**Restrictions on Registered Sex Offenders**

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1. **Is the Person Required to Register?**

For most matters related to sex offender registration, a threshold question is whether the person is required to register. The attached chart shows all of the North Carolina crimes that require registration as a sex offender. Be sure to pay careful attention to the effective date clause applicable to each reportable offense.

**Sex offender registries online.** If a person is already registered he or she should appear on one of the following registry Web sites:

* North Carolina: <http://sexoffender.ncdoj.gov/search.aspx>
* National (FBI): <http://www.nsopw.gov>

1. **Restrictions on Registrants**

**There is no general restriction against a registered sex offender visiting or living in a household with children**. Bobbitt v. Eizenga, \_\_ N.C. App. \_\_, 715 S.E.2d 613 (2011). However, some *probationers and post-release supervisees* may be subject to a condition of supervision that prohibits them from living with any minor child, including their own. The constitutionality of that condition has been upheld. *See* State v. Strickland, 169 N.C. App. 193 (2005).

Several other restrictions bear on where some registered sex offenders may live and be.

1. **Residential Restrictions (G.S. 14-208.16, Class G felony)**
   * Registered sex offenders cannot knowingly reside within 1,000 feet of a *school* or *childcare center*.
     + “School” does not include home schools as they are defined in G.S. 115C-563 or institutions of higher education.
     + “Child care center” is defined in G.S. 110-86(3) as “an arrangement where, at any one time, there are three or more preschool‑age children or nine or more school‑age children receiving child care.”
       - “Child care” is defined as a “program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full‑time custodians, or from persons not related to them by birth, marriage, or adoption.”
       - The definition of child care excludes many types of care that some might otherwise think of as child care, such as: arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care; recreational programs operated for less than four consecutive months in a year; drop‑in or short‑term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop‑in or short‑term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches; and cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.
       - The law also excludes 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. G.S. 14-208.16(c).
   * Exceptions
     + *Offenders who established a residence before Dec. 1, 2006*. This offense does not apply to offenders who established a residence before Dec. 1, 2006 by (1) purchasing or entering into a specifically enforceable contract to purchase the residence; (2) entering into a written lease contract for the residence, for as long as the offender is lawfully entitled to remain on the premises; or (3) residing with an immediate family member—defined as a parent, grandparent, legal guardian, spouse, or child or sibling 18 years of age or older—who established residence as provided by the law. S.L. 2006-247, sec. 11(c).
     + *Changes in use of surrounding property*. Registrants do not violate the law if the ownership or use of a property within 1,000 feet of their residence changes to become a school or child care center after the registrant had established the residence. G.S. 14-208.16(d).
2. **Premises Restrictions (G.S. 14-208.18, Class H felony)**
   * Certain registered sex offenders may not knowingly be:
3. 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.
4. 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 (a) that are located in malls, shopping centers, or other property open to the general public.
5. At any place where minors gather for regularly scheduled education, recreational, or social programs.
   * *Applicability*. This provision only applies to offenders required to register for:
     + Any offense in Article 7A of Chapter 14 of the General Statutes (rape, sexual offense, sexual battery, intercourse and sexual offense by a custodian or school personnel, statutory rape); or
     + Any offense where the victim of the offense was under age 16 at the time of the offense.
   * *Exceptions.* There are limited exceptions to G.S. 14-208.18.
     + Parents or guardians who are on school property for specified purposes, provided they have permission from the principal and are supervised. G.S. 14-208.18(d)
     + A registrant may attend public school if otherwise eligible to attend under G.S. 115C-378 and if permitted by the local board of education. G.S. 14-208.18(f).
     + A registrant may go to a location to vote even if the polling place is at an otherwise prohibited location. G.S. 14-208.18(e).
     + A juvenile offender may be present at a prohibited location to receive medical or mental health treatment so long as he or she remains under the direct supervision of an employee of the treatment provider at all times. G.S. 14-208.18(g).
     + A registrant who is the parent or guardian of a minor may go to an otherwise prohibited location to obtain emergency medical care treatment for the minor. G.S. 14-208.18(b).
   * *Issues*
