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SENATE BILL 199
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Short Title: Child Sex Abuse/Strengthen Laws.

(Public)

Sponsors:

Referred to:

March 7, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT CHILDREN FROM SEXUAL ABUSE BY IMPROVING
3 PROSECUTORIAL OPTIONS FOR DELAYED REPORTS OF CHILD ABUSE, TO
4 EXPAND THE DUTY TO REPORT CHILD ABUSE, TO PROTECT CHILDREN FROM
5 ONLINE PREDATORS, AND TO EXPAND THE JURISDICTION OF THE
6 INVESTIGATIVE GRAND JURY.

7 The General Assembly of North Carolina enacts:

8
9 **PART I. TITLE**

10 **SECTION 1.** This act shall be known and may be cited as "The Sexual Assault Fast
11 Reporting and Enforcement (Safe Child) Act of 2019."

12
13 **PART II. EXPAND DUTY TO REPORT CRIMES AGAINST JUVENILES**

14 **SECTION 2.(a)** Article 39 of Chapter 14 of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 14-318.6. Failure to report crimes against juveniles; penalty.**

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

18 (1) Crime of abuse. – Any of the following misdemeanor offenses committed
19 against a victim who had not reached age 18:

20 a. G.S. 7B-301.

21 b. G.S. 14-27.33.

22 c. G.S. 14-33(c)(3).

23 d. G.S. 14-202.2.

24 e. G.S. 14-318.2.

25 f. Any attempt, solicitation, or conspiracy to commit any of the offenses
26 listed in this subsection.

27 (2) Juvenile. – As defined in G.S. 7B-101.

28 (b) Requirement. – A person or institution who suspects that a juvenile has been the
29 victim of a felony or a crime of abuse shall immediately report the case of that juvenile to the
30 appropriate local law enforcement agency in the county where the juvenile resides or is found.
31 The report may be made orally or by telephone. The report shall include information as is known
32 to the person making it, including the name and address of the juvenile; the name and address of
33 the juvenile's parent, guardian, custodian, or caretaker; the age of the juvenile; the names and
34 ages of other juveniles present or in danger; the present whereabouts of the juvenile if not at the
35 home address; the nature and extent of any injury or condition resulting from the abuse; and any



1 other information which the person making the report believes might be helpful in establishing
2 the need for law enforcement involvement. The person making the report shall give the person's
3 name, address, and telephone number.

4 (c) Penalty. – Any person or institution who knew or should have known that a juvenile
5 was the victim of a felony or a crime of abuse, and knowingly or wantonly fails to report as
6 required by subsection (b) of this section, or who knowingly or wantonly prevents another person
7 from reporting as required by subsection (b) of this section, is guilty of a Class 1 misdemeanor.

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

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

13 **SECTION 2.(b)** This section becomes effective December 1, 2019, and applies to
14 offenses committed on or after that date.

15 16 **PART III. EXPANDING THE STATUTE OF LIMITATIONS FOR MISDEMEANOR** 17 **CRIMES INVOLVING ABUSE AGAINST CHILDREN**

18 **SECTION 3.(a)** G.S. 15-1 reads as rewritten:

19 **"§ 15-1. Statute of limitations for misdemeanors.**

20 The crimes of deceit and malicious mischief, and the crime of petit larceny where the value
21 of the property does not exceed five dollars (\$5.00), and all misdemeanors except any crime of
22 abuse as defined in G.S. 14-318.6 and malicious misdemeanors, shall be charged within two
23 years after the commission of the same, and not afterwards: Provided, that if any pleading shall
24 be defective, so that no judgment can be given thereon, another prosecution may be instituted for
25 the same offense, within one year after the first shall have been abandoned by the State. Crimes
26 of abuse shall be charged within 10 years of the commission of the crime."

27 **SECTION 3.(b)** This section becomes effective December 1, 2019, and applies to
28 offenses committed on or after that date.

29 30 **PART IV. PROTECTING CHILDREN ONLINE FROM HIGH-RISK SEX OFFENDERS**

31 **SECTION 4.(a)** G.S. 14-202.5 reads as rewritten:

32 **"§ 14-202.5. ~~Ban use of commercial social networking Web sites by sex offenders.~~Ban online**
33 **conduct by high-risk sex offenders that endangers children.**

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

39 (1) To communicate with a person that the offender believes is under 16 years of
40 age.

41 (2) To contact a person that the offender believes is under 16 years of age.

42 (3) To pose falsely as a person under 16 years of age.

43 (4) To use a Web site to gather information about a person that the offender
44 believes is under 16 years of age.

45 (5) To use a commercial social networking Web site in violation of a policy
46 posted in a manner reasonably likely to come to the attention of users,
47 prohibiting convicted sex offenders from using the site.

