



SENATE BILL 199: Child Sex Abuse/Strengthen Laws.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 3, 2019
Introduced by:	Sens. Britt, Harrington, Chaudhuri	Prepared by:	Jennifer H. Bedford
Analysis of:	PCS to First Edition S199-CSTT-17		Staff Attorney

OVERVIEW: *The PCS for Senate Bill 199 would mandate reporting crimes against children to law enforcement; amend the current statute regarding certain sex offenders' access to the Internet; require certain sex offenders to register Internet protocol (IP) addresses; authorize an investigative grand jury to convene for certain crimes against a child and gang offenses; and model the subpoena procedures for an investigative grand jury after federal law.*

BILL ANALYSIS AND CURRENT LAW:

Part I of the PCS for Senate Bill 199 would name the act "The Sexual Assault Fast Reporting and Enforcement (Safe Child) Act of 2019".

Part II of the PCS for Senate Bill 199 would:

- Require the reporting of a felony or a crime of abuse committed on a juvenile to local law enforcement.
- Create a Class 1 misdemeanor for failure to report or preventing someone else from reporting a felony or a crime of abuse committed on a juvenile to law enforcement.
- Define "crime of abuse".
- Protect the identity of the person making the report.

G. S. 7B-301 currently requires the reporting of abuse, neglect, or death due to maltreatment to social services. The penalty is a Class 1 misdemeanor.

Part III of Senate Bill 199 would explicitly extend the statute of limitations to ten years after the offense date for certain misdemeanor offenses where the victim was a minor.

G. S. 15-1 currently provides a two-year window of time to charge most misdemeanors. There is no statutory time bar to charge a felony or a "malicious misdemeanor".

Part IV of Senate Bill 199 would amend existing prohibitions for sex offenders to use some social networking website by:

- Narrowing the sex offenders who are restricted from certain online activity to individuals who have been convicted of sexual offenses against a victim who was under 18 years of age.

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- Narrowing the prohibited conduct to communicating with, contacting, posing as, or gathering information about a child under 16 years of age.
- Prohibiting the use of a social networking website with a policy posted prohibiting convicted sex offenders from using the site.
- Creating and defining the term "high-risk sex offender".
- Excluding accessing news, professional networking, and governmental web sites from the prohibition.
- Increasing the criminal penalty for prohibited access, from a Class I to a Class H felony.

G. S. 14-202.5 prohibits any registered sex offender from accessing a web site that permits use by minor children but the statute has been struck down by the U. S. Supreme Court. The ban no longer applies as a standalone crime.

In *Packingham v. North Carolina* (2017), the U. S. Supreme Court found G. S. 14-202.5 unconstitutional. Although protecting children from sex crimes is a legitimate governmental interest, the Court concluded that G. S. 14-202.5 was invalid under the First Amendment because the restriction prohibited access to too much legitimate speech.

G. S. 14-202.3 makes soliciting a child or someone the person believes is a child, for sex via a computer a Class H felony. If the person shows up at a meeting location after soliciting a child for sex via a computer, then it is a Class G felony.

Part IV of Senate Bill 199 would also require a "high-risk sex offender" to provide the Internet protocol (IP) addresses within the offender's control, and update the sheriff if the Internet protocol is changed.

Part V of Senate Bill 199 would authorize an investigative grand jury to be convened for violations of the North Carolina Gang Suppression Act, and any felony sex crime against a child or crime of abuse.

G. S. 15A-622 and **G. S. 15A-623** authorize an investigative grand jury. This is the State counterpart to the federal grand jury. The investigative grand jury may be convened if a three-judge panel finds that there is probable cause to believe that specific controlled substance or human trafficking violations have occurred.

Part VI of Senate Bill 199 would provide a process for a District Attorney to get records while maintaining the integrity of an investigative grand jury.

EFFECTIVE DATE: This bill would generally become effective December 1, 2019. Please see the bill for more specific detail.