



SENATE BILL 199: Child Sex Abuse/Strengthen Laws.

2019-2020 General Assembly

Committee:		Date:	July 30, 2019
Introduced by:	Sens. Britt, Harrington, Chaudhuri	Prepared by:	Tawanda N. Foster
Analysis of:	Sixth Edition		Staff Attorney

OVERVIEW: *Senate Bill 199 does the following:*

- *Increases prosecutorial options when there are delayed reports of juveniles who are victims of violent offenses, sexual offenses, or child abuse.*
- *Expands the duty to report child abuse.*
- *Protects children from online predators.*
- *Extends 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*
- *Requires training related to child sexual abuse and sex trafficking for school personnel.*

[As introduced, this bill was identical to H596, as introduced by Reps. Riddell, Faircloth, Torbett, B. Turner, which is currently in House Judiciary.]

CURRENT LAW:

G. S. 7B-301 requires every person who knows or has cause to suspect that a juvenile is abused, neglected, dependent, or has died as the result of maltreatment to social services. Failure to report the case of a juvenile under this statute is a Class 1 misdemeanor.

G. S. 15-1 establishes the statute of limitations for most misdemeanors as two years, with the exception of malicious misdemeanors. There is no statute of limitations for malicious misdemeanors.

G. S. 14-202.5 bans the use of commercial social networking Web sites by registered sex offenders.

- In 2017 this statute was found to be unconstitutional by the United States Supreme Court, holding that while protecting children from sex crimes is a legitimate governmental interest, the statute impermissibly restricts lawful speech in violation of the First Amendment. *See, Packingham v. North Carolina, 582 U.S. ___ (2017).*

G.S. 14-202.5A limits the civil liability of commercial networking sites when they comply with current law or make reasonable efforts to prevent registered sex offenders from accessing its site.

Civil procedure statutes govern when an action or special proceeding may be filed and the remedies available to petitioners in those actions. G.S. 1-17 sets forth the application of the statutes of limitations for a person entitled to commence an action who is under a disability at the time the cause of action occurs. The current law provides that person may bring his or her action within the time limits in the General

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Statutes, after the disability is removed, except in cases related to real property, when the person must commence his or her action, or make the entry, within three years next after the removal of the disability. A person is under a disability if the person is 1) under the age of 18 years; 2) insane; or 3) incompetent.

Chapter 115C contains the provisions related to maintaining a general and uniform system of free public schools governed by the State Board of Education. These statutes apply to local public schools, charter schools, and optional programs, such as innovative and regional schools. University of North Carolina (UNC) Laboratory Schools are governed by Chapter 116 of the General Statutes.

BILL ANALYSIS:

PART I. TITLE

Part 1 names this act, "The Sexual Assault Fast Reporting and Enforcement (Safe Child) Act of 2019."

PART II. EXPAND DUTY TO REPORT CRIMES AGAINST JUVENILES

Part 2 adds a new section to Article 39 (Protection of Minors) of Chapter 14 of the General Statutes to require any adult who knows or should have reasonably known a juvenile has been or is the victim of a violent offense, sexual offense, or misdemeanor child abuse to immediately report the case of that juvenile to the appropriate local law enforcement agency in the county where the juvenile resides or is found. The report may be made in person or by telephone.

- The report must include the following information if it is known to the reporter:
 - the name, address, and age of the juvenile;
 - the name and address of the juvenile's parent, guardian, custodian, or caretaker;
 - the name, address, and age of the person who committed the offense against the juvenile;
 - the location where the offense was committed;
 - the names and ages of other juveniles present or in danger;
 - the present whereabouts of the juvenile if not at the home address;
 - the nature and extent of any injury or condition resulting from the abuse or offense;
 - and
 - any other information which the person making the report believes might be helpful in establishing the need for law enforcement involvement.
 - The person making the report must also give their name, address, and telephone number.
- This section also makes the failure to report that a juvenile was the victim of a violent offense, sexual offense, or misdemeanor child abuse a Class 1 misdemeanor.
- A person who makes a report in good faith is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that person was acting in good faith.

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

Part 3 extends the statute of limitations to 10 years for the following misdemeanor offenses:

- Failure to report abuse, neglect, dependency or death due to maltreatment.

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- Sexual battery.
- Indecent liberties between children.
- Misdemeanor child abuse.
- Failure to report crimes against juveniles.

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

Part 4 defines the terms "high-risk sex offender" and "commercial social networking web site." Also, this Part also makes it unlawful for a high-risk sex offender to do any of the following online:

- To communicate with a person that the offender believes is under 16 years of age.
- To contact a person that the offender believes is under 16 years of age.
- To pose falsely as a person under 16 years of age with the intent to commit an unlawful sex act with a person the offender believes is under 16 years of age.
- To use a Web site to gather information about a person that the offender believes is under 16 years of age.
- To use a commercial social networking Web site in violation of a policy posted in a manner reasonably likely to come to the attention of users, prohibiting convicted sex offenders from using the site.

This Part also provides a commercial social networking website that complies with the current law on prescreening registered sex offenders or makes other reasonable efforts to prevent a high-risk sex offender from using its Web site to endanger children will not be held civilly liable for damages arising out of the sex offender's communication on that site.

PART V. EXTEND CIVIL STATUTE OF LIMITATIONS AND REQUIRE TRAINING

Part 5 extends the civil statute of limitations for child sexual abuse and requires training on child sex abuse and sex trafficking for school personnel.

Section 5.1 extends the statute of limitations for a civil action for child sexual abuse so that a plaintiff has until age 38 to commence the action.

Section 5.2 makes conforming changes to the statute of limitations for criminal conversation, personal injury, assault, battery, and false imprisonment to extend the statute of limitations in those causes of action so that a plaintiff has until age 38 to commence the action. This section also allows any civil action for child sexual abuse that has been otherwise time-barred under the current law to be revived from January 1, 2020, through December 31, 2021.

Section 5.3 makes conforming changes to extend the statute of limitations.

Section 5.4 requires all school personnel who work directly with students in grades kindergarten through 12 to receive 2 hours of training biennially related to child sexual abuse and child sex trafficking to include: best practices from the field of prevention, the grooming process of sexual predators, the warning signs of sexual abuse and sex trafficking, how to intervene when sexual abuse or sex trafficking is suspected or disclosed, legal responsibilities for reporting sexual abuse or sex trafficking, and available resources for assistance.

Section 5.5 appropriates fifty thousand dollars (\$50,000.00) for the 2019-2020 fiscal year to assist local school administrative units, charter schools, regional schools, innovative schools, and laboratory schools in implementing the training requirement in Section 5.4.

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PART VI. SEVERABILITY CLAUSE/SAVINGS CLAUSE/EFFECTIVE DATE

EFFECTIVE DATE: Parts I, II, III, and IV of this act become effective December 1, 2019, and apply to offenses committed on or after that date. Part V of this act is effective when it becomes law and Section 5.2 applies to civil actions commenced on or after that date. The remainder of this act is effective when it becomes law.