



Out of the Shadows

NC Conference of District Attorneys

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THE SOURCE

by: Laura Edwards Parker

On August 16, 2006, Governor Mike Easley signed into law House Bill 1896 (Session Law 2006-247), "An Act to Protect North Carolina's Children/Sex Offender Law Changes." The new law creates additional tools for state and local law enforcement to track child sexual predators and expands registration requirements for sex offenders.

I have enclosed a summary of changes made by the law in this newsletter. Please be sure to familiarize yourself with these changes. To view the new law in its entirety, please visit: www.ncga.state.nc.us/sessions/2005/bills/house/html/h1896v9.html. Please do not hesitate to contact me if I can be of any assistance with this new law or in any other matter relating to child abuse and neglect.

Please note that my name has changed from Laura Edwards to Laura Parker. In addition my email address has changed to Laura.E.Parker@nccourts.org.

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SESSION LAW 2006-247: AN ACT TO PROTECT NORTH CAROLINA'S CHILDREN/ SEX OFFENDER LAW CHANGES

The following is a summary of changes made by Session Law 2006-247: An Act to Protect North Carolina's Children/Sex Offender Law Changes prepared by Laura Parker, Child Abuse Resource Prosecutor with the NC Conference of District Attorneys. All provisions are effective December 1, 2006 unless otherwise noted.

I. Changes to Sex Offender Registration Requirements

- a. G.S. 14-208.6(4)(b) expands definition of "reportable conviction" to include any offense committed in another state that requires registration in that state.
- b. G.S. 14-208.6(5) adds G.S. 14-27.7A(a), Statutory rape of a 13, 14, or 15 year old by a defendant who is at least six years older than the child to the definition of a "sexually violent offense," requiring registration as a sex offender.
- c. G.S. 14-208.6A and 6B now require registrants to appear in person to verify their status. Failure to register in person is a Class F Felony.
- d. G.S. 14-208.9 now requires registrants to notify in person the sheriff in the county of registration of his intent to move to another state. Registrant must also give notice if he decides to remain. Failure to give notification of either will be a Class F felony.
- e. G.S. 14-208.9A requires a registrant to appear in person every six months instead of annually to verify their personal information. The sheriff may require a new photograph if the sheriff believes the previous photo is not a true and accurate likeness. Failure to appear every six months for verification is a Class F felony. Failure to submit for new photo is a Class 1 misdemeanor.

II. Residence and Employment Restrictions for Registrants

- a. New G.S. 14-208A requires a registrant working in another county on a temporary basis and who establishes temporary residence in that county to notify the sheriff in the county for which he is registered (must be done in person). This provision applies when the registrant spends more than 10 business days within a 30-day period or aggregate period exceeding 30 days in a calendar year in the temporary county. Failure to give this notification is a Class F felony. Effective Date: June 1, 2007.
- b. New G.S. 14-208.16 makes it a Class G felony for a registrant to knowingly reside within 1,000 feet of the property on which any public or private school or child care center [G.S. 110-86(3)] is located. This provision excludes home schools or higher education institutions. Also excludes child care centers within 1,000 feet of higher education institutions where the registrant is a student or employee. A violation cannot be based on property changes that occur after the registrant has established residency. Residence includes purchase or lease of property or residing with an immediate family member. Effective Date: applies to residency established on or after December 1, 2006.
- c. New G.S. 14-208.17 makes it a Class F felony for a registrant to work or volunteer at a location where a child is present and whose responsibilities or activities would include instruction, supervision, or care of a minor. It also prohibits a person from conducting an activity at his or her residence that involves accepting a minor into his or her care if the person knows that another resident of the same location is required to register.

III. Sex Offender Monitoring (Satellite-Based Monitoring) [Found in Part 5 of Article 27A of Chapter 4, G.S. 14-208.33 through 14-208.38]

- a. New G.S. 14-208.33(a) will require a continuous satellite-based monitoring system to monitor certain categories of offenders.
 - 1. Any offender convicted of a reportable conviction and who is required to register under Part 3 of Article 27A of Chapter 14 because the offender is classified as a sexually violent predator, recidivist, or who was convicted of an aggravated offense, as defined in G.S. 14-208.6. Requirement is for life unless terminated pursuant to G.S. 14-208.36.
 - 2. Any Offender who is convicted of a reportable conviction and who is required to register under part 2 of

STATISTICS:

»Total Number of Registered Sex Offenders in the United States: 579,974

»Total in North Carolina: 9,704 (as of 2/8/06)

*Source: National Center for Missing and Exploited Children

»Approximately 100 offenders qualify for the GPS Monitoring System in NC (as of March 26, 2006)

*Source: NC Department of Corrections

petition. If registrant is denied termination, he may petition annually for review of status. Effective: December 1, 2006 for anyone whose registration requirement would otherwise terminate on or after that date.

