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SENATE BILL DRS35069-ML-45B

Short Title: Child Sex Abuse/Strengthen Laws.

(Public)

Sponsors: Senators Britt, Harrington, and Chaudhuri (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT CHILDREN FROM SEX ABUSE BY IMPROVING
3 PROSECUTORIAL OPTIONS FOR DELAYED REPORTS OF CHILD ABUSE, TO
4 EXPAND THE MANDATORY DUTY OF REPORTING CHILD ABUSE, AND TO
5 PROTECT CHILDREN FROM ONLINE PREDATORS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. TITLE**

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

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

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

15 **§ 14-318.6. Failure to report crimes against juveniles; penalty.**

16 (a) Definition. – For purposes of this section, the term "juvenile" has the same meaning
17 as in G.S. 7B-101.

18 (b) Requirement. – A person or institution who has cause to suspect that a juvenile has
19 been the victim of a crime shall immediately report the case of that juvenile to the appropriate
20 local law enforcement agency in the county where the juvenile resides or is found. The report
21 may be made orally or by telephone. The report shall include information as is known to the
22 person making it including the name and address of the juvenile; the name and address of the
23 juvenile's parent, guardian, custodian, or caretaker; the age of the juvenile; the names and ages
24 of other juveniles present or in danger; the present whereabouts of the juvenile if not at the home
25 address; the nature and extent of any injury or condition resulting from the abuse; and any other
26 information which the person making the report believes might be helpful in establishing the
27 need for law enforcement involvement. The person making the report shall give the person's
28 name, address, and telephone number.

29 (c) Penalty. – Any person or institution who knowingly or wantonly fails to report the
30 case of a juvenile as required by subsection (b) of this section, or who knowingly or wantonly
31 prevents another person from making a report as required by subsection (b) of this section, is
32 guilty of a Class 1 misdemeanor.

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



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

3
4 **PART III. EXPANDING THE STATUTE OF LIMITATIONS FOR MISDEMEANOR**
5 **CRIMES INVOLVING ABUSE AGAINST CHILDREN**

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

7 **"§ 15-1. Statute of limitations for misdemeanors.**

8 (a) Definition. – For purposes of this section, the term "crime of abuse" means any of the
9 following misdemeanor offenses when the victim is under the age of 18:

10 (1) G.S. 7B-301.

11 (2) G.S. 14-23.6.

12 (3) G.S. 14-27.33.

13 (4) Subsection (f) of G.S. 14-32.1.

14 (5) The following subsections and subdivisions of G.S. 14-33:

15 a. Subsection (a).

16 b. Subdivision (1) through (3) subsection (c).

17 c. Subsection (d).

18 (6) G.S. 14-34.

19 (7) G.S. 14-40.

20 (8) G.S. 14-46.

21 (9) G.S. 14-190.5A.

22 (10) Subsection (a) of G.S. 14-190.9.

23 (11) Subsections (a), (a1), and (c) of G.S. 14-202.

24 (12) G.S. 14-202.2.

25 (13) G.S. 14-277.1.

26 (14) G.S. 14-277.3A.

27 (15) G.S. 14-318.2.

28 (16) Any attempt, solicitation, or conspiracy to commit any of the offenses listed
29 in this subsection.

30 (b) Statute of Limitations. – The crimes of deceit and malicious mischief, and the crime
31 of petit larceny where the value of the property does not exceed five dollars (\$5.00), and all
32 misdemeanors except crimes of abuse and malicious misdemeanors, shall be charged within two
33 years after the commission of the same, and not afterwards: Provided, that if any pleading shall
34 be defective, so that no judgment can be given thereon, another prosecution may be instituted for
35 the same offense, within one year after the first shall have been abandoned by the State. Crimes
36 of abuse shall be charged within 10 years of the commission of the crime."

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

39
40 **PART IV. PROTECTING CHILDREN ONLINE FROM HIGH-RISK SEX OFFENDERS**

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

42 **"§ 14-202.5. Ban use of commercial social networking Web sites by sex-high-risk sex**
43 **offenders.**

44 (a) Offense. – It is unlawful for a high-risk sex offender who is registered in accordance
45 with Article 27A of Chapter 14 of the General Statutes to intentionally or knowingly access a
46 Web site with terms of use prohibiting sex offenders from the site, or to intentionally or
47 knowingly use a commercial social networking Web site where the sex offender knows that the
48 site permits minor children to become members or to create or maintain personal Web pages on
49 the commercial social networking Web site for any of the following purposes:

50 (1) To access a personal Web page or profile of a person that the offender knows
51 or should have known is under 16 years of age.

