

Article 27A.

Sex Offender and Public Protection Registration Programs.

Part 1. Registration Programs, Purpose and Definitions Generally.

§ 14 208.5. Purpose.

The General Assembly recognizes that sex offenders often pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is of paramount governmental interest.

The General Assembly also recognizes that persons who commit certain other types of offenses against minors, such as kidnapping, pose significant and unacceptable threats to the public safety and welfare of the children in this State and that the protection of those children is of great governmental interest. Further, the General Assembly recognizes that law enforcement officers' efforts to protect communities, conduct investigations, and quickly apprehend offenders who commit sex offenses or certain offenses against minors are impaired by the lack of information available to law enforcement agencies about convicted offenders who live within the agency's jurisdiction. Release of information about these offenders will further the governmental interests of public safety so long as the information released is rationally related to the furtherance of those goals.

Therefore, it is the purpose of this Article to assist law enforcement agencies' efforts to protect communities by requiring persons who are convicted of sex offenses or of certain other offenses committed against minors to register with law enforcement agencies, to require the exchange of relevant information about those offenders among law enforcement agencies, and to authorize the access to necessary and relevant information about those offenders to others as provided in this Article. (1995, c. 545, s. 1; 1997 516, s. 1.)

§ 14 208.6. Definitions.

The following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1n) "Online identifier" means electronic mail address, instant message screen name, user ID, chat or other Internet communication name, but it does not mean social security number, date of birth, or pin number.

(2) "Penal institution" means:

a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;

b. A detention facility operated under the jurisdiction of another state or the federal government; or

c. A detention facility operated by a local government in this State or another state.

(2a) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

(2b) "Recidivist" means a person who has a prior conviction for an offense that is described in G.S. 14 208.6(4).

(3) "Release" means discharged or paroled.

(4) "Reportable conviction" means:

a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14 208.5.

b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section, or a final conviction in another state of an offense that requires registration under the sex offender registration statutes of that state.

c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.

d. A final conviction for a violation of G.S. 14 202(d), (e), (f), (g), or (h), or a second or subsequent conviction for a violation of G.S. 14 202(a), (a1), or (c), only if the court sentencing the individual issues an order pursuant to G.S. 14 202(l) requiring the individual to register.

(5) "Sexually violent offense" means a violation of G.S. 14 27.2 (first degree rape), G.S. 14 27.2A (rape of a child; adult offender), G.S. 14 27.3 (second degree rape), G.S. 14 27.4 (first degree

sexual offense), G.S. 14 27.4A (sex offense with a child; adult offender), G.S. 14 27.5 (second degree sexual offense), G.S. 14 27.5A (sexual battery), G.S. 14 27.6 (attempted rape or sexual offense), G.S. 14 27.7 (intercourse and sexual offense with certain victims), G.S. 14 27.7A(a) (statutory rape or sexual offense of person who is 13 , 14 , or 15 years old where the defendant is at least six years older), 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 offense 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 any postsecondary public or private educational institution, including any trade or professional institution, or other institution of higher education. (1995, c. 545, s. 1; 1997 15, ss. 1, 2; 1997 516, s. 1; 1999 363, s. 1; 2001 373, s. 1; 2002 147, s. 16; 2003 303, s. 2; 2004 109, s. 8; 2005 121, s. 2; 2005 130, s. 1; 2005 226, s. 2; 2006 247, ss. 1(b), 19(a), 20(d); 2008 117, s. 6.1; 2008 220, s. 1; 2009 498, s. 1; 2010 174, s. 16(a).)

§ 14 208.6A. Lifetime registration requirements for criminal offenders.

It is the objective of the General Assembly to establish a 30 year registration requirement for persons convicted of certain offenses against minors or sexually violent offenses with an opportunity for those persons to petition in superior court to shorten their registration time period after 10 years of registration. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for recidivists, persons who commit aggravated offenses, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the

assistance of a board of experts to be sexually violent predators.

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

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out of state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14 208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record. (1997 516, s. 1; 2001 373, s. 2; 2006 247, s. 2(a); 2008 117, s. 7.)

§ 14 208.6B. Registration requirements for juveniles transferred to and convicted in superior court.

A juvenile transferred to superior court pursuant to G.S. 7B 2200 who is convicted of a sexually violent offense or an offense against a minor as defined in G.S. 14 208.6 shall register in person in accordance with this Article just as an adult convicted of the same offense must register. (1997 516, s. 1; 1998 202, s. 13(e); 2006 247, s. 3(a).)

§ 14 208.6C. Discontinuation of registration requirement.

The period of registration required by any of the provisions of this Article shall be discontinued only if the conviction requiring registration is reversed, vacated, or set aside, or if the registrant has been granted an unconditional pardon of innocence for the offense requiring registration. (2001 373, s. 3.)

Part 2. Sex Offender and Public Protection Registration Program.

§ 14 208.7. (See Editor's note for applicability) Registration.

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

whichever comes first. If the person is a current resident of North Carolina, the person shall register:

- (1) Within three business days of release from a penal institution or arrival in a county to live outside a penal institution; or
- (2) Immediately upon conviction for a reportable offense where an active term of imprisonment was not imposed.