Article 27A of Chapter 14, whose offense involved the physical, mental, or sexual abuse of a minor and who is determined by the Department of Correction to require the highest possible level of monitoring and supervision. Requirement is for length of time set by the court ordering the monitoring.

- b. New G.S. 14-208.33(b) requires Department of Correction to use an "active" (near real-time) monitoring program unless unavailable. Otherwise defendant will submit to "passive" (once a day) monitoring program that works within technological or geographical limitations.
- c. The satellite-based monitoring system will provide time-correlated and continuous tracking of the geographical location of the subject using a global positioning system (GPS) that will report violations of location and schedule requirements placed upon the subject.
- d. Under G.S. 14-208.35, the court shall order an offender required to submit to the satellite-based monitoring for life to be placed on unsupervised probation upon completion of the offender's sentence, or term of probation, parole, or post-release supervision unless the requirement to enroll is terminated pursuant to G.S. 14-208.36.
- e. New G.S. 14-208.36 allows an offender required to submit to satellite-based monitoring under G.S. 14-208.233(a)(1) to file a request for termination with the Post-Release Supervision and Parole Commission. This request cannot be filed until one year after the offender's sentence has been served and any period of probation, parole, or post-release supervision imposed as part of the sentence is complete. Offenders required under G.S. 14-208.33(a)(2) may not file such a request.
 - 1. Requirement to submit to monitoring may be terminated if the Department of Correction determines that the offender has not received any additional reportable convictions nor is the offender likely to pose a threat to the safety of others. G.S. 14-208.36(c).
- f. G.S. 14-208.37 makes it a Class F felony if an offender required to enroll in the satellite-monitoring system fails to enroll and a Class E felony for any person to tamper with, remove, or vandalize the monitoring device.
- g. G.S. 14-208.38 requires a one-time \$90.00 fee to be assessed to any person required to enroll to help fund the monitoring system.
- h. Adds new G.S. 15A-1343(b2)(7) and 15A-1343(b2)(8) requiring the court to impose a satellite-based monitoring system as a condition of probation for any offender who is described in G.S. 14-208.33(a)(1) or G.S. 14-208.33(a)(2).
- i. Adds new G.S. 15A-1344(e2) requiring the court to order satellite-based monitoring as a condition of extended probation for an offender who qualifies for satellite-based monitoring and who violates probation (unless activating or terminating probation).
- j. Satellite-monitoring provisions are effective August 16, 2006. However, the requirement to enroll in the program is not effective until January 1, 2007, when the Department of Corrections is expected to have the program established.

IV. Other New Criminal Provisions Added

- a. Human Trafficking [New Article 10A to G.S. Chapter 14]
 - 1. New G.S. 14-43.5 adds new offense of Human Trafficking if a person knowingly entices, harbors, transports, provides, or obtains by any means another person with the intent that the person be held in involuntary or sexual servitude. It is a Class F felony for an adult victim and a Class C felony for a minor victim.
 - 2. New G.S. 14-43.6 adds new offense of Involuntary Servitude to knowingly and willfully hold another person in involuntary servitude. It is a Class F felony for an adult victim and a Class C felony for a minor victim. [Note that G.S. 14-43.2 Involuntary Servitude is repealed with a savings clause for offenses occurring before repeal].
 - 3. New G.S. 14-43.7 adds new offense of Sexual Servitude to knowingly subject or maintain another person in sexual servitude. It is a Class F felony for an adult victim and a Class C felony for a minor victim.
- b. G.S. 14-39 is amended to include new Involuntary Servitude statute, Sexual Servitude, and Human Trafficking among the list of purposes for confinement, restraint or removal that qualify for a conviction of kidnapping.
- c. G.S. 14-208.6(5) is amended to include Sexual Servitude within the definition of a "sexually violent offense" for purposes of the Sex Offender Registration statutes.
- d. G.S. 14-27.1(5) is amended to include placing by any means semen, urine, or feces on any part of another person to the definition of "sexual contact" applicable to sexual battery (G.S. 14027.5A).

V. Requirements of Other Agencies

- a. G.S. 15A-1341 now requires probation officers to search the Sex Offender Registry for a defendant placed on probation. Effective: August 16, 2006.
- b. New G.S. 20-9.3 requires the DMV to provide notice to every person applying for a driver's license, learner's permit, or instruction permit of the requirement of sex offenders to register.
- c. New G.S. 20-9(i) and 20-37.7 prohibit the DMV from issuing a license or identification card to anyone who has resided less than 12 months in this State until DMV has searched the National Registry to determine if the person is currently registered in another state.