the registration requirement~~The requirement that a person register under this~~
14 ~~Part automatically terminates~~ 10 years from the date of initial county registration if the
15 person has not been convicted of a subsequent offense requiring registration under this
16 Article. The court may grant or deny the relief if the petitioner demonstrates to the court
17 that he or she has not been arrested for any crime that would require registration under
18 this Article since completing the sentence, the requested relief complies with the
19 provisions of the federal Jacob Wetterling Act, as amended, and any other federal
20 standards applicable to the termination of a registration requirement or required to be
21 met as a condition for the receipt of federal funds by the State, and the court is
22 otherwise satisfied that the petitioner is not a current or potential threat to public safety.
23 The district attorney in the district in which the petition is filed shall be given notice of
24 the petition at least three weeks before the hearing on the matter. The district attorney
25 may present evidence in opposition to the requested relief or may otherwise demonstrate
26 the reasons why the petition should be denied. If the court denies the petition, the person
27 may again petition the court for relief in accordance with this section one year from the
28 date of the denial of the original petition to terminate the registration requirement. If the
29 court grants the petition to terminate the registration requirement, the petitioner shall
30 forward a certified copy of the order to the Division to have the person's name removed
31 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 terminated."

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

36 "**§ 14-208.25A. Community and public notification.**

37 (a) Law enforcement agencies shall inform members of the community and the
38 public of the presence of any person required to register under this Part as a recidivist,
39 as sexual predator, or because the person has committed an aggravated offense. Upon
40 notification of the presence of a registrant under this Part, the sheriff of the county
41 where the registrant establishes or maintains a permanent or temporary residence shall
42 notify members of the community and the public of the presence of the registrant in a
43 manner deemed appropriate by the sheriff. Within 48 hours after receiving notification
44 of the presence of a registrant under this Part, the sheriff of the county where the

1 registrant temporarily or permanently resides shall notify each licensed day care center,
2 elementary school, middle school, and high school within a one-mile radius of the
3 registrant's temporary or permanent residence of the registrant's presence. The
4 information to be provided under this section shall not include the name of any victim
5 of the registrant, but shall include all of the following:

6 (1) The name of the registrant.

7 (2) A description of the registrant, including a photograph.

8 (3) The registrant's current address, including the name of the county or
9 municipality, if known.

10 (4) The circumstances of the registrant's offense.

11 (5) Whether the victim of the offense was, at the time of the offense, a
12 minor or an adult.

13 (b) The sheriff may coordinate the community and public notification efforts
14 with the Division. Statewide notification to the public is authorized, as deemed
15 appropriate by local law enforcement personnel and the Division.

16 (c) The Division shall notify the public of all registrants under this Part through
17 the Internet. The Internet notice shall include the information required by subsection (a)
18 of this section.

19 (d) The Division shall adopt a protocol to assist law enforcement agencies in
20 their efforts to notify the community and public of the presence of persons required to
21 register under this Part."

22 **SECTION 10.** G.S. 14-208.27 reads as rewritten:

23 **"§ 14-208.27. Change of address.**

24 If a juvenile who is adjudicated delinquent and required to register changes address,
25 the juvenile court counselor for the juvenile shall provide written notice of the new
26 address not later than ~~the tenth day~~ 48 hours after the change to the sheriff of the county
27 with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall
28 immediately forward this information to the Division. If the juvenile moves to another
29 county in this State, the Division shall inform the sheriff of the new county of the
30 juvenile's new residence."

31 **SECTION 11.** G.S. 14-208.28 reads as rewritten:

32 **"§ 14-208.28. Verification of registration information.**

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

35 (1) Every year on the anniversary of a juvenile's initial registration
36 ~~date,~~ date and six months after that date the sheriff shall mail a
37 verification form to the juvenile court counselor assigned to the
38 juvenile.

39 (2) The juvenile court counselor for the juvenile shall return the
40 verification form to the sheriff within ~~10 days~~ 48 hours after the receipt
41 of the form.

42 (3) The verification form shall be signed by the juvenile court counselor
43 and the juvenile and shall indicate whether the juvenile still resides at
44 the address last reported to the sheriff. If the juvenile has a different

1 address, then that fact and the new address shall be indicated on the
2 form."

3 **SECTION 12.** Part 3 of Article 27A of Chapter 14 of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 14-208.24A. Sexual predator prohibited from working or volunteering at any**
6 **place where children regularly congregate.**

7 (a) Any person required to register under this Part because he or she is classified
8 as a sexually violent predator, is a recidivist as defined by G.S. 14-208.6, or is a person
9 convicted of an aggravated offense as defined by G.S. 14-208.6 shall not work, for
10 compensation or as a volunteer, at any business, school, day care center, park,
11 playground, or other place where children regularly congregate.

