

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-245
SENATE BILL 199

AN ACT TO PROTECT CHILDREN FROM SEXUAL ABUSE AND TO STRENGTHEN
AND MODERNIZE SEXUAL ASSAULT LAWS.

The General Assembly of North Carolina enacts:

PART I. EXPAND DUTY TO REPORT CRIMES AGAINST JUVENILES

SECTION 1.(a) Article 39 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-318.6. Failure to report crimes against juveniles; penalty.

(a) **Definitions.** – As used in this section, the following definitions apply:

- (1) **Juvenile.** – As defined in G.S. 7B-101. For the purposes of this section, the age of the juvenile at the time of the abuse or offense governs.
- (2) **Serious bodily injury.** – As defined in G.S. 14-318.4(d).
- (3) **Serious physical injury.** – As defined in G.S. 14-318.4(d).
- (4) **Sexually violent offense.** – An offense committed against a juvenile that is a sexually violent offense as defined in G.S. 14-208.6(5). This term also includes the following: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (5) **Violent offense.** – Any offense that inflicts upon the juvenile serious bodily injury or serious physical injury by other than accidental means. This term also includes the following: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

(b) **Requirement.** – Any person 18 years of age or older who knows or should have reasonably known that a juvenile has been or is the victim of a violent offense, sexual offense, or misdemeanor child abuse under G.S. 14-318.2 shall immediately report the case of that juvenile to the appropriate local law enforcement agency in the county where the juvenile resides or is found. The report may be made orally or by telephone. The report shall include information as is known to the person making it, including the name, address, and age of the juvenile; the name and address of the juvenile's parent, guardian, custodian, or caretaker; the name, address, and age of the person who committed the offense against the juvenile; the location where the offense was committed; the names and ages of other juveniles present or in danger; the present whereabouts of the juvenile, if not at the home address; the nature and extent of any injury or condition resulting from the offense or abuse; and any other information which the person making the report believes might be helpful in establishing the need for law enforcement involvement. The person making the report shall give his or her name, address, and telephone number.

(c) **Penalty.** – Any person 18 years of age or older, who knows or should have reasonably known that a juvenile was the victim of a violent offense, sexual offense, or misdemeanor child abuse under G.S. 14-318.2, and knowingly or willfully fails to report as required by subsection (b) of this section, or who knowingly or willfully prevents another person from reporting as required by subsection (b) of this section, is guilty of a Class 1 misdemeanor.



(d) Construction. – Nothing in this section shall be construed as relieving a person subject to the requirement set forth in subsection (b) of this section from any other duty to report required by law.

(e) Protection. – The identity of a person making a report pursuant to this section must be protected and only revealed as provided in G.S. 132-1.4(c)(4).

(f) Good-Faith Immunity. – A person who makes a report in good faith under this Article, cooperates with law enforcement in an investigation, or testifies in any judicial proceeding resulting from a law enforcement report or investigation is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action, provided that person was acting in good faith.

(g) Law Enforcement Duty to Report Evidence to the Department of Social Services. – If any law enforcement officer, as the result of a report, finds evidence that a juvenile may be abused, neglected, or dependent as defined in G.S. 7B-101, the law enforcement officer shall make an oral report as soon as practicable and make a subsequent written report of the findings to the director of the department of social services within 48 hours after discovery of the evidence. When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, in accordance with G.S. 7B-302, to determine whether protective services should be provided or the complaint filed as a petition.

(h) Nothing in this section shall be construed as to require a person with a privilege under G.S. 8-53.3, 8-53.7, 8-53.8, or 8-53.12 or with attorney-client privilege to report pursuant to this section if that privilege would prevent them from doing so."

PART II. EXPANDING THE STATUTE OF LIMITATIONS FOR MISDEMEANOR CRIMES INVOLVING ABUSE AGAINST CHILDREN

SECTION 2.(a) G.S. 15-1 reads as rewritten:

"§ 15-1. Statute of limitations for misdemeanors.

(a) The crimes of deceit and malicious mischief, and the crime of petit larceny where the value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious misdemeanors, shall be charged within two years after the commission of the same, and not afterwards: Provided, that if any pleading shall be defective, so that no judgment can be given thereon, another prosecution may be instituted for the same offense, within one year after the first shall have been abandoned by the State.

