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Sponsors:

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March 7, 2019

A BILL TO BE ENTITLED

AN ACT TO PROTECT CHILDREN FROM SEXUAL ABUSE BY INCREASING PROSECUTORIAL OPTIONS FOR DELAYED REPORTS OF CHILD ABUSE, TO EXPAND THE DUTY TO REPORT CHILD ABUSE, TO PROTECT CHILDREN FROM ONLINE PREDATORS, TO EXTEND THE STATUTE OF LIMITATIONS FOR A CIVIL ACTION FOR CHILD SEXUAL ABUSE SO THAT A PLAINTIFF HAS UNTIL AGE THIRTY-EIGHT TO COMMENCE AN ACTION, AND TO REQUIRE TRAINING ON CHILD SEX ABUSE AND SEX TRAFFICKING FOR SCHOOL PERSONNEL.

The General Assembly of North Carolina enacts:

PART I. TITLE

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

PART II. EXPAND DUTY TO REPORT CRIMES AGAINST JUVENILES

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

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

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

- (1) Juvenile. – As defined in G.S. 7B-101. For the purposes of this section, the age of the juvenile at the time of the abuse or offense governs.
- (2) Serious bodily injury. – As defined in G.S. 14-318.4(d).
- (3) Serious physical injury. – As defined in G.S. 14-318.4(d).
- (4) Sexually violent offense. – An offense committed against a juvenile that is a sexually violent offense as defined in G.S. 14-208.6(5). This term also includes the following: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (5) Violent offense. – Any offense that inflicts upon the juvenile serious bodily injury or serious physical injury by other than accidental means. This term also includes the following: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.



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1 **(b) Requirement.** – Any person 18 years of age or older, other than the juvenile's parent
2 or guardian, who knows or should have reasonably known that a juvenile has been or is the victim
3 of a violent offense, sexual offense, or misdemeanor child abuse under G.S. 14-318.2 shall
4 immediately report the case of that juvenile to the appropriate local law enforcement agency in
5 the county where the juvenile resides or is found. The report may be made orally or by telephone.
6 The report shall include information as is known to the person making it, including the name,
7 address, and age of the juvenile; the name and address of the juvenile's parent, guardian,
8 custodian, or caretaker; the name, address, and age of the person who committed the offense
9 against the juvenile; the location where the offense was committed; the names and ages of other
10 juveniles present or in danger; the present whereabouts of the juvenile, if not at the home address;
11 the nature and extent of any injury or condition resulting from the offense or abuse; and any other
12 information which the person making the report believes might be helpful in establishing the
13 need for law enforcement involvement. The person making the report shall give his or her name,
14 address, and telephone number.

15 **(c) Penalty.** – Any person 18 years of age or older, who knows or should have reasonably
16 known that a juvenile was the victim of a violent offense, sexual offense, or misdemeanor child
17 abuse under G.S. 14-318.2, and knowingly or willfully fails to report as required by subsection
18 (b) of this section, or who knowingly or willfully prevents another person from reporting as
19 required by subsection (b) of this section, is guilty of a Class 1 misdemeanor.

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

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

25 **(f) Good-Faith Immunity.** – A person who makes a report in good faith under this Article,
26 cooperates with law enforcement in an investigation, or testifies in any judicial proceeding
27 resulting from a law enforcement report or investigation is immune from any civil or criminal
28 liability that might otherwise be incurred or imposed for that action, provided that person was
29 acting in good faith.

30 **(g) Law Enforcement Duty to Report Evidence to the Department of Social Services.** –
31 If any law enforcement officer, as the result of a report, finds evidence that a juvenile may be
32 abused, neglected, or dependent as defined in G.S. 7B-101, the law enforcement officer shall
33 make an oral report as soon as practicable and make a subsequent written report of the findings
34 to the director of the department of social services within 48 hours after discovery of the
35 evidence. When a report of abuse, neglect, or dependency is received, the director of the
36 department of social services shall make a prompt and thorough assessment, in accordance with
37 G.S. 7B-302, to determine whether protective services should be provided or the complaint filed
38 as a petition.

39 **(h)** Nothing in this section shall be construed as to require a person with a privilege under
40 G.S. 8-53.3, 8-53.7, 8-53.8, or 8-53.12 or with attorney-client privilege to report pursuant to this
41 section if that privilege would prevent them from doing so."

43 **PART III. EXPANDING THE STATUTE OF LIMITATIONS FOR MISDEMEANOR** 44 **CRIMES INVOLVING ABUSE AGAINST CHILDREN**

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

46 **"§ 15-1. Statute of limitations for misdemeanors.**

47 **(a)** The crimes of deceit and malicious mischief, and the crime of petit larceny where the
48 value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious
49 misdemeanors, shall be charged within two years after the commission of the same, and not
50 afterwards: Provided, that if any pleading shall be defective, so that no judgment can be given

1 thereon, another prosecution may be instituted for the same offense, within one year after the
2 first shall have been abandoned by the State.