- 1 (2) To contact a person that the offender knows or should have known is under
2 16 years of age.
- 3 (3) To pose falsely as a person under 16 years of age.
- 4 (4) To join or view online groups that the offender knows or should have known
5 contains at least one person under 16 years of age.
- 6 (b) Definition of Commercial Social Networking Web Site. – For the purposes of this
7 section, a "commercial social networking Web site" ~~is an~~ includes any Web site, application,
8 portal, or other means of accessing the Internet Web site that meets all of the following
9 requirements:
- 10 (1) Is operated by a person who derives revenue from membership fees,
11 advertising, or other sources related to the operation of the Web site.
- 12 (2) ~~Facilitates the social introduction between two or more persons for the~~
13 ~~purposes of friendship, meeting other persons, or information exchanges.~~
- 14 (3) Allows users to create personal Web pages or personal profiles that contain
15 ~~information such as the user's name or nickname of the user, nickname,~~
16 ~~photographs placed on the personal Web page by the user, of the user, and~~
17 ~~other personal information about the user, and links to other personal Web~~
18 ~~pages on the commercial social networking Web site of friends or associates~~
19 ~~of the user that may be accessed by other users or visitors to the Web~~
20 ~~site.~~ information.
- 21 (4) Provides users or visitors ~~to the commercial social networking Web site~~
22 ~~mechanisms a~~ mechanism to communicate with ~~other users, others,~~ such as a
23 message board, chat room, ~~electronic mail,~~ or instant messenger.
- 24 (c) Exclusions from Commercial Social Networking Web Site Definition. – A
25 commercial social networking Web site does not include ~~an Internet a~~ Web site that either: meets
26 either of the following requirements:
- 27 (1) ~~Provides only one of the following discrete services: photo sharing, electronic~~
28 ~~mail, instant messenger, or chat room or message board platform; or~~
- 29 (2) Has as its primary purpose the facilitation of commercial ~~transactions~~
30 ~~involving goods or services between its members or visitors.~~ transactions, the
31 ~~dissemination of news, the discussion of political or social issues, or~~
32 ~~professional networking.~~
- 33 (3) Is a Web site owned or operated by a local, State, or federal governmental
34 entity.
- 35 (c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term
36 "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter
37 14 of the General Statutes that meets any of the following requirements:
- 38 (1) Was convicted of an aggravated offense, as that term is defined in
39 G.S. 14-208.6, against a person under 18 years of age.
- 40 (2) Is a recidivist, as that term is defined in G.S. 14-208.6, based on a prior
41 conviction for an offense against a person under 18 years of age.
- 42 (3) Was convicted of an offense against a minor, as that term is defined in
43 G.S. 14-208.6.
- 44 (4) Was convicted of a sexually violent offense, as that term is defined in
45 G.S. 14-208.6, against a person under 18 years of age.
- 46 (5) Is a sexually violent predator, as that term is defined in G.S. 14-208.6, based
47 on a conviction of a sexually violent offense committed against a minor.
- 48 (6) Was convicted of a violation of any of the following:
- 49 a. G.S. 14-27.23.
- 50 b. Subsection (a) of G.S. 14-27.25.
- 51 c. G.S. 14-27.28.

- 1 d. Subsection (a) of G.S. 14-27.30.
 2 e. G.S. 14-27.31, if the victim was under 18 years of age.
 3 f. G.S. 14-27.32, if the victim was under 18 years of age.
 4 g. G.S. 14-43.11, if the victim was under 18 years of age.
 5 h. G.S. 14-202.3, if the victim was under 18 years of age.
 6 i. G.S. 14-190.16, if the victim was under 18 years of age.

7 (d) Jurisdiction. – The offense is committed in the State for purposes of determining
 8 jurisdiction, if the transmission that constitutes the offense either originates in the State or is
 9 received in the State.

10 (e) Punishment. – A violation of this section is a Class ~~F~~G felony.

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

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

16 "**§ 14-202.5A. Liability of commercial social networking sites.**

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

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

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

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

32 ...

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

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

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

40 ...

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

43 **SECTION 4.(e)** Subsection (c) of this section becomes effective December 1, 2019,
 44 and applies to persons whose initial registration under Article 27A of Chapter 14 of the General
 45 Statutes occurs on or after that date, and to persons who are registered under Article 27A of
 46 Chapter 14 of the General Statutes prior to that date and continue to be registered on that date.
 47 However, any person registered under Article 27A of Chapter 14 of the General Statutes prior to
 48 December 1, 2019, and continuing to be registered on December 1, 2019, shall not be in violation
 49 of the requirement set forth in G.S. 14-208.7(b)(8) if the person provides the required information
 50 at the first verification of information required under G.S. 14-208.9A that occurs on or after
 51 December 1, 2019. Subsections (a) and (d) of this section become effective December 1, 2019,

1 and applies to offenses committed on or after that date. The remainder of this section becomes
2 effective December 1, 2019.

3
4 **PART V. EXPANDING THE LIST OF CRIMES FOR WHICH AN INVESTIGATIVE**
5 **GRAND JURY CAN BE CONVENED**

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

7 "**§ 15A-622. Formation and organization of grand juries; other preliminary matters.**

8 ...