(b) Notwithstanding subsection (a) of this section, the following misdemeanors shall be charged within 10 years of the commission of the crime:

- (1) G.S. 7B-301(b).
- (2) G.S. 14-27.33.
- (3) G.S. 14-202.2.
- (4) G.S. 14-318.2.
- (5) G.S. 14-318.6."

PART III. PROTECTING CHILDREN ONLINE FROM HIGH-RISK SEX OFFENDERS

SECTION 3.(a) G.S. 14-202.5 reads as rewritten:

"§ 14-202.5. ~~Ban use of commercial social networking Web sites by sex offenders.~~ Ban online conduct by high-risk sex offenders that endangers children.

(a) Offense. – It is unlawful for a high-risk sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to access a commercial social networking Web site where the sex offender knows that the site permits minor children to become members or to create or maintain personal Web pages on the commercial social networking Web site. to do any of the following online:

- (1) To communicate with a person that the offender believes is under 16 years of age.
- (2) To contact a person that the offender believes is under 16 years of age.
- (3) To pose falsely as a person under 16 years of age with the intent to commit an unlawful sex act with a person the offender believes is under 16 years of age.
- (4) To use a Web site to gather information about a person that the offender believes is under 16 years of age.
- (5) To use a commercial social networking Web site in violation of a policy, posted in a manner reasonably likely to come to the attention of users, prohibiting convicted sex offenders from using the site.

(b) Definition of Commercial Social Networking Web Site. – For the purposes of this section, a "commercial social networking Web site" ~~is an~~ includes any Web site, application, portal, or other means of accessing the Internet Web site that meets all of the following requirements:

- (1) Is operated by a person who derives revenue from membership fees, advertising, or other sources related to the operation of the Web site.
- (2) ~~Facilitates the social introduction between two or more persons for the purposes of friendship, meeting other persons, or information exchanges.~~
- (3) Allows users to create personal Web pages or personal profiles that contain information such as the user's name or nickname of the user, nickname, photographs placed on the personal Web page by the user, of the user, and other personal information about the user, and links to other personal Web pages on the commercial social networking Web site of friends or associates of the user that may be accessed by other users or visitors to the Web site.~~information.~~
- (4) Provides users or visitors ~~to the commercial social networking Web site mechanisms~~ a mechanism to communicate with ~~other users, others,~~ such as a message board, chat room, ~~electronic mail,~~ or instant messenger.

(c) Exclusions from Commercial Social Networking Web Site Definition. – A commercial social networking Web site does not include ~~an Internet~~ a Web site that either: ~~meets~~ either of the following requirements:

- (1) ~~Provides only one of the following discrete services: photo sharing, electronic mail, instant messenger, or chat room or message board platform; or~~
- (2) ~~Has as its primary purpose the facilitation of commercial transactions involving goods or services between its members or visitors.~~ transactions, the dissemination of news, the discussion of political or social issues, or professional networking.
- (3) Is a Web site owned or operated by a local, State, or federal governmental entity.

(c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter 14 of the General Statutes that meets any of the following requirements:

- (1) Was convicted of an aggravated offense, as that term is defined in G.S. 14-208.6, against a person under 18 years of age.
- (2) Is a recidivist, as that term is defined in G.S. 14-208.6, and one offense is against a person under 18 years of age.
- (3) Was convicted of an offense against a minor, as that term is defined in G.S. 14-208.6.
- (4) Was convicted of a sexually violent offense, as that term is defined in G.S. 14-208.6, against a person under 18 years of age.

(5) Was found by a court to be a sexually violent predator, as that term is defined in G.S. 14-208.6, based on a conviction of a sexually violent offense committed against a minor.

(d) Jurisdiction. – 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.

(e) Punishment. – A violation of this section is a Class ~~I~~H felony.

(f) Severability. – If any provision of this section or its application is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provisions or applications, and, to this end, the provisions of this section are severable."

SECTION 3.(b) G.S. 14-202.5A reads as rewritten:

"§ 14-202.5A. Liability of commercial social networking sites.