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

- 1 (1) Is operated by a person who derives revenue from membership fees,
2 advertising, or other sources related to the operation of the Web site.
- 3 ~~(2) Facilitates the social introduction between two or more persons for the~~
4 ~~purposes of friendship, meeting other persons, or information exchanges.~~
- 5 (3) Allows users to create personal Web pages or personal profiles that contain
6 information such as the user's name or nickname of the user, nickname,
7 photographs placed on the personal Web page by the user, of the user, and
8 other personal information about the user, and links to other personal Web
9 pages on the commercial social networking Web site of friends or associates
10 of the user that may be accessed by other users or visitors to the Web
11 site information.
- 12 (4) Provides users or visitors ~~to the commercial social networking Web site~~
13 ~~mechanisms a mechanism~~ to communicate with ~~other users, others,~~ such as a
14 message board, chat room, ~~electronic mail,~~ or instant messenger.
- 15 (c) Exclusions from Commercial Social Networking Web Site Definition. – A
16 commercial social networking Web site does not include an Internet a Web site that either meets
17 either of the following requirements:
- 18 (1) ~~Provides only one of the following discrete services: photo sharing, electronic~~
19 ~~mail, instant messenger, or chat room or message board platform; or~~
- 20 (2) Has as its primary purpose the facilitation of commercial ~~transactions~~
21 ~~involving goods or services between its members or visitors. transactions, the~~
22 dissemination of news, the discussion of political or social issues, or
23 professional networking.
- 24 (3) Is a Web site owned or operated by a local, State, or federal governmental
25 entity.
- 26 (c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term
27 "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter
28 14 of the General Statutes that meets any of the following requirements:
- 29 (1) Was found by a court to have been convicted of an aggravated offense, as that
30 term is defined in G.S. 14-208.6, against a person under 18 years of age.
- 31 (2) Was found by a court to be a recidivist, as that term is defined in
32 G.S. 14-208.6, whose status as a recidivist was based on an offense against a
33 person under 18 years of age.
- 34 (3) Was convicted of an offense against a minor, as that term is defined in
35 G.S. 14-208.6.
- 36 (4) Was convicted of a sexually violent offense, as that term is defined in
37 G.S. 14-208.6, against a person under 18 years of age.
- 38 (5) Was found by a court to be a sexually violent predator, as that term is defined
39 in G.S. 14-208.6, based on a conviction of a sexually violent offense
40 committed against a minor.
- 41 (d) Jurisdiction. – The offense is committed in the State for purposes of determining
42 jurisdiction, if the transmission that constitutes the offense either originates in the State or is
43 received in the State.
- 44 (e) Punishment. – A violation of this section is a Class ~~I~~H felony.
- 45 (f) Severability. – If any provision of this section or its application is held invalid, the
46 invalidity does not affect other provisions or applications of this section that can be given effect
47 without the invalid provisions or application, and, to this end, the provisions of this section are
48 severable."

49 **SECTION 4.(b)** G.S. 14-202.5A reads as rewritten:

50 **"§ 14-202.5A. Liability of commercial social networking sites.**

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

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

12 **SECTION 4.(c)** G.S. 14-208.7(b) reads as rewritten:

13 "(b) The Department of Public Safety shall provide each sheriff with forms for registering
14 persons as required by this Article. The registration form shall require all of the following:

15 ...

16 (8) For a high-risk sex offender, as defined in G.S. 14-202.5, all Internet protocol
17 (IP) addresses in the person's residence, registered in the person's name,
18 accessible at the person's place of employment, or otherwise under the
19 person's control or custody."

20 **SECTION 4.(d)** G.S. 14-208.11(a) reads as rewritten:

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

23 ...

24 (11) Fails to provide the registering sheriff with the information, or any changes to
25 the information, required under G.S. 14-208.7(b)(8)."

26 **SECTION 4.(e)** G.S. 14-208.9 reads as rewritten:

27 **"§ 14-208.9. Change of address; change of academic status or educational employment**
28 **status; change of online identifier; change of name.**

29 ...

30 (g) If a high-risk sex offender that is required to register an Internet protocol (IP) address
31 as provided in G.S. 14-208.7(b)(8) obtains or is assigned a new Internet protocol (IP) address,
32 then the high-risk offender shall, within 3 business days, report in person to the sheriff of the
33 county with whom the person registered and provide written notice of the person's new or
34 changed Internet protocol (IP) address. The sheriff shall immediately forward this information to
35 the Department of Public Safety."