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

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

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

- (1) The person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, drivers license number, and home address.
- (2) The type of offense for which the person was convicted, the date of conviction, and the sentence imposed.
- (3) A current photograph taken by the sheriff, without charge, at the time of registration.
- (4) The person's fingerprints taken by the sheriff, without charge, at the time of registration.
- (5) A statement indicating whether the person is a student or expects to enroll as a student within a year of registering. If the person is a student or expects to enroll as a student within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is a student or expects to enroll as a student.
- (6) A statement indicating whether the person is employed or expects to be employed at an institution of higher education within a year of registering. If the person is employed or expects to be employed at an institution of higher education within a year of registration, then the registration form shall also require the name and address of the educational institution at which the person is or expects to be employed.
- (7) Any online identifier that the person uses or intends to use.

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

(d) Any person required to register under this section shall report in person at the appropriate sheriff's office to comply with the registration requirements set out in this section. The sheriff shall provide the registrant with written proof of registration at the time of registration. (1995, c. 545, s. 1; 1997 516, s. 1; 2001 373, s. 4; 2002 147, s. 17; 2006 247, s. 5(a); 2008 117, s. 8; 2008 220, s. 2.)

§ 14 208.8. Prerelease notification.

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

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

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

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

(b) If a person who is subject to registration under this Article does not receive an active term of imprisonment, the court pronouncing sentence shall conduct, at the time of sentencing, the notification procedures specified in subsection (a) of this section. (1995, c. 545, s. 1; 1997 516, s. 1; 2002 147, s. 18; 2008 220, s. 3.)

§ 14 208.8A. Notification requirement for out of county employment if temporary residence established.

(a) Notice Required. – A person required to register under G.S. 14 208.7 shall notify the sheriff of the county with whom the person is registered of the person's place of employment and temporary residence, which includes a hotel, motel, or other transient lodging place, if the person meets both of the following conditions:

(1) Is employed or carries on a vocation in a county in the State other than the county in which the

person is registered for more than 10 business days within a 30 day period, or for an aggregate period exceeding 30 days in a calendar year, on a part time or full time basis, with or without compensation or government or educational benefit.

(2) Maintains a temporary residence in that county for more than 10 business days within a 30 day period, or for an aggregate period exceeding 30 days in a calendar year.

(b) Time Period. – The notice required by subsection (a) of this section shall be provided within 72 hours after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for more than 10 business days within a 30 day period, or within 10 days after the person knows or should know that he or she will be working and maintaining a temporary residence in a county other than the county in which the person resides for an aggregate period exceeding 30 days in a calendar year.

(c) Notice to Division. – Upon receiving the notice required under subsection (a) of this section, the sheriff shall immediately forward the information to the Division. The Division shall notify the sheriff of the county where the person is working and maintaining a temporary residence of the person's place of employment and temporary address in that county. (2006 247, s. 4(a); 2007 484, s. 2.)

§ 14 208.9. Change of address; change of academic status or educational employment status; change of online identifier.

(a) If a person required to register changes address, the person shall report in person and provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the person had last registered. If the person moves to another county, the person shall also report in person to the sheriff of the new county and provide written notice of the person's address not later than the tenth day after the change of address. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. When the Division receives notice from a sheriff that a person required to register is moving to another county in the State, the Division shall inform the sheriff of the new county of the person's new residence.

(b) If a person required to register intends to move to another state, the person shall report in person to the sheriff of the county of current residence at least three business days before the date the person intends to leave this State to establish residence in another state or jurisdiction. The person shall provide to the sheriff a written notification that includes all of the following information: the address, municipality, county, and state of intended residence.

(1) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to update the registration.

(2) The sheriff shall inform the person that the person must comply with the registration

requirements in the new state of residence. The sheriff shall also immediately forward the information included in the notification to the Division, and the Division shall inform the appropriate state official in the state to which the registrant moves of the person's notification and new address.

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

(c) If a person required to register changes his or her academic status either by enrolling as a student or by terminating enrollment as a student, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status. The written notice shall include the name and address of the institution of higher education at which the student is or was enrolled. The sheriff shall immediately forward this information to the Division.

(d) If a person required to register changes his or her employment status either by obtaining employment at an institution of higher education or by terminating employment at an institution of higher education, then the person shall, within three business days, report in person to the sheriff of the county with whom the person registered and provide written notice of the person's new status not later than the tenth day after the change to the sheriff of the county with whom the person registered. The written notice shall include the name and address of the institution of higher education at which the person is or was employed. The sheriff shall immediately forward this information to the Division.

(e) If a person required to register changes an online identifier, or obtains a new online identifier, then the person shall, within 10 days, report in person to the sheriff of the county with whom the person registered to provide the new or changed online identifier information to the sheriff. The sheriff shall immediately forward this information to the Division. (1995, c. 545, s. 1; 1997 516, s. 1; 2001 373, s. 5; 2002 147, s. 19; 2006 247, s. 6(a); 2007 213, s. 9A; 2007 484, s. 42(b); 2008 117, s. 9; 2008 220, ss. 4, 5.)

§ 14 208.9A. Verification of registration information.

(a) The information in the county registry shall be verified semiannually for each registrant as follows:

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

(2) The person shall return the verification form in person to the sheriff within three business days after the receipt of the form.

(3) The verification form shall be signed by the person and shall indicate the following:

a. Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.

b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff.

(3a) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to include with the verification form.

(4) If the person fails to return the verification form in person to the sheriff within three business days after receipt of the form, the person is subject to the penalties provided in G.S. 14 208.11. If the person fails to report in person and provide the written verification as provided by this section, the sheriff shall make a reasonable attempt to verify that the person is residing at the registered address. If the person cannot be found at the registered address and has failed to report a change of address, the person is subject to the penalties provided in G.S. 14 208.11, unless the person reports in person to the sheriff and proves that the person has not changed his or her residential address.