(a) A commercial social networking site, as defined in G.S. 14-202.5, that complies with G.S. 14-208.15A or makes other reasonable efforts to prevent a high-risk sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes from accessing its Web site shall not be held civilly liable for damages arising out of a person's communications on the social networking site's system or network regardless of that person's status as a registered sex offender in North Carolina or any other jurisdiction. offender, as defined in G.S. 14-202.5, from using its Web site to endanger children shall not be held civilly liable for damages arising out of the sex offender's communications on the social networking site's system or network.

(b) For the purposes of this section, "access" is defined as allowing the sex offender to do any of the activities or actions described in G.S. 14-202.5(b)(2) through G.S. 14-202.5(b)(4) by utilizing the Web site."

PART IV. EXTEND CIVIL STATUTE OF LIMITATIONS AND REQUIRE TRAINING

SECTION 4.1. G.S. 1-17 is amended by adding two new subsections to read:

"(d) Notwithstanding the provisions of subsections (a), (b), (c), and (e) of this section, a plaintiff may file a civil action against a defendant for claims related to sexual abuse suffered while the plaintiff was under 18 years of age until the plaintiff attains 28 years of age.

(e) Notwithstanding the provisions of subsections (a), (b), (c), and (d) of this section, a plaintiff may file a civil action within two years of the date of a criminal conviction for a related felony sexual offense against a defendant for claims related to sexual abuse suffered while the plaintiff was under 18 years of age."

SECTION 4.2.(a) G.S. 1-52 reads as rewritten:

"§ 1-52. Three years.

Within three years an action –

...
(5) For criminal conversation, or for any other injury to the person or rights of another, not arising on contract and not hereafter ~~enumerated~~enumerated, except as provided by G.S. 1-17(d) and (e).

...
(16) Unless otherwise provided by law, for personal injury or physical damage to claimant's property, the cause of action, except in causes of actions referred to in G.S. 1-15(c), shall not accrue until bodily harm to the claimant or physical damage to his property becomes apparent or ought reasonably to have become apparent to the claimant, whichever event first occurs. Except as provided in ~~G.S. 130A-26.3~~G.S. 130A-26.3 or G.S. 1-17(d) and (e), no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action.

...

- (19) For assault, battery, or false imprisonment, ~~imprisonment~~, except as provided by G.S. 1-17(d) and (e). Notwithstanding this subdivision, a plaintiff may file a civil action within two years of the date of a criminal conviction for a related felony sexual offense against a defendant for claims related to sexual abuse suffered while the plaintiff was under 18 years of age.

...."

SECTION 4.2.(b) Effective from January 1, 2020, until December 31, 2021, this section revives any civil action for child sexual abuse otherwise time-barred under G.S. 1-52 as it existed immediately before the enactment of this act.

SECTION 4.3. G.S. 1-56 reads as rewritten:

"§ 1-56. All other actions, 10 years.

(a) ~~An~~ Except as provided by subsection (b) of this section, an action for relief not otherwise limited by this subchapter may not be commenced more than 10 years after the cause of action has accrued.

(b) A civil action for child sexual abuse is not subject to the limitation in this section."

SECTION 4.4.(a) G.S. 115C-47 is amended by adding a new subdivision to read:

"(64) To adopt a child sexual abuse and sex trafficking training program. – Each local board of education shall adopt and implement a child sexual abuse and sex trafficking training program for school personnel who work directly with students in grades kindergarten through 12, as required by G.S. 115C-375.20."

SECTION 4.4.(b) G.S. 115C-218.75 is amended by adding a new subsection to read:

"(g) Child Sexual Abuse and Sex Trafficking Training Program. – A charter school shall adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20."

SECTION 4.4.(c) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(14) Child sexual abuse and sex trafficking training program. – The board of directors shall adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20."

SECTION 4.4.(d) G.S. 116-239.8(b) is amended by adding a new subdivision to read:

"(17) Child sexual abuse and sex trafficking training program. – The chancellor shall adopt and ensure implementation of a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20."

SECTION 4.4.(e) The title of Article 25A of Chapter 115C of the General Statutes reads as rewritten:

"Article 25A.

