

207.75 WILLFULLY FAILING TO COMPLY WITH SEX OFFENDER REGISTRATION LAW. FELONY.

NOTE WELL: 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 timeperiod under N.C. Gen. Stat. § 14-208.12A.

The defendant has been charged with willfully failing to comply with the sex offender registration law.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt.

First, that the defendant

- a) [was a resident of] [had established a residence in this state.]
- b) [had been present in this state for 15 days].¹
- c) [was a [nonresident student] [nonresident worker] in this state].²

Second, that the defendant had previously been convicted of a reportable offense³ for which the defendant must register. If you find beyond a reasonable doubt that on (*name date*) in (*name court*), the defendant was convicted of (*name offense*; e.g., *second degree rape*), then this would constitute a reportable offense for which the defendant must register.

And Third, the defendant

- a) willfully⁴ [failed to register in person with the Sheriff's office in the county of the defendant's residence [[within three business days of the defendant's [release from a penal institution] [arrival in the county]]⁵ [immediately upon the defendant's conviction]⁶
- b) willfully failed to provide written notice of the defendant's new address, following a change in address, in person at the Sheriff's office, no later

than three business days after the change of address to the Sheriff's office in the county with whom the defendant had last registered.]⁷

- c) willfully [failed to verify and return an address verification form in person within three business days of receiving it to the Sheriff's office listed on the address verification form.]⁸
- d) willfully [[forged] [submitted under false pretenses] the information or verification notices required. (Information or a verification is forged if it is false, but appears to be genuine, and it is submitted with the intent to deceive.) (Information or a verification is submitted under false pretenses if it is a false representation and calculated and intended to deceive.)]
- e) willfully [failed to inform the registering Sheriff's office of[enrollment] [termination of enrollment] as a student]
- f) willfully [failed to inform the registering Sheriff's office of [employment at an institution of higher education] [termination of employment at an institution of higher education]
- g) willfully [failed within three business days to report in person to the Sheriff of the county of defendant's residence, of [his] [her] intent to remain in this state, after previously having given notice to that Sheriff of [his] [her] county of residence, of [his] [her] intent to reside in another state].
- h) willfully [failed to report to the Sheriff of a county within 10 days after moving to that county]
- i) willfully [failed to notify the registering Sheriff's office of out-of-county employment where temporary residence had been established⁹]
- j) willfully [failed to inform the registering Sheriff of any [new] (or)

[changes to existing] online identifiers that the person uses or intends to use¹⁰].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [was a resident of or had established a residence in this state] [had been present in this state for more than 15 days][was a nonresident student or nonresident worker in this state], that the defendant had previously been convicted of a reportable offense for which the defendant must register, and that the defendant

- a) willfully [failed to register in person with the Sheriff's office in the county of the defendant's residence [[within three business days of the defendant's [release from a penal institution] [arrival in the county]]¹¹ [immediately upon the defendant's conviction]
- b) willfully failed to provide written notice of the defendant's new address, following a change in address, in person at the Sheriff's office, no later than three business days after the change of address to the Sheriff's office in the county with whom the defendant had last registered.]
- c) willfully [failed to verify and return the form in person within three business days of receiving it to the Sheriff's office listed on the address verification form.]
- d) willfully [[forged] [submitted under false pretenses] the information or verification notices required. (Information or a verification is forged if it is false, but appears to be genuine, and it is submitted with the intent to deceive.) (Information or a verification is submitted under false pretenses if it is a false representation, and calculated and intended to deceive.)]
- e) willfully [failed to inform the registering Sheriff's office of [enrollment] [termination of enrollment] as a student]

- f) willfully [failed to inform the registering Sheriff's office of [employment at an institution of higher education] [termination of employment at an institution of higher education]]
- g) willfully [failed within three business days to report in person to the Sheriff of the county of defendant's residence, of [his] [her] intent to remain in this state, after previously having given notice to that Sheriff of [his] [her] county of residence, of [his] [her] intent to reside in another state]
- h) willfully [failed to report to the Sheriff of a county within 10 days after moving to that county]
- i) willfully [failed to notify the registering Sheriff's office of out-of-county employment where temporary residence had been established¹²]
- j) willfully [failed to inform the registering Sheriff of any [new] (or) [changes to existing] online identifiers that the person uses or intends to use¹³]

it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. § 14-208.7.

2. See N.C. Gen. Stat. § 14-208.6.

3. See N.C. Gen. Stat. § 14-208.6 (4) for definition of "reportable offense."

4. Each of the potential violations in this element must be willful to support a conviction for this offense, so the term "willfully" should be included when instructing on any of the potential violations. See *State v. Lindsay*, 853 S.E. 2d 870, 2021 NC COA 31 (2021) (unpublished decision) (concluding that, viewing the instructions in their entirety, there was no plain error, but the misplacement of the term "willfully" in one segment of the trial court's instruction created ambiguity).

5. See N.C. Gen. Stat. § 14-208.7(a)(1).

6. See N.C. Gen. Stat. § 14-208.7(a)(2).

7. See N.C. Gen. Stat. § 14-208.9. See also *State v. Holmes*, 149 N.C. App. 572, 562

S.E.2d 26 (2002) (construing N.C. Gen. Stat. §§ 14-208.9 and 14-208.11 together and concluding that the failure to timely notify the sheriff in writing about a change of address constitutes a felony).

8. See N.C. Gen. Stat. § 14-208.9A(4).

9. For temporary residence conditions see N.C. Gen. Stat. § 14-208.8A.

10. N.C. Gen. Stat. § 14-208.11(a)(10) defines “online identifiers” as “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”.

11. See N.C. Gen. Stat. § 14-208.7(a)(1).

12. For temporary residence conditions see N.C. Gen. Stat. § 14-208.8A.

13. N.C. Gen. Stat. § 14-208.11(a)(10) defines “online identifiers” as “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.”