(b) Additional Verification May Be Required. – During the period that an offender is required to be registered under this Article, the sheriff is authorized to attempt to verify that the offender continues to reside at the address last registered by the offender.

(c) Additional Photograph May Be Required. – If it appears to the sheriff that the current photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, upon in person notice from the sheriff, the sex offender shall allow the sheriff to take another photograph of the sex offender at the time of the sheriff's request. If requested by the sheriff, the sex offender shall appear in person at the sheriff's office during normal business hours within three business days of being requested to do so and shall allow the sheriff to take another photograph of the sex offender. A person who willfully fails to comply with this subsection is guilty of a Class 1 misdemeanor. (1997 516, s. 1; 2006 247, s. 7(a); 2008 117, s. 10; 2008 220, s. 6.)

§ 14 208.10. Registration information is public record; access to registration information.

(a) The following information regarding a person required to register under this Article is public record and shall be available for public inspection: name, sex, address, physical description, picture, conviction date, offense for which registration was required, the sentence imposed as a result of the conviction, and registration status. The information obtained under G.S. 14 208.22 regarding a

person's medical records or documentation of treatment for the person's mental abnormality or personality disorder shall not be a part of the public record.

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

(b) Any person may obtain a copy of an individual's registration form, a part of the county registry, or all of the county registry, by submitting a written request for the information to the sheriff. However, the identity of the victim of an offense that requires registration under this Article shall not be released. The sheriff may charge a reasonable fee for duplicating costs and for mailing costs when appropriate. (1995, c. 545, s. 1; 1997 516, s. 1.)

§ 14 208.11. Failure to register; falsification of verification notice; failure to return verification form; order for arrest.

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

- (1) Fails to register as required by this Article.
- (2) Fails to notify the last registering sheriff of a change of address as required by this Article.
- (3) Fails to return a verification notice as required under G.S. 14 208.9A.
- (4) Forges or submits under false pretenses the information or verification notices required under this Article.
- (5) Fails to inform the registering sheriff of enrollment or termination of enrollment as a student.
- (6) Fails to inform the registering sheriff of employment at an institution of higher education or termination of employment at an institution of higher education.
- (7) Fails to report in person to the sheriff's office as required by G.S. 14 208.7, 14 208.9, and 14 208.9A.
- (8) Reports his or her intent to reside in another state or jurisdiction but remains in this State without reporting to the sheriff in the manner required by G.S. 14 208.9.
- (9) Fails to notify the registering sheriff of out of county employment if temporary residence is established as required under G.S. 14 208.8A.
- (10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that

the person uses or intends to use.

(a1) If a person commits a violation of subsection (a) of this section, the probation officer, parole officer, or any other law enforcement officer who is aware of the violation shall immediately arrest the person in accordance with G.S. 15A 401, or seek an order for the person's arrest in accordance with G.S. 15A 305.

(b) Before a person convicted of a violation of this Article is due to be released from a penal institution, an official of the penal institution shall conduct the prerelease notification procedures specified under G.S. 14 208.8(a)(2) and (3). If upon a conviction for a violation of this Article, no active term of imprisonment is imposed, the court pronouncing sentence shall, at the time of sentencing, conduct the notification procedures specified under G.S. 14 208.8(a)(2) and (3).

(c) A person who is unable to meet the registration or verification requirements of this Article shall be deemed to have complied with its requirements if:

(1) The person is incarcerated in, or is in the custody of, a local, State, private, or federal correctional facility,

(2) The person notifies the official in charge of the facility of their status as a person with a legal obligation or requirement under this Article and

(3) The person meets the registration or verification requirements of this Article no later than 10 days after release from confinement or custody. (1995, c. 545, s. 1; 1997 516, s. 1; 2002 147, s. 20; 2006 247, ss. 8(a), 8(b); 2008 220, s. 7.)

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

(a) It shall be unlawful and a Class H felony for any person who has reason to believe that an offender is in violation of the requirements of this Article, and who has the intent to assist the offender in eluding arrest, to do any of the following:

(1) Withhold information from, or fail to notify, a law enforcement agency about the offender's noncompliance with the requirements of this Article, and, if known, the whereabouts of the offender.

(2) Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the offender.

(3) Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the offender.

(4) Provide information to a law enforcement agency regarding the offender that the person knows

to be false information.

(b) This section does not apply if the offender is incarcerated in or is in the custody of a local, State, private, or federal correctional facility. (2006 247, s. 9.1(a).)

§ 14 208.12: Repealed by Session Laws 1997 516, s. 1.

§ 14 208.12A. Request for termination of registration requirement.

(a) Ten years from the date of initial county registration, a person required to register under this Part may petition the superior court in the district where the person resides to terminate the 30 year registration requirement if the person has not been convicted of a subsequent offense requiring registration under this Article.

(a1) The court may grant the relief if:

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

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

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

(a2) The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition and the district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(a3) If the court denies the petition, the person may again petition the court for relief in accordance with this section one year from the date of the denial of the original petition to terminate the registration requirement. If the court grants the petition to terminate the registration requirement, the clerk of court shall forward a certified copy of the order to the Division to have the person's name removed from the registry.