"Special Medical Needs of Students, Students and Identification of Sexual Abuse of Students."

SECTION 4.4.(f) Article 25A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-375.20. Child sexual abuse and sex trafficking training program required.

(a) Definitions. – The following definitions shall apply in this section:

(1) School personnel. – Teachers, instructional support personnel, principals, and assistant principals. This term may also include, in the discretion of the employing entity, other school employees who work directly with students in grades kindergarten through 12.

(b) Each employing entity shall adopt and implement a child sexual abuse and sex trafficking training program for school personnel who work directly with students in grades kindergarten through 12 that provides education and awareness training related to child sexual abuse and sex trafficking, including, but not limited to, best practices from the field of prevention, the grooming process of sexual predators, the warning signs of sexual abuse and sex trafficking,

how to intervene when sexual abuse or sex trafficking is suspected or disclosed, legal responsibilities for reporting sexual abuse or sex trafficking, and available resources for assistance. This training may be provided by local nongovernmental organizations with expertise in these areas, local law enforcement officers, or other officers of the court. All school personnel who work with students in grades kindergarten through 12 shall receive two hours of training consistent with this section in even-numbered years beginning in 2020.

(c) No entity required to adopt a child sexual abuse and sex trafficking training program by G.S. 115C-47(64), 115C-218.75(g), 115C-238.66(14), or 116-239.8(b)(17), or its members, employees, designees, agents, or volunteers, shall be liable in civil damages to any party for any loss or damage caused by any act or omission relating to the provision of, participation in, or implementation of any component of a child sexual abuse and sex trafficking training program required by this section, unless that act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. Nothing in this section shall be construed to impose any specific duty of care or standard of care on an entity required to adopt a child sexual abuse and sex trafficking training program by G.S. 115C-47(64), 115C-218.75(g), 115C-238.66(14), or 116-239.8(b)(17)."

SECTION 4.5. This Part becomes effective December 1, 2019. Each entity required by Section 4.4(a), (b), (c), and (d) to adopt and implement a child sexual abuse and sex trafficking training program shall do so by January 1, 2020, and training shall be required for school personnel beginning with the 2020-2021 school year.

PART V. RIGHT TO REVOKE CONSENT

SECTION 5.(a) G.S. 14-27.20 reads as rewritten:

"§ 14-27.20. Definitions.

The following definitions apply in this Article:

(1) Repealed by Session Laws 2018-47, s. 4(a), effective December 1, 2018.

(1a) Against the will of the other person. – Either of the following:

a. Without consent of the other person.

b. After consent is revoked by the other person, in a manner that would cause a reasonable person to believe consent is revoked.

...."

SECTION 5.(b) This section becomes effective December 1, 2019, and applies to offenses committed on or after that date.

PART VI. MODERNIZING SEXUAL ASSAULT LAWS

CLARIFY DEFINITION OF THE TERM "CARETAKER" USED IN THE JUVENILE CODE

SECTION 6.(a) G.S. 7B-101(3) reads as rewritten:

"(3) Caretaker. – Any person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a ~~stepparent~~, ~~stepparent~~; ~~foster parent~~, ~~parent~~; ~~an adult member of the juvenile's household~~, ~~household~~; ~~an adult relative entrusted with the juvenile's care~~, ~~care~~; a potential adoptive parent during a visit or trial placement with a juvenile in the custody of a ~~department~~, ~~department~~; any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational ~~facility~~, ~~facility~~; or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services. Nothing in this subdivision shall be construed to impose a legal duty of support under Chapter

50 or Chapter 110 of the General Statutes. The duty imposed upon a caretaker as defined in this subdivision shall be for the purpose of this Subchapter only."

AMEND G.S. 14-401.11 TO PROHIBIT THE KNOWING DISTRIBUTION OF A BEVERAGE THAT CONTAINS ANY SUBSTANCE THAT COULD BE INJURIOUS TO A PERSON'S HEALTH

SECTION 6.(b) G.S. 14-401.11 reads as rewritten:

"§ 14-401.11. Distribution of certain food ~~at Halloween and all other times~~ or beverage prohibited.