3 (b) Notwithstanding subsection (a) of this section, the following misdemeanors shall be
4 charged within 10 years of the commission of the crime:

- 5 (1) G.S. 7B-301(b).
- 6 (2) G.S. 14-27.33.
- 7 (3) G.S. 14-202.2.
- 8 (4) G.S. 14-318.2.
- 9 (5) G.S. 14-318.6."

10 11 **PART IV. PROTECTING CHILDREN ONLINE FROM HIGH-RISK SEX OFFENDERS**

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

13 **"§ 14-202.5. ~~Ban use of commercial social networking Web sites by sex offenders.~~Ban online**
14 **conduct by high-risk sex offenders that endangers children.**

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

- 20 (1) To communicate with a person that the offender believes is under 16 years of
21 age.
- 22 (2) To contact a person that the offender believes is under 16 years of age.
- 23 (3) To pose falsely as a person under 16 years of age with the intent to commit an
24 unlawful sex act with a person the offender believes is under 16 years of age.
- 25 (4) To use a Web site to gather information about a person that the offender
26 believes is under 16 years of age.
- 27 (5) To use a commercial social networking Web site in violation of a policy,
28 posted in a manner reasonably likely to come to the attention of users,
29 prohibiting convicted sex offenders from using the site.

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

- 34 (1) Is operated by a person who derives revenue from membership fees,
35 advertising, or other sources related to the operation of the Web site.
- 36 (2) ~~Facilitates the social introduction between two or more persons for the~~
37 ~~purposes of friendship, meeting other persons, or information exchanges.~~
- 38 (3) Allows users to create personal Web pages or personal profiles that contain
39 information such as the user's name or nickname of the user, nickname,
40 photographs placed on the personal Web page by the user, of the user, and
41 other personal information about the user, and links to other personal Web
42 pages on the commercial social networking Web site of friends or associates
43 of the user that may be accessed by other users or visitors to the Web
44 site:information.
- 45 (4) Provides users or visitors to the commercial social networking Web site
46 mechanisms a mechanism to communicate with other users, others, such as a
47 message board, chat room, electronic mail, or instant messenger.

48 (c) Exclusions from Commercial Social Networking Web Site Definition. – A
49 commercial social networking Web site does not include an Internet a Web site that either:meets
50 either of the following requirements:

- 1 (1) Provides only one of the following discrete services: photo sharing, electronic
2 mail, instant messenger, or chat room or message board platform; or
3 (2) Has as its primary purpose the facilitation of commercial ~~transactions~~
4 involving goods or services between its members or visitors, transactions, the
5 dissemination of news, the discussion of political or social issues, or
6 professional networking.
7 (3) Is a Web site owned or operated by a local, State, or federal governmental
8 entity.

9 (c1) Definition of High-Risk Sex Offender. – For purposes of this section, the term
10 "high-risk sex offender" means any person registered in accordance with Article 27A of Chapter
11 14 of the General Statutes that meets any of the following requirements:

- 12 (1) Was convicted of an aggravated offense, as that term is defined in
13 G.S. 14-208.6, against a person under 18 years of age.
14 (2) Is a recidivist, as that term is defined in G.S. 14-208.6, and one offense is
15 against a person under 18 years of age.
16 (3) Was convicted of an offense against a minor, as that term is defined in
17 G.S. 14-208.6.
18 (4) Was convicted of a sexually violent offense, as that term is defined in
19 G.S. 14-208.6, against a person under 18 years of age.
20 (5) Was found by a court to be a sexually violent predator, as that term is defined
21 in G.S. 14-208.6, based on a conviction of a sexually violent offense
22 committed against a minor.

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

26 (e) Punishment. – A violation of this section is a Class ~~I-H~~ felony.

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

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

32 "**§ 14-202.5A. Liability of commercial social networking sites.**

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

41 (b) For the purposes of this section, "access" is defined as allowing the sex offender to
42 do any of the activities or actions described in G.S. 14-202.5(b)(2) through G.S. 14-202.5(b)(4)
43 by utilizing the Web site."
44

45 **PART V. EXTEND CIVIL STATUTE OF LIMITATIONS AND REQUIRE TRAINING**

46 **SECTION 5.1.** G.S. 1-17 is amended by adding a new subsection to read:

47 "(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a
48 plaintiff may file a civil action against a defendant for sexual abuse suffered while the plaintiff
49 was under 18 years of age until the plaintiff attains 38 years of age."

50 **SECTION 5.2.(a)** G.S. 1-52 reads as rewritten:

51 "**§ 1-52. Three years.**

1 Within three years an action -

2 ...

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

6 ...

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

15 ...

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

18"

19 **SECTION 5.2.(b)** Effective from January 1, 2020, until December 31, 2021, this
20 section revives any civil action for child sexual abuse otherwise time-barred under G.S. 1-52 as
21 it existed immediately before the enactment of this act.