(b) If there is a subsequent offense, the county registration records shall be retained until the registration requirement for the subsequent offense is terminated by the court under subsection (a1) of this section. (1997 516, s. 1; 2006 247, s. 10(a); 2008 117, s. 11.)

§ 14 208.13. File with Police Information Network.

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114 10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires. (1995, c. 545, s. 1; 1997 516, s. 1.)

§ 14 208.14. Statewide registry; Division of Criminal Statistics designated custodian of statewide registry.

(a) The Division of Criminal Statistics shall compile and keep current a central statewide sex offender registry. The Division is the State agency designated as the custodian of the statewide registry. As custodian the Division has the following responsibilities:

(1) To receive from the sheriff or any other law enforcement agency or penal institution all sex offender registrations, changes of address, changes of academic or educational employment status, and prerelease notifications required under this Article or under federal law. The Division shall also receive notices of any violation of this Article, including a failure to register or a failure to report a change of address.

(2) To provide all need to know law enforcement agencies (local, State, campus, federal, and those located in other states) immediately upon receipt by the Division of any of the following: registration information, a prerelease notification, a change of address, a change of academic or educational employment status, or notice of a violation of this Article.

(2a) To notify the appropriate law enforcement unit at an institution of higher education as soon as possible upon receipt by the Division of relevant information based on registration information or notice of a change of academic or educational employment status. If an institution of higher education does not have a law enforcement unit, then the Division shall provide the information to the local law enforcement agency that has jurisdiction for the campus.

(3) To coordinate efforts among law enforcement agencies and penal institutions to ensure that the registration information, changes of address, prerelease notifications, and notices of failure to register or to report a change of address are conveyed in an appropriate and timely manner.

(4) To provide public access to the statewide registry in accordance with this Article.

(5) To maintain a system allowing an entity to access a list of online identifiers of persons in the central sex offender registry.

(b) The statewide registry shall include the following:

(1) Registration information obtained by a sheriff or penal institution under this Article or from any other local or State law enforcement agency.

(2) Registration information received from a state or local law enforcement agency or penal institution in another state.

(3) Registration information received from a federal law enforcement agency or penal institution. (1997 516, s. 1; 2002 147, s. 21; 2008 220, s. 8.)

§ 14 208.15. Certain statewide registry information is public record: access to statewide registry.

(a) The information in the statewide registry that is public record is the same as in G.S. 14 208.10. The Division shall release any other relevant information that is necessary to protect the public concerning a specific person, but shall not release the identity of the victim of the offense that required registration under this Article.

(b) The Division shall provide free public access to automated data from the statewide registry, including photographs provided by the registering sheriffs, via the Internet. The public will be able to access the statewide registry to view an individual registration record, a part of the statewide registry, or all of the statewide registry. The Division may also provide copies of registry information to the public upon written request and may charge a reasonable fee for duplicating costs and mailings costs. (1997 516, s. 1.)

§ 14 208.15A. Release of online identifiers to entity; fee.

(a) The Division may release registry information regarding a registered offender's online identifier to an entity for the purpose of allowing the entity to prescreen users or to compare the online identifier information with information held by the entity as provided by this section.

(b) An entity desiring to prescreen its users or compare its database of registered users to the list of online identifiers of persons in the statewide registry may apply to the Division to access the information. An entity that complies with the criteria developed by the Division regarding the release and use of the online identifier information and pays the fee may screen new users or compare its database of registered users to the list of online identifiers of persons in the statewide registry as frequently as the Division may allow for the purpose of identifying a registered user associated with an online identifier contained in the statewide registry.

(c) The Division may charge an entity that submits a request for the online identifiers of persons in

the statewide registry an annual fee of one hundred dollars (\$100.00). Fees collected under this section shall be credited to the Department of Justice and applied to the cost of providing this service.

(d) The Division shall develop standards regarding the release and use of online identifier information. The standards shall include a requirement that the information obtained from the statewide registry shall not be disclosed for any purpose other than for prescreening its users or comparing the database of registered users of the entity against the list of online identifiers of persons in the statewide registry.

(e) An entity that receives:

(1) A complaint from a user of the entity's services that a person uses its service to solicit a minor by computer to commit an unlawful sex act as defined in G.S. 14 202.3, or

(2) A report that a user may be violating G.S. 14 190.17 or G.S. 14 190.17A by posting or transmitting material that contains a visual representation of a minor engaged in sexual activity,

shall report that information and the online identifier information of the person allegedly committing the offense, including whether that online identifier is included in the statewide registry, to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to an appropriate law enforcement official in this State. The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received in the State.

(f) An entity that complies with this section in good faith is immune from civil or criminal liability resulting from either of the following:

(1) The entity's refusal to provide system service to a person on the basis that the entity reasonably believed that the person was subject to registration under State sex offender registry laws.

(2) A person's criminal or tortious acts against a minor with whom the person had communicated on the entity's system. (2008 220, s. 9; 2009 272, s. 2.)

§ 14 208.16. Residential restrictions.

(a) A registrant under this Article shall not knowingly reside within 1,000 feet of the property on which any public or nonpublic school or child care center is located.

(b) As used in this section, "school" does not include home schools as defined in G.S. 115C 563 or institutions of higher education, and the term "child care center" is defined by G.S. 110 86(3). The term "registrant" means a person who is registered, or is required to register, under this Article.

(c) This section does not apply to child care centers that are located on or within 1,000 feet of the property of an institution of higher education where the registrant is a student or is employed.