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

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

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

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

43 (i) An investigative grand jury may be convened pursuant to subsection (h) of this section
44 if the petition alleges the commission of, attempt to commit or solicitation to commit, or a
45 conspiracy to commit a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12
46 (involuntary servitude), ~~or G.S. 14-43.13 (sexual servitude).~~(sexual servitude), or a crime of
47 abuse, as that term is defined in G.S. 15-1.

48"

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

1 **PART VI. INVESTIGATIVE GRAND JURY/STATUTORY PROCEDURE TO**
2 **SUBPOENA RECORDS**

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

4 "(h) If a grand jury is convened pursuant to G.S. 15A-622(h), notwithstanding subsection
5 (d) of this section, a prosecutor shall be present to examine witnesses, and a court reporter shall
6 be present and record the examination of witnesses. The record shall be transcribed. If the
7 prosecutor determines that it is necessary to compel testimony from the witness, he may grant
8 use immunity to the witness. The grant of use immunity shall be given to the witness in writing
9 by the prosecutor and shall be signed by the prosecutor. The written grant of use immunity shall
10 also be read into the record by the prosecutor and shall include an explanation of use immunity
11 as provided in G.S. 15A-1051. A witness shall have the right to leave the grand jury room to
12 consult with his counsel at reasonable intervals and for a reasonable period of time upon the
13 request of the witness. Notwithstanding subsection (e) of this section, the record of the
14 examination of witnesses shall be made available to the examining prosecutor, and he may
15 disclose contents of the record to other investigative or law-enforcement officers, the witness or
16 his attorney to the extent that the disclosure is appropriate to the proper performance of his
17 official duties. The record of the examination of a witness may be used in a trial to the extent that
18 it is relevant and otherwise admissible. Further disclosure of grand jury proceedings convened
19 pursuant to this act may be made upon written order of a superior court judge if the judge
20 determines disclosure is essential:

21 ...

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 in court before trial or before the
31 designated items are to be offered in evidence. Any information, records, or data reported or
32 obtained pursuant to a subpoena duces tecum authorized under this subsection shall be
33 confidential and shall not be disclosed unless in connection with a criminal case related to the
34 subpoenaed materials. Upon a motion made promptly, the court may quash or modify the
35 subpoena duces tecum if the court determines that compliance with the subpoena would be
36 unreasonable or oppressive. After an indictment, information, or other pleading is filed, a
37 subpoena requiring the production of personal or confidential information about a victim may be
38 served on a third party only by court order. Before entering the order, and unless the court
39 determines there are exceptional circumstances, the court must require giving notice to the victim
40 so that the victim can move to quash the subpoena or otherwise object. The presiding superior
41 court judge shall hear any matter concerning the investigative grand jury in camera to the extent
42 necessary to prevent disclosure of its existence. The court reporter for the investigative grand
43 jury shall be present and record and transcribe the in camera proceeding. The transcription of any
44 in camera proceeding and a copy of all subpoenas and other process shall be returned to the Chief
45 Justice or to such member of the three-judge panel as the Chief Justice may designate, to be filed
46 with 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. EXTENDING THE STATUTE OF LIMITATIONS FOR CIVIL ACTION**
9 **FOR CHILD SEXUAL ABUSE SO A PLAINTIFF HAS UNTIL AGE 50 TO**
10 **COMMENCE AN ACTION**

11 **SECTION 7.(a)** G.S. 1-17 is amended by adding a new subsection to read:

12 "(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a
13 plaintiff may file a civil action against a defendant for sexual abuse suffered while the plaintiff
14 was under 18 years of age until the plaintiff attains 50 years of age."

15 **SECTION 7.(b)** G.S. 1-52 reads as rewritten:

16 "**§ 1-52. Three years.**

17 Within three years an action -

18 ...

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

22 ...

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

31 ...

32 (19) For assault, battery, or false ~~imprisonment~~imprisonment, except as provided
33 by G.S. 1-17(d).

34"

35 **SECTION 7.(c)** G.S. 1-56 reads as rewritten:

36 "**§ 1-56. All other actions, 10 years.**

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

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

41 **SECTION 7.(d)** Effective from January 1, 2020, until December 31, 2020, this
42 section revives any civil action for child sexual abuse otherwise time-barred under G.S. 1-52 as
43 it existed immediately before the enactment of this section.

44 **SECTION 7.(e)** Except as specifically provided by subsection (d) of this section,
45 this section is effective when it becomes law, and applies to civil actions commenced on or after
46 that date.

47
48 **PART VIII. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE**

49 **SECTION 8.(a)** If any provision of this act or its application is held invalid, the
50 invalidity does not affect other provisions or applications of this act that can be given effect

1 without the invalid provisions or application, and to this end the provisions of this act are
2 severable.

3 **SECTION 8.(b)** Prosecutions for offenses committed before the effective date of
4 this act are not abated or affected by this act, and the statutes that would be applicable but for
5 this act remain applicable to those prosecutions.

6 **SECTION 8.(c)** Except as otherwise provided, this act is effective when it becomes
7 law.