     + *Prohibited radius*. Subsection (a) does not place a prohibited radius around the listed premises. Thus, there generally is no radius around a building like a school, which is primarily for minors. The 300 foot radius of subsection (b) applies only to locations intended primarily for minors that are located on broader premises that are not intended primarily for minors, such as a play area at a shopping mall.
     + *Constitutionality.* Subdivision G.S. 14-208.18(a)(3) was deemed unconstitutionally vague as applied to a defendant accused of (1) being in “close to the parking lot area” at a county park that had a youth softball field and (2) playing softball on an adult softball field adjacent to a youth tee ball field. The court of appeals held that it would not be clear to a reasonable person that these areas were “places where minors gather” within the language of G.S. 14-208.18(a)(3), and thus held the law to be unconstitutionally vague. State v. Daniels, \_\_ N.C. App. \_\_ (Dec. 31, 2012).
     + *First Amendment/Religion Issues*. North Carolina’s appellate courts have not yet decided a case on the issue of whether this prohibition violates the First Amendment by prohibiting a covered offender from attending religious services (because, for example, the church has a nursery around which a 300-foot prohibited radius applies, or regularly scheduled youth programs).
6. **Work Restrictions** 
   * **Working or volunteering in activities involving minors** (G.S. 14-208.17(a), Class F felony)
     + No registered sex offender may work or volunteer, with or without compensation, at any place where a minor is present and the registrant’s responsibilities would include instruction, supervision, or care of a minor or minors.
   * **Caring for a minor when a sex offender resides in the same location** (G.S. 14-208.17(b), Class F felony)
     + No person may conduct any activity where he or she accepts a minor or minors into his or her care or custody from another knowing that a person who resides at the same location is required to register as a sex offender.
     + Note that the law applies to minors accepted “from another,” and does not generally bar a registrant from living with minors.
   * **Babysitting service** (G.S. 14-321.1, Class 1 misdemeanor for first offense, Class H felony for second and subsequent offenses)
     + No person may provide babysitting services—defined in G.S. 14-321.1(a) as providing, for profit, supervision or care of a minor child under 13 who is unrelated to the provider by blood, marriage, or adoption, for more than two hours per day while the child’s parents or guardian are not on the premises—in a home where a registered sex offender resides, or when a registered offender is a provider of the service.
   * **Commercial drivers license restriction** (G.S. 14-208.19A; G.S. 20-27.1, Class F felony)
     + No person required to register as a sex offender may obtain or renew a commercial drivers license with a “P” or “S” endorsement. Any person who drives a commercial passenger vehicle or school bus who does not have a CDL with a “P” or “S” endorsement because of his or her registration commits a Class F felony.
   * **EMS credentials** (G.S. 131E-159; Class F felony)
     + No person convicted of a crime that would be a reportable sex crime if committed today may be issued EMS credentials. DHHS may not renew the credentials of any person who would be ineligible for EMS credentials under this law.
7. **Social Networking Restrictions** (G.S. 14-202.5, Class F felony)
   * No person required to register as a sex offender may access a commercial social networking Web site, knowing that the site permits minor children to become members or to create or maintain personal Web pages.
   * A commercial social networking Web site is defined as an Internet site that meets all of the following requirements: (1) Is operated by someone who derives revenue; (2) facilitates social introduction between two or more persons; (3) allows users to create pages or profiles that contain information like nicknames, photographs, and personal information; and (4) provides users or visitors with mechanisms to communicate with one another, such as message boards, chat rooms, email, or instant messages. The definition excludes sites that either (1) provide only one of the following discrete services: photo-sharing, email, instant messaging, or chat room/board; or (2) have as their primary purpose the facilitation of commercial transactions involving goods or services between its members or visitors.
8. **Duty to Report Non-Compliance by a Registrant (G.S. 14-208.11A, Class H felony)**

It is unlawful for any person who has reason to believe that a person is in violation of the requirements of the registry *and* who has the intent to assist the offender in eluding arrest to:

* + Withhold information from, or fail to notify, a law enforcement agency about the offender’s noncompliance with the requirements of Article 27A, and, if known, the whereabouts of the offender.
  + Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the offender.
  + Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the offender.
  + Provide information to a law enforcement agency regarding the offender that the person knows to be false information.