(d) Changes in the ownership of or use of property within 1,000 feet of a registrant's registered address that occur after a registrant establishes residency at the registered address shall not form the basis for finding that an offender is in violation of this section. For purposes of this subsection, a residence is established when the registrant does any of the following:

(1) Purchases the residence or enters into a specifically enforceable contract to purchase the residence.

(2) Enters into a written lease contract for the residence and for as long as the person is lawfully entitled to remain on the premises.

(3) Resides with an immediate family member who established residence in accordance with this subsection. For purposes of this subsection, "immediate family member" means a child or sibling who is 18 years of age or older, or a parent, grandparent, legal guardian, or spouse of the registrant.

(e) Nothing in this section shall be construed as creating a private cause of action against a real estate agent or landlord for any act or omission arising out of the residential restriction in this section.

(f) A violation of this section is a Class G felony. (2006 247, s. 11(a); 2007 213, s. 10.)

§ 14 208.17. Sexual predator prohibited from working or volunteering for child involved activities; limitation on residential use.

(a) It shall be unlawful for any person required to register under this Article to work for any person or as a sole proprietor, with or without compensation, at any place where a minor is present and the person's responsibilities or activities would include instruction, supervision, or care of a minor or minors.

(b) It shall be unlawful for any person to conduct any activity at his or her residence where the person:

(1) Accepts a minor or minors into his or her care or custody from another, and

(2) Knows that a person who resides at that same location is required to register under this Article.

(c) A violation of this section is a Class F felony. (2006 247, s. 11(b).)

§ 14 208.18. Sex offender unlawfully on premises.

(a) It shall be unlawful for any person required to register under this Article, if the offense requiring registration is described in subsection (c) of this section, to knowingly be at any of the following locations:

(1) On the premises of any place 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.

(2) Within 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, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.

(3) At any place where minors gather for regularly scheduled educational, recreational, or social programs.

(b) Notwithstanding any provision of this section, a person subject to subsection (a) of this section who is the parent or guardian of a minor may take the minor to any location that can provide emergency medical care treatment if the minor is in need of emergency medical care.

(c) Subsection (a) of this section is applicable only to persons required to register under this Article who have committed any of the following offenses:

(1) Any offense in Article 7A of this Chapter.

(2) Any offense where the victim of the offense was under the age of 16 years at the time of the offense.

(d) A person subject to subsection (a) of this section who is a parent or guardian of a student enrolled in a school may be present on school property if all of the following conditions are met:

(1) The parent or guardian is on school property for the purpose for one of the following:

a. To attend a conference at the school with school personnel to discuss the academic or social progress of the parents' or guardians' child; or

b. The presence of the parent or guardian has been requested by the principal or his or her designee for any other reason relating to the welfare or transportation of the child.

(2) The parent or guardian complies with all of the following:

a. Notice: The parent or guardian shall notify the principal of the school of the parents' or guardians' registration under this Article and of his or her presence at the school unless the parent or guardian has permission to be present from the superintendent or the local board of education, or the principal has granted ongoing permission for regular visits of a routine nature. If permission is granted by the

superintendent or the local board of education, the superintendent or chairman of the local board of education shall inform the principal of the school where the parents' or guardians' will be present. Notification includes the nature of the parents' or guardians' visit and the hours when the parent or guardian will be present at the school. The parent or guardian is responsible for notifying the principal's office upon arrival and upon departure. Any permission granted under this sub subdivision shall be in writing.

b. Supervision: At all times that a parent or guardian is on school property, the parent or guardian shall remain under the direct supervision of school personnel. A parent or guardian shall not be on school property even if the parent or guardian has ongoing permission for regular visits of a routine nature if no school personnel are reasonably available to supervise the parent or guardian on that occasion.

(e) A person subject to subsection (a) of this section who is eligible to vote may be present at a location described in subsection (a) used as a voting place as defined by G.S. 163 165 only for the purposes of voting and shall not be outside the voting enclosure other than for the purpose of entering and exiting the voting place. If the voting place is a school, then the person subject to subsection (a) shall notify the principal of the school that he or she is registered under this Article.

(f) A person subject to subsection (a) of this section who is eligible under G.S. 115C 378 to attend public school may be present on school property if permitted by the local board of education pursuant to G.S. 115C 391(d)(2).

(g) A juvenile subject to subsection (a) of this section may be present at a location described in that subsection if the juvenile is at the location to receive medical treatment or mental health services and remains under the direct supervision of an employee of the treating institution at all times.

(h) A violation of this section is a Class H felony. (2008 117, s. 12; 2009 570, s. 5.)

§ 14 208.19. Community and public notification.

The licensee for each licensed day care center and the principal of each elementary school, middle school, and high school shall register with the North Carolina Sex Offender and Public Protection Registry to receive e mail notification when a registered sex offender moves within a one mile radius of the licensed day care center or school. (2008 117, s. 13.)

§ 14 208.19A. Commercial drivers license restrictions.

(a) The Division of Motor Vehicles, in compliance with G.S. 20 37.14A, shall not issue or renew a commercial drivers license with a P or S endorsement to any person required to register under this Article.

(b) The Division of Motor Vehicles, in compliance with G.S. 20 37.13(f) shall not issue a commercial driver learner's permit with a P or S endorsement to any person required to register under this Article.