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

13 **SECTION 13.** Article 33 of Chapter 14 of the General Statutes is amended
14 by adding a new section to read:

15 **"§ 14-259A. Altering, tampering, or damaging electronic monitoring equipment**
16 **used to monitor persons placed on house arrest, probation, post-release**
17 **supervision or other types of release.**

18 (a) It is unlawful to alter, tamper with, damage, or destroy any electronic
19 monitoring equipment used to monitor a person who has been placed on probation,
20 house arrest, post-release supervision, parole, study release, or work release.

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

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

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

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

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

- 38 (1) Register as required by G.S. 14-208.7 if the offense is a reportable
39 conviction as defined by G.S. 14-208.6(4).
- 40 (2) Participate in such evaluation and treatment as is necessary to
41 complete a prescribed course of psychiatric, psychological, or other
42 rehabilitative treatment as ordered by the court.
- 43 (3) Not communicate with, be in the presence of, or found in or on the
44 premises of the victim of the offense.

- 1 (4) Not reside in a household with any minor child if the offense is one in
2 which there is evidence of sexual abuse of a minor.
- 3 (5) Not reside in a household with any minor child if the offense is one in
4 which there is evidence of physical or mental abuse of a minor, unless
5 the court expressly finds that it is unlikely that the defendant's harmful
6 or abusive conduct will recur and that it would be in the minor child's
7 best interest to allow the probationer to reside in the same household
8 with a minor child.
- 9 (6) Satisfy any other conditions determined by the court to be reasonably
10 related to his rehabilitation.
- 11 (7) If the defendant is required to register under Part 3 of Chapter 14 of
12 the General Statutes because the defendant is classified as a sexually
13 violent predator, is a recidivist, or was convicted of an aggravated
14 offense, as those terms are defined in G.S.14-208.6, then the defendant
15 must submit to electronic monitoring as provided in G.S. 15A-1380.6.

16 Defendants subject to the provisions of this subsection shall not be placed on
17 unsupervised probation."

18 **SECTION 16.** G.S. 15A-1343(c2) reads as rewritten:

19 "(c2) Electronic Monitoring Device Fee. – Any person placed on house arrest with
20 electronic monitoring under subsection (b1) of this section or who is required to register
21 as a sex offender under Part 3 of Chapter 14 of the General Statutes and therefore has
22 electronic monitoring imposed as a condition of probation under subsection (b2) of this
23 section and G.S. 15A-1380.6 shall pay a fee of ninety dollars (\$90.00) for the electronic
24 monitoring device. The court may exempt a person from paying the fee only for good
25 cause and upon motion of the person placed on house arrest with electronic ~~monitoring-~~
26 monitoring or upon motion of the person who is required to register as a sex offender
27 under Part 3 of Chapter 14 of the General Statutes and has electronic monitoring
28 imposed as a condition of probation under subsection (b2) of this section and
29 G.S. 15A-1380.6. The court may require that the fee be paid in advance or in a lump
30 sum or sums, and a probation officer may require payment by those methods if the
31 officer is authorized by subsection (g) of this section to determine the payment
32 schedule. The fee must be paid to the clerk of court for the county in which the
33 judgment was entered or the deferred prosecution agreement was filed. Fees collected
34 under this subsection shall be transmitted to the State for deposit into the State's General
35 Fund."

36 **SECTION 17.** G.S. 15A-1344 is amended by adding a new subsection to
37 read:

38 "(e2) Mandatory Electronic Monitoring Required for Extension of Probation in
39 Response to Violation by Certain Sex Offenders. – If a defendant who violates
40 probation is classified as a sexually violent predator, is a recidivist, or was convicted of
41 an aggravated offense, as those terms are defined in G.S.14-208.6, and if the court
42 extends the probation as a result of the violation, then the court shall order electronic
43 monitoring as a condition of the extended probation. The electronic monitoring system
44 used shall comply with the provisions of G.S. 15A-1380.6."

1 of the House of Representatives and Senate Appropriations Subcommittees on Justice
2 and Public Safety on the responses to the RFPs.

3 **SECTION 21.** No later than January 1, 2007, the Department of Correction
4 shall develop a graduated risk assessment program that identifies, assesses, and closely
5 monitors a high-risk sex offender who, while not classified as a sexually violent
6 predator, a recidivist, or convicted of an aggravated offense as those terms are defined
7 in G.S. 14-208.6, may still require extraordinary supervision and may be placed on
8 probation, parole, or post-release supervision only on the conditions provided in
9 G.S. 15A-1343(b2) or G.S. 15A-1368.4(b1).

10 **SECTION 22.** There is appropriated from the General Fund to the
11 Department of Correction the sum of one million three hundred seven thousand two
12 hundred eighteen dollars (\$1,307, 218) for the 2006-2007 fiscal year to implement the
13 active and passive electronic monitoring systems required by this act.

14 **SECTION 23.** Section 22 of this act becomes effective July 1, 2006. The
15 remainder of this act becomes effective December 1, 2006, and applies to offenses
16 committed on or after that date.