

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 123

Short Title: Registration Discretionary for Sexual Battery. (Public)

Sponsors: Representatives Stevens and Rogers (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary II

February 20, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE THE REQUIREMENT THAT A PERSON CONVICTED OF A SEXUAL BATTERY REGISTER AS A SEX OFFENDER DISCRETIONARY WITH THE COURT, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-27.33 is amended by adding a new subsection to read:

"§ 14-27.33. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor.

(c) When a person is convicted of a violation of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. At sentencing, the State shall provide all appropriate and competent evidence of the person's danger to the community. Evidence to be considered may include, but is not limited to, age, criminal record, relationship to victim, and a risk assessment conducted by the Division of Adult Correction. If the sentencing court finds that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register."

SECTION 2. G.S. 14-208.6(4) reads as rewritten:

"(4) "Reportable conviction" means:

...

f. A final conviction for a violation of G.S. 14-27.33, only if the court sentencing the individual issues an order pursuant to G.S. 14-27.33(c) requiring the individual to register."

SECTION 3. G.S. 14-202(l) reads as rewritten:

"(l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the



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1 purposes of that Article as stated in G.S. 14-208.5. At sentencing, the State shall provide all
2 appropriate and competent evidence of the person's danger to the community. Evidence to be
3 considered may include, but is not limited to, age, criminal record, relationship to victim, and a
4 risk assessment conducted by the Division of Adult Correction. If the sentencing court rules that
5 the person is a danger to the community and that the person shall register, then an order shall be
6 entered requiring the person to register."

7 **SECTION 4.** G.S. 14-208.6(5) reads as rewritten:

8 "(5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted
9 rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape),
10 G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a
11 child by an adult), G.S. 14-27.25(a) (statutory rape of a person who is 15 years
12 of age or younger and where the defendant is at least six years older),
13 G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27
14 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense
15 with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense),
16 G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age
17 or younger and where the defendant is at least six years older), G.S. 14-27.31
18 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual
19 activity with a student), ~~G.S. 14-27.33 (sexual battery)~~, G.S. 14-43.11 (human
20 trafficking) if (i) the offense is committed against a minor who is less than 18
21 years of age or (ii) the offense is committed against any person with the intent
22 that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a
23 person for sexual servitude), G.S. 14-178 (incest between near relatives),
24 G.S. 14-190.6 (employing or permitting minor to assist in offenses against
25 public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure),
26 G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17
27 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree
28 sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with
29 children), G.S. 14-202.3 (Solicitation of child by computer or certain other
30 electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking
31 indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a
32 prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b)
33 (promoting prostitution of a minor or a mentally disabled person),
34 G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with
35 or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act
36 upon a juvenile by parent or guardian). The term also includes the following: a
37 solicitation or conspiracy to commit any of these offenses; aiding and abetting
38 any of these offenses."

39 **SECTION 5.** G.S. 50-13.1(a1) reads as rewritten:

40 "(a1) Notwithstanding any other provision of law, any person instituting an action or
41 proceeding for custody ex parte who has been convicted of a sexually violent
42 offense as defined in G.S. 14-208.6(5) or who has been convicted of an offense
43 under G.S. 14-27.33 and ordered to register under Article 27A of Chapter 14 of
44 the General Statutes shall disclose the conviction in the pleadings."

45 **SECTION 6.** This act becomes effective December 1, 2017, and applies to offenses
46 committed on or after that date.