



HOUSE BILL 1021: Amend Sex Offender Certain Premises.

2015-2016 General Assembly

Committee:		Date:	August 12, 2016
Introduced by:		Prepared by:	Susan Sitze
Analysis of:	S.L. 2016-102		Staff Attorney

OVERVIEW: *S.L. 2016-102 modifies the law regarding sex offenders on certain premises by limiting the application of certain portions of the law to certain sex offenders and by rewording other portions of the law to address constitutional issues noted by the ruling in Doe v. Cooper.*

This act became effective September 1, 2016, and applies to offenses committed on or after that date.

CURRENT LAW: G.S. 14-208.18(a) prohibits certain sex offenders from being in certain locations. In two separate orders, in the case of *Doe v. Cooper*, No. 1:13CV711 (M.D.N.C), the United States District Court for the Middle District of North Carolina has found G.S. 14-208.18(a)(2) and 14-208.18(a)(3) to be unconstitutional and has enjoined enforcement of those subsections.

G.S. 14-208.18(a)(2) prohibits certain sex offenders from knowingly being "[w]ithin 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, [schools, children's museums, child care centers, nurseries, and playgrounds] that are located in malls, shopping centers, or other property open to the general public."

Prior to the enactment of this act, **G.S. 14-208.18(a)(3)** prohibited certain sex offenders from knowingly being "[a]t any place where minors gather for regularly scheduled educational, recreational, or social programs."

In an order issued December 7, 2015, the court found G.S. 14-208.18(a)(3) [places where minors regularly gather] to be unconstitutionally vague. In an order issued April 22, 2016, the court found G.S. 14-208.18(a)(2) [300 foot rule] to be unconstitutionally overbroad in violation of the First Amendment.

BILL ANALYSIS:

S.L. 2016-102 modifies G.S. 14-208.18 to address the constitutional issues found by the court in *Doe v. Cooper* as follows:

- Subdivision (3) of subsection (a) is amended to clarify that certain sex offenders are prohibited from being at any place where minors "frequently congregate, including, but not limited to, libraries, arcades, amusement parks, recreation parks, and swimming pools" and only "when minors are present".
- A new subdivision (4) of subsection (a) is added to prohibit certain sex offenders from being on the State Fairgrounds during the period of time each year when the State Fair is conducted, on the Western North Carolina Agricultural Center grounds during the period of time each year that the North Carolina Mountain State Fair is conducted, and on any other fairgrounds during the period of time that an agricultural fair is being conducted.

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- Subsection (c), which addresses which sex offenders are subject to the premises limitations of G.S. 14-208.18, is amended to provide that the 300 feet rule only applies to offenders whose victims were under the age of 18 and to offenders that have been found by a court to present or possibly present a danger to minors under the age of 18.
- Subsection (c) is also amended to apply the statute in its entirety to sex offenders whose victims were under the age of 18. The previous application was to sex offenders whose victims were under the age of 16.

EFFECTIVE DATE: This act became effective September 1, 2016, and applies to offenses committed on or after that date. However, if either or both decisions are stayed or overturned by a higher court on appeal, the relevant portion of the prior version of the statute would again become effective.