(c) A person who is convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes is disqualified under G.S. 20 17.4 from driving a commercial motor vehicle that requires a commercial drivers license with a P or S endorsement for the period of time during which the person is required to maintain registration under Article 27A of Chapter 14 of the General Statutes.

(d) A person who drives a commercial passenger vehicle or a school bus and who does not have a commercial drivers license with a P or S endorsement because the person was convicted of a violation that requires registration under Article 27A of Chapter 14 of the General Statutes shall be punished as provided by G.S. 20 27.1. (2009 491, s. 1.)

Part 3. Sexually Violent Predator Registration Program.

§ 14 208.20. Sexually violent predator determination; notice of intent; presentence investigation.

(a) When a person is charged by indictment or information with the commission of a sexually violent offense, the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall within the time provided for the filing of pretrial motions under G.S. 15A 952 file a notice of the district attorney's intent. The court may for good cause shown allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders.

(b) Prior to sentencing a person as a sexually violent predator, the court shall order a presentence investigation in accordance with G.S. 15A 1332(c). However, the study of the defendant and whether the defendant is a sexually violent predator shall be conducted by a board of experts selected by the Department of Correction. The board of experts shall be composed of at least four people. Two of the board members shall be experts in the field of the behavior and treatment of sexual offenders, one of whom shall be selected from a panel of experts in those fields provided by the North Carolina Medical Society and not employed with the Department of Correction or employed on a full time basis with any other State agency. One of the board members shall be a victims' rights advocate, and one of the board members shall be a representative of law enforcement agencies.

(c) When the defendant is returned from the presentence commitment, the court shall hold a sentencing hearing in accordance with G.S. 15A 1334. At the sentencing hearing, the court shall, after taking the presentencing report under advisement, make written findings as to whether the defendant is classified as a sexually violent predator and the basis for the court's findings. (1997 516, s. 1; 2001 373, s. 6.)

§ 14 208.21. Lifetime registration procedure; application of Part 2 of this Article.

Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a person classified as a sexually violent predator, a person who is a recidivist, or a person who is convicted of an aggravated offense. The procedure for registering as a sexually violent predator, a recidivist, or a person convicted of an aggravated offense is the same as under Part 2 of this Article. (1997 516, s. 1; 2001 373, s. 7.)

§ 14 208.22. Additional registration information required.

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

(1) Identifying factors.

(2) Offense history.

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

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article.

(c) The Department of Correction shall also obtain the additional information set out in subsection (a) of this section and shall include this information in the prerelease notice forwarded to the sheriff or other appropriate law enforcement agency. (1997 516, s. 1; 2001 373, s. 8.)

§ 14 208.23. Length of registration.

A person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator shall maintain registration for the person's life. Except as provided under G.S. 14 208.6C, the requirement of registration shall not be terminated. (1997 516, s. 1; 2001 373, s. 9.)

§ 14 208.24. Verification of registration information.

(a) The information in the county registry shall be verified by the sheriff for each registrant who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator every 90 days after the person's initial registration date.

(b) The procedure for verifying the information in the criminal offender registry is the same as under G.S. 14 208.9A, except that verification shall be every 90 days as provided by subsection (a) of this section. (1997 516, s. 1; 2001 373, s. 10.)

§ 14 208.25: Repealed by Session Laws 2001 373, s. 11.

Part 4. Registration of Certain Juveniles Adjudicated for Committing Certain Offenses.

§ 14 208.26. Registration of certain juveniles adjudicated delinquent for committing certain offenses.

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

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

(a1) For purposes of this section, a violation of any of the offenses listed in subsection (a) of this section includes all of the following: (i) the commission of any of those offenses, (ii) the attempt, conspiracy, or solicitation of another to commit any of those offenses, (iii) aiding and abetting any of those offenses.

(b) If the court finds that the juvenile is a danger to the community and must register, the presiding judge shall conduct the notification procedures specified in G.S. 14 208.8. The chief court counselor of that district shall file the registration information for the juvenile with the appropriate sheriff. (1997 516, s. 1; 1999 363, s. 2.)

§ 14 208.27. Change of address.

If a juvenile who is adjudicated delinquent and required to register changes address, the juvenile court counselor for the juvenile shall provide written notice of the new address not later than the third business day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the juvenile moves to another county in this State, the Division shall inform the sheriff of the new county of the juvenile's new residence. (1997 516, s. 1; 2001 490, s. 2.36; 2008 117, s. 14.)

§ 14 208.28. Verification of registration information.

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

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

(2) The juvenile court counselor for the juvenile shall return the verification form to the sheriff within three business days after the receipt of the form.

(3) The verification form shall be signed by the juvenile court counselor and the juvenile and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, then that fact and the new address shall be indicated on the form. (1997 516, s. 1; 2001 490, s. 2.37; 2006 247, s. 13; 2008 117, s. 15.)

§ 14 208.29. Registration information is not public record; access to registration information available only to law enforcement agencies and local boards of education.

(a) Notwithstanding any other provision of law, the information regarding a juvenile required to register under this Part is not public record and is not available for public inspection.

(b) The registration information of a juvenile adjudicated delinquent and required to register under this Part shall be maintained separately by the sheriff and released only to law enforcement agencies and local boards of education. Registry information for any juvenile enrolled in the local school administrative unit shall be forwarded to the local board of education. Under no circumstances shall the registration of a juvenile adjudicated delinquent be included in the county or statewide registries, or be made available to the public via internet. (1997 516, s. 1; 2008 117, s. 12.2.)