22 **SECTION 5.3.** G.S. 1-56 reads as rewritten:

23 **"§ 1-56. All other actions, 10 years.**

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

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

28 **SECTION 5.4.(a)** G.S. 115C-47 is amended by adding a new subdivision to read:

29 "(64) To adopt a child sexual abuse and sex trafficking training program. – Each
30 local board of education shall adopt and implement a child sexual abuse and
31 sex trafficking training program for school personnel who work directly with
32 students in grades kindergarten through 12, as required by G.S. 115C-375.20."

33 **SECTION 5.4.(b)** G.S. 115C-218.75 is amended by adding a new subsection to read:

34 "(g) Child Sexual Abuse and Sex Trafficking Training Program. – A charter school shall
35 adopt and implement a child sexual abuse and sex trafficking training program in accordance
36 with G.S. 115C-375.20."

37 **SECTION 5.4.(c)** G.S. 115C-238.66 is amended by adding a new subdivision to
38 read:

39 "(14) Child sexual abuse and sex trafficking training program. – The board of
40 directors shall adopt and implement a child sexual abuse and sex trafficking
41 training program in accordance with G.S. 115C-375.20."

42 **SECTION 5.4.(d)** G.S. 116-239.8(b) is amended by adding a new subdivision to
43 read:

44 "(17) Child sexual abuse and sex trafficking training program. – The chancellor
45 shall adopt and ensure implementation of a child sexual abuse and sex
46 trafficking training program in accordance with G.S. 115C-375.20."

47 **SECTION 5.4.(e)** The title of Article 25A of Chapter 115C of the General Statutes
48 reads as rewritten:

49 "Article 25A.

50 "Special Medical Needs of ~~Students~~ Students and Identification of Sexual Abuse of Students."

1 **SECTION 5.4.(f)** Article 25A of Chapter 115C of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 115C-375.20. Child sexual abuse and sex trafficking training program required.**

4 (a) Definitions. – The following definitions shall apply in this section:

5 (1) School personnel. – Teachers, instructional support personnel, principals, and
6 assistant principals. This term may also include, in the discretion of the
7 employing entity, other school employees who work directly with students in
8 grades kindergarten through 12.

9 (b) Each employing entity shall adopt and implement a child sexual abuse and sex
10 trafficking training program for school personnel who work directly with students in grades
11 kindergarten through 12 that provides education and awareness training related to child sexual
12 abuse and sex trafficking, including, but not limited to, best practices from the field of prevention,
13 the grooming process of sexual predators, the warning signs of sexual abuse and sex trafficking,
14 how to intervene when sexual abuse or sex trafficking is suspected or disclosed, legal
15 responsibilities for reporting sexual abuse or sex trafficking, and available resources for
16 assistance. This training may be provided by local nongovernmental organizations with expertise
17 in these areas, local law enforcement officers, or other officers of the court. All school personnel
18 who work with students in grades kindergarten through 12 shall receive two hours of training
19 consistent with this section in even-numbered years beginning in 2020.

20 (c) No entity required to adopt a child sexual abuse and sex trafficking training program
21 by G.S. 115C-47(64), 115C-218.75(g), 115C-238.66(14), or 116-239.8(b)(17), or its members,
22 employees, designees, agents, or volunteers, shall be liable in civil damages to any party for any
23 loss or damage caused by any act or omission relating to the provision of, participation in, or
24 implementation of any component of a child sexual abuse and sex trafficking training program
25 required by this section, unless that act or omission amounts to gross negligence, wanton conduct,
26 or intentional wrongdoing. Nothing in this section shall be construed to impose any specific duty
27 of care or standard of care on an entity required to adopt a child sexual abuse and sex trafficking
28 training program by G.S. 115C-47(64), 115C-218.75(g), 115C-238.66(14), or
29 116-239.8(b)(17)."

30 **SECTION 5.4.(g)** This section is effective when it becomes law. Each entity
31 required by Section 5.4(a), (b), (c), and (d) to adopt and implement a child sexual abuse and sex
32 trafficking training program shall do so by January 1, 2020, and training shall be required for
33 school personnel beginning with the 2020-2021 school year.

34
35 **PART VI. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE**

36 **SECTION 6.(a)** If any provision of this act or its application is held invalid, the
37 invalidity does not affect other provisions or applications of this act that can be given effect
38 without the invalid provisions or applications, and, to this end, the provisions of this act are
39 severable.

40 **SECTION 6.(b)** Prosecutions for offenses committed before the effective date of
41 this act are not abated or affected by this act, and the statutes that would be applicable but for
42 this act remain applicable to those prosecutions.

43 **SECTION 6.(c)** Parts I, II, III, and IV of this act become effective December 1, 2019,
44 and apply to offenses committed on or after that date. Part V of this act is effective when it
45 becomes law, and Section 5.2 applies to civil actions commenced on or after that date. The
46 remainder of this act is effective when it becomes law.