36 **SECTION 4.(f)** Subsections (c) and (e) of this section become effective December
37 1, 2019, and apply to persons whose initial registration under Article 27A of Chapter 14 of the
38 General Statutes occurs on or after that date, and to persons who are registered under Article 27A
39 of Chapter 14 of the General Statutes prior to that date and continue to be registered on or after
40 that date. However, any person registered under Article 27A of Chapter 14 of the General Statutes
41 prior to December 1, 2019, and continuing to be registered on or after December 1, 2019, shall
42 not be in violation of the requirements set forth in G.S. 14-208.7(b)(8) or G.S. 14-208.11(a)(11)
43 if the person provides the required information at the first verification of information required
44 under G.S. 14-208.9A that occurs on or after December 1, 2019. Subsections (a) and (d) of this
45 section become effective December 1, 2019, and apply to offenses committed on or after that
46 date. The remainder of this section becomes effective December 1, 2019.

47
48 **PART V. EXPANDING THE LIST OF CRIMES FOR WHICH AN INVESTIGATIVE**
49 **GRAND JURY CAN BE CONVENED**

50 **SECTION 5.(a)** G.S. 15A-622 reads as rewritten:

51 **"§ 15A-622. Formation and organization of grand juries; other preliminary matters.**

1 ...
 2 (h) A written petition for convening of grand jury under this section may be filed by the
 3 district attorney, the district attorney's designated assistant, or a special prosecutor requested
 4 pursuant to G.S. 114-11.6, with the approval of a committee of at least three members of the
 5 North Carolina Conference of District Attorneys, and with the concurrence of the Attorney
 6 General, with the Clerk of the North Carolina Supreme Court. The Chief Justice shall appoint a
 7 panel of three judges to determine whether to order the grand jury convened. A grand jury under
 8 this section may be convened if the three-judge panel determines ~~that~~that both of the following
 9 requirements are met:

- 10 (1) The petition alleges the commission of or a conspiracy to commit a violation
 11 of G.S. 90-95(h) or G.S. 90-95.1, any part of which violation or conspiracy
 12 occurred in the county where the grand jury sits, and that persons named in
 13 the petition have knowledge related to the identity of the perpetrators of those
 14 crimes but will not divulge that knowledge voluntarily or that such persons
 15 request that they be allowed to testify before the grand jury; ~~and jury.~~
 16 (2) The affidavit sets forth facts that establish probable cause to believe that the
 17 crimes specified in the petition have been committed and reasonable grounds
 18 to suspect that the persons named in the petition have knowledge related to
 19 the identity of the perpetrators of those crimes.

20 The affidavit shall be based upon personal knowledge or, if the source of the information and
 21 basis for the belief are stated, upon information and belief. The panel's order convening the grand
 22 jury as an investigative grand jury shall direct the grand jury to investigate the crimes and persons
 23 named in the petition, and shall be filed with the Clerk of the North Carolina Supreme Court. A
 24 grand jury so convened retains all powers, duties, and responsibilities of a grand jury under this
 25 Article. The contents of the petition and the affidavit shall not be disclosed. Upon receiving a
 26 petition under this subsection, the Chief Justice shall appoint a panel to determine whether the
 27 grand jury should be convened as an investigative grand jury.

28 A grand jury authorized by this subsection may be convened from an existing grand jury or
 29 grand juries authorized by subsection (b) of this section or may be convened as an additional
 30 grand jury to an existing grand jury or grand juries. Notwithstanding subsection (b) of this
 31 section, grand jurors impeached pursuant to this subsection shall serve for a period of 12 months,
 32 and, if an additional grand jury is convened, 18 persons shall be selected to constitute that grand
 33 jury. At any time for cause shown, the presiding superior court judge may excuse a juror
 34 temporarily or permanently, and in the latter event the court may impanel another person in place
 35 of the juror excused.

36 (i) An investigative grand jury may be convened pursuant to subsection (h) of this section
 37 if the petition alleges the commission of, attempt to commit or solicitation to commit, or a
 38 conspiracy to ~~commit~~commit: a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12
 39 (involuntary servitude), ~~or~~ G.S. 14-43.13 (~~sexual servitude~~); (sexual servitude), Article 13A of
 40 Chapter 14 of the General Statutes (North Carolina Criminal Gang Suppression Act), any felony
 41 sex offense against a person under 18 years of age, or a crime of abuse as defined in
 42 G.S. 14-318.6.