§ 14 208.30. Termination of registration requirement.

The requirement that a juvenile adjudicated delinquent register under this Part automatically terminates on the juvenile's eighteenth birthday or when the jurisdiction of the juvenile court with regard to the juvenile ends, whichever occurs first. (1997 516, s. 1.)

§ 14 208.31. File with Police Information Network.

(a) The Division shall include the registration information in the Police Information Network as set forth in G.S. 114 10.1.

(b) The Division shall maintain the registration information permanently even after the registrant's reporting requirement expires; however, the records shall remain confidential in accordance with Article 32 of Chapter 7B of the General Statutes. (1997 516, s. 1; 1998 202, s. 14.)

§ 14 208.32. Application of Part.

This Part does not apply to a juvenile who is tried and convicted as an adult for committing or attempting to commit a sexually violent offense or an offense against a minor. A juvenile who is convicted of one of those offenses as an adult is subject to the registration requirements of Part 2 and Part 3 of this Article. (1997 516, s. 1.)

§ 14-208.33. Reserved for future codification purposes.

§ 14-208.34. Reserved for future codification purposes.

§ 14-208.35. Reserved for future codification purposes.

§ 14-208.36. Reserved for future codification purposes.

§ 14-208.37. Reserved for future codification purposes.

§ 14-208.38. Reserved for future codification purposes.

§ 14-208.39. Reserved for future codification purposes.

Part 5. Sex Offender Monitoring.

§ 14 208.40. Establishment of program; creation of guidelines; duties.

(a) The Department of Correction shall establish a sex offender monitoring program that uses a continuous satellite based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

(1) Any offender who is convicted of a reportable conviction as defined by G.S. 14 208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a recidivist, or was convicted of an aggravated offense as those terms are defined in G.S. 14 208.6.

(2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14 208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Department's risk assessment program requires the highest possible level of supervision and monitoring.

(3) Any offender who is convicted of G.S. 14 27.2A or G.S. 14 27.4A, who shall be enrolled in the satellite based monitoring program for the offender's natural life upon termination of the offender's active punishment.

(b) In developing the guidelines for the program, the Department shall require that any offender who is enrolled in the satellite based program submit to an active continuous satellite based monitoring program, unless an active program will not work as provided by this section. If the Department determines that an active program will not work as provided by this section, then the Department shall require that the defendant submit to a passive continuous satellite based program that works within the technological or geographical limitations.

(c) The satellite based monitoring program shall use a system that provides all of the following:

(1) Time correlated and continuous tracking of the geographic location of the subject using a global

positioning system based on satellite and other location tracking technology.

(2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real time (active).

(d) The Department may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part. (2006 247, s. 15(a); 2007 213, s. 1; 2007 484, s. 42(b); 2008 117, s. 16.)

§ 14 208.40A. Determination of satellite based monitoring requirement by court.

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

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

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

(c) If the court finds that the offender has been classified as a sexually violent predator, is a recidivist, has committed an aggravated offense, or was convicted of G.S. 14 27.2A or G.S. 14 27.4A, the court shall order the offender to enroll in a satellite based monitoring program for life.

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

(e) Upon receipt of a risk assessment from the Department pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite based monitoring program for a period of time to be specified by the court. (2007 213, s. 2; 2008 117, s. 16.1.)

§ 14 208.40B. Determination of satellite based monitoring requirement in certain circumstances.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14 208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite based monitoring, the Department shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14 208.40(a).

(b) If the Department determines that the offender falls into one of the categories described in G.S. 14 208.40(a), the district attorney, representing the Department, shall schedule a hearing in superior court for the county in which the offender resides. The Department shall notify the offender of the Department's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14 208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt. Upon the court's determination that the offender is indigent and entitled to counsel, the court shall assign counsel to represent the offender at the hearing pursuant to rules adopted by the Office of Indigent Defense Services.

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

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14 208.20, (ii) the offender is a recidivist, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14 27.2A or G.S. 14 27.4A, the court shall order the offender to enroll in satellite based monitoring for life.

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

Upon receipt of a risk assessment from the Department, the court shall determine whether, based on

the Department's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite based monitoring program for a period of time to be specified by the court. (2007 213, s. 3; 2007 484, s. 42(b); 2008 117, s. 16.2; 2009 387, s. 4.)

§ 14 208.40C. Requirements of enrollment.

(a) Any offender required to enroll in satellite based monitoring pursuant to G.S. 14 208.40A or G.S. 14 208.40B who receives an active sentence shall be enrolled and receive the appropriate equipment immediately upon the offender's release from the Division of Prisons.

(b) Any offender required to enroll in satellite based monitoring pursuant to G.S. 14 208.40A or G.S. 14 208.40B who receives an intermediate punishment shall, immediately upon sentencing, report to the Division of Community Corrections for enrollment in the satellite based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment. If the intermediate sentence includes a required period of imprisonment, the offender shall not be required to be enrolled in the satellite based monitoring program during the period of imprisonment.

(c) Any offender required to enroll in satellite based monitoring pursuant to G.S. 14 208.40A or G.S. 14 208.40B who receives a community punishment shall, immediately upon sentencing, report to the Division of Community Corrections for enrollment in the satellite based monitoring program, and, if necessary, shall return at any time designated by that Division to receive the appropriate equipment. (2007 213, s. 4; 2007 484, s. 42(b).)