(a) It shall be unlawful for any person to knowingly distribute, sell, give away or otherwise cause to be placed in a position of human ~~accessibility,~~ accessibility or ingestion, any ~~food~~ food, beverage, or other ~~eatable~~ eatable or drinkable substance which that person knows to ~~contain~~ contain any of the following:

- (1) Any noxious or deleterious substance, material or article which might be injurious to a person's health or might cause a person any physical ~~discomfort,~~ discomfort.
- (2) Any controlled substance included in any schedule of the Controlled Substances ~~Act,~~ Act.
- (3) Any poisonous chemical or compound or any foreign substance such as, but not limited to, razor blades, pins, and ground glass, which might cause death, serious physical injury or serious physical pain and discomfort.

(b) Penalties.

- (1) Any person violating the provisions of G.S. 14-401.11(a)(1):
 - a. Where the actual or possible effect on a person eating or drinking the ~~food~~ food, beverage, or other substance was or would be limited to mild physical discomfort without any lasting effect, shall be guilty of a Class I felony.
 - b. Where the actual or possible effect on a person eating or drinking the ~~food~~ food, beverage, or other substance was or would be greater than mild physical discomfort without any lasting effect, shall be punished as a Class H felon.
- (2) Any person violating the provisions of G.S. 14-401.11(a)(2) shall be punished as a Class F felon.
- (3) Any person violating the provisions of G.S. 14-401.11(a)(3) shall be punished as a Class C felon."

AMEND DEFINITION FOR THE TERM "MENTALLY INCAPACITATED" USED IN ARTICLE 7B OF CHAPTER 14 OF THE GENERAL STATUTES

SECTION 6.(c) G.S. 14-27.20(2) reads as rewritten:

"(2) Mentally incapacitated. – A victim who due to ~~(i) any act committed upon the victim or (ii) a poisonous or controlled substance provided to the victim without the knowledge or consent of the victim~~ any act is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act."

PART VII. SEX OFFENDER VICTIM RIGHTS

SECTION 7.(a) G.S. 14-208.12A reads as rewritten:

"§ 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 to terminate the 30-year registration requirement

if the person has not been convicted of a subsequent offense requiring registration under this Article.

If the reportable conviction is for an offense that occurred in North Carolina, the petition shall be filed in the district where the person was convicted of the offense.

If the reportable conviction is for an offense that occurred in another state, the petition shall be filed in the district where the person resides. A person who petitions to terminate the registration requirement for a reportable conviction that is an out-of-state offense shall also do the following: (i) provide written notice to the sheriff of the county where the person was convicted that the person is petitioning the court to terminate the registration requirement and (ii) include with the petition at the time of its filing, an affidavit, signed by the petitioner, that verifies that the petitioner has notified the sheriff of the county where the person was convicted of the petition and that provides the mailing address and contact information for that sheriff.

Regardless of where the offense occurred, if the defendant was convicted of a reportable offense in any federal court, the conviction will be treated as an out-of-state offense for the purposes of this section.

(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 Department of Public Safety 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.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a request for termination of the sex offender registration requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement."

PART VIII. SEX OFFENDER RESIDENTIAL RESTRICTIONS

SECTION 8.(a) G.S. 14-208.16(b) reads as rewritten:

"(b) As used in this section, "school" does not include home schools as defined in G.S. 115C-563 or institutions of higher ~~education~~-education; however, for the purposes of this section, the term "school" shall include any construction project designated for use as a public school if the governing body has notified the sheriff or sheriffs with jurisdiction within 1,000 feet of the construction project of the construction of the public school. The term "child care center" is defined by G.S. 110-86(3); however, for purposes of this section, the term "child care center" does include the permanent locations of organized clubs of Boys and Girls Clubs of America. The term "registrant" means a person who is registered, or is required to register, under this Article."

PART IX. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE

SECTION 9.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and, to this end, the provisions of this act are severable.

SECTION 9.(b) Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 9.(c) Parts I, II, III, V, VI, VII, and VIII of this act become effective December 1, 2019, and apply to offenses committed on or after that date. Part IV of this act becomes effective December 1, 2019, and applies to civil actions commenced on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of October, 2019.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:46 p.m. this 7th day of November, 2019