43"

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

47 **PART VI. INVESTIGATIVE GRAND JURY/STATUTORY PROCEDURE TO** 48 **SUBPOENA RECORDS**

49 **SECTION 6.(a)** G.S. 15A-623(h) reads as rewritten:

50 "(h) If a grand jury is convened pursuant to G.S. 15A-622(h), notwithstanding subsection
 51 (d) of this section, a prosecutor shall be present to examine witnesses, and a court reporter shall

1 be present and record the examination of witnesses. The record shall be transcribed. If the
2 prosecutor determines that it is necessary to compel testimony from the witness, he may grant
3 use immunity to the witness. The grant of use immunity shall be given to the witness in writing
4 by the prosecutor and shall be signed by the prosecutor. The written grant of use immunity shall
5 also be read into the record by the prosecutor and shall include an explanation of use immunity
6 as provided in G.S. 15A-1051. A witness shall have the right to leave the grand jury room to
7 consult with his counsel at reasonable intervals and for a reasonable period of time upon the
8 request of the witness. Notwithstanding subsection (e) of this section, ~~the record~~records gathered
9 in the course of the grand jury investigation and the record of the examination of witnesses shall
10 be made available to the examining prosecutor, and ~~he may~~shall become part of the file of the
11 prosecutor's office as those terms are defined by G.S. 15A-903(a)(1). The prosecutor may
12 disclose contents of the record to other investigative or law-enforcement officers, the witness or
13 ~~his~~the witness' attorney to the extent that the disclosure is appropriate to the proper performance
14 of his official duties. The record of the examination of a witness may be used in a trial to the
15 extent that it is relevant and otherwise admissible. Further disclosure of grand jury proceedings
16 convened pursuant to this act may be made upon written order of a superior court judge if the
17 judge determines disclosure is essential:

- 18 (1) To prosecute a witness who appeared before the grand jury for contempt or
19 perjury; or
- 20 (2) To protect a defendant's constitutional rights or statutory rights to discovery
21 pursuant to G.S. 15A-903.

22 Upon the convening of the investigative grand jury pursuant to approval by the three-judge
23 panel, the district attorney shall subpoena the witnesses. The subpoena shall be served by the
24 investigative grand jury officer, who shall be appointed by the court. The name of the person
25 subpoenaed and the issuance and service of the subpoena shall not be disclosed, except that a
26 witness so subpoenaed may divulge that information. The district attorney may issue a subpoena
27 duces tecum to compel a witness or other entity to produce any books, papers, documents, data,
28 or other objects the subpoena designates that relate to the investigation, and the subpoena duces
29 tecum shall be served by the investigative grand jury officer appointed by the court. The court
30 may direct the witness to produce the designated items before the designated items are to be
31 offered to the investigative grand jury. Any information, records, or data reported or obtained
32 pursuant to a subpoena duces tecum authorized under this subsection shall be confidential and
33 shall not be disclosed unless in connection with a criminal case related to the subpoenaed
34 materials. Upon a motion made promptly, the court may quash or modify the subpoena duces
35 tecum if the court determines that compliance with the subpoena would be unreasonable or
36 oppressive. After an indictment, information, or other pleading is filed, a subpoena requiring the
37 production of personal or confidential information about a victim may be served on a third party
38 only by court order. Before entering the order, and unless the court determines there are
39 exceptional circumstances, the court must require giving notice to the victim so that the victim
40 can move to quash the subpoena or otherwise object. The presiding superior court judge shall
41 hear any matter concerning the investigative grand jury in camera to the extent necessary to
42 prevent disclosure of its existence. The court reporter for the investigative grand jury shall be
43 present and record and transcribe the in camera proceeding. The transcription of any in camera
44 proceeding and a copy of all subpoenas and other process shall be returned to the Chief Justice
45 or to such member of the three-judge panel as the Chief Justice may designate, to be filed with
46 the Clerk of the North Carolina Supreme Court. If a person who, without adequate excuse,
47 disobeys a subpoena issued under the authority set forth in this subsection, the presiding superior
48 court judge may proceed in accordance with Chapter 5A of the General Statutes. The subpoena
49 to compel the attendance of a witness shall otherwise be subject to the provisions of
50 G.S. 15A-801 and Article 43 of Chapter 15A. The subpoena duces tecum shall otherwise be
51 subject to the provisions of G.S. 15A-802. When an investigative grand jury has completed its

1 investigation of the crimes alleged in the petition, the investigative functions of the grand jury
2 shall be dissolved and such investigation shall cease. The District Attorney shall file a notice of
3 dissolution of the investigative functions of the grand jury with the Clerk of the North Carolina
4 Supreme Court."

5 **SECTION 6.(b)** This section becomes effective December 1, 2019, and applies to
6 offenses committed on or after that date.

7
8 **PART VII. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE**

9 **SECTION 7.(a)** If any provision of this act or its application is held invalid, the
10 invalidity does not affect other provisions or applications of this act that can be given effect
11 without the invalid provisions or application, and, to this end, the provisions of this act are
12 severable.

13 **SECTION 7.(b)** Prosecutions for offenses committed before the effective date of
14 this act are not abated or affected by this act, and the statutes that would be applicable but for
15 this act remain applicable to those prosecutions.

16 **SECTION 7.(c)** Except as otherwise provided, this act is effective when it becomes
17 law.