§ 14 208.41. Enrollment in satellite based monitoring programs mandatory; length of enrollment.

(a) Any person described by G.S. 14 208.40(a)(1) shall enroll in a satellite based monitoring program with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite based monitoring program for the registration period imposed under G.S. 14 208.23 which is the person's life, unless the requirement to enroll in the satellite based monitoring program is terminated pursuant to G.S. 14 208.43.

(b) Any person described by G.S. 14 208.40(a)(2) who is ordered by the court pursuant to G.S. 14 208.40A or G.S. 14 208.40B to enroll in a satellite based monitoring program shall do so with the Division of Community Corrections office in the county where the person resides. The person shall remain enrolled in the satellite based monitoring program for the period of time ordered by the court.

(c) Any person described by G.S. 14 208.40(a)(3), upon completion of active punishment, shall enroll in a satellite based monitoring program with the Division of Community Corrections office in the county where the person resides. The person shall enroll in the satellite based monitoring program for the entire period of post release supervision and shall remain enrolled in the satellite based monitoring program for the person's life, unless the requirement to enroll in the satellite based monitoring program is terminated pursuant to G.S. 14 208.43. (2006 247, s. 15(a); 2007 213, s. 13; 2007 484, s. 42(b); 2008 117, s. 17; 2008 187, s. 5.)

§ 14 208.42. Offenders required to submit to satellite based monitoring required to cooperate with Department upon completion of sentence.

Notwithstanding any other provision of law, when an offender is required to enroll in satellite based monitoring pursuant to G.S. 14 208.40A or G.S. 14 208.40B, upon completion of the offender's sentence and any term of parole, post release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite based monitoring program for the period required by G.S. 14 208.40A or G.S. 14 208.40B unless the requirement that the person enroll in a satellite based monitoring program is terminated pursuant to G.S. 14 208.43.

The Department shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment examined or maintained, and for any other purpose necessary to complete the requirements of the satellite based monitoring program. The offender shall cooperate with the Department and the requirements of the satellite based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Department. (2006 247, s. 15(a); 2007 213, s. 5; 2007 484, s. 42(b).)

§ 14 208.43. Request for termination of satellite based monitoring requirement.

(a) An offender described by G.S. 14 208.40(a)(1) or G.S. 14 208.40(a)(3) who is required to submit to satellite based monitoring for the offender's life may file a request for termination of monitoring requirement with the Post Release Supervision and Parole Commission. The request to terminate the satellite based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the offender: (i) has served his or her sentence for the offense for which the satellite based monitoring requirement was imposed, and (ii) has also completed any period of probation, parole, or post release supervision imposed as part of the sentence.

(b) Upon receipt of the request for termination, the Commission shall review documentation contained in the offender's file and the statewide registry to determine whether the person has

complied with the provisions of this Article. In addition, the Commission shall conduct fingerprint based state and federal criminal history record checks to determine whether the person has been convicted of any additional reportable convictions.

(c) If it is determined that the person has not received any additional reportable convictions during the period of satellite based monitoring and the person has substantially complied with the provisions of this Article, the Commission may terminate the monitoring requirement if the Commission finds that the person is not likely to pose a threat to the safety of others.

(d) If it is determined that the person has received any additional reportable convictions during the period of satellite based monitoring or has not substantially complied with the provisions of this Article, the Commission shall not order the termination of the monitoring requirement.

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

(e) The Commission shall not consider any request to terminate a monitoring requirement except as provided by this section. The Commission has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14 208.40(a)(2). (2006 247, s. 15(a); 2007 213, s. 11; 2007 484, s. 42(b); 2008 117, s. 18.)

§ 14 208.44. Failure to enroll; tampering with device.

(a) Any person required to enroll in a satellite based monitoring program who fails to enroll shall be guilty of a Class F felony.

(b) Any person who intentionally tampers with, removes, vandalizes, or otherwise interferes with the proper functioning of a device issued pursuant to a satellite based monitoring program to a person duly enrolled in the program shall be guilty of a Class E felony.

(c) Any person required to enroll in a satellite based monitoring program who fails to provide necessary information to the Department, or fails to cooperate with the Department's guidelines and regulations for the program shall be guilty of a Class 1 misdemeanor.

(d) For purposes of this section, "enroll" shall include appearing, as directed by the Department, to receive the necessary equipment. (2006 247, s. 15(a); 2007 213, s. 6.)

§ 14 208.45. Fees.

(a) Except as provided in subsections (b) and (b1) of this section, each person required to enroll pursuant to this Part shall pay a one time fee of ninety dollars (\$90.00). The fee shall be payable to the clerk of superior court, and the fees shall be remitted quarterly to the Department of Correction. This fee is intended to offset only the costs associated with the time correlated tracking of the geographic location of subjects using the location tracking crime correlation system.

(b) When a court determines a person is required to enroll pursuant to G.S. 14 208.40A or G.S. 14 208.40B, the court may exempt a person from paying the fee required by subsection (a) of this section only for good cause and upon motion of the person required to enroll in satellite based monitoring. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods.

(c) When a person is required to enroll based on a determination by the Department pursuant to G.S. 14 208.40B, the Department shall have the authority to exempt the person from paying the fee only for good cause and upon request of the person required to enroll in satellite based monitoring. The Department may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods. (2006 247, s. 15(a); 2007 213, s. 12; 2007 484, ss. 42(a), (b).)