



HOUSE BILL 1008: Sex Offender/Probation/Victims Changes.

2021-2022 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 23, 2022
Introduced by: Reps. Boles, Davis, McNeill, C. Smith	Prepared by: Robert Ryan
Analysis of: Third Edition	Staff Attorney

OVERVIEW: *House Bill 1008 would make the following changes:*

- *Modify the law for the delivery of sex offender verification forms.*
- *Allow the court to delegate the ability to shorten a period of probation to a probation officer.*
- *Allow for the warrantless search of offenders on post release supervision.*
- *Allow victims of attempted homicides and related household members to terminate residential rental agreements early without penalty.*
- *Create a new qualified privilege for certain communications between victims of attempted homicides (and certain individuals related to those victims) and victim assistance centers.*
- *Allow all sheriff's offices in the state to contract for food and food services supplies without being subject to certain public contract laws.*
- *Amend the application of S.L. 2015-186 to apply to offenses committed before December 1, 2015.*
- *Allow a court to extend the term of a limited driving privilege to bridge the gap between the expiration of the limited driving privilege and the date set to consider reinstatement of the driver's regular driving privilege.*
- *Make impersonation of a taxicab driver unlawful.*

CURRENT LAW AND BILL ANALYSIS:

Section 1(a)

Any person convicted of an offense against a minor or of a sexually violent offense must register in person as an offender under the Sex Offender and Public Protection Registration Program (Program). G.S. 14-208.6A. A person who is a State resident and who has a reportable conviction must maintain registration with the sheriff of the county where the person resides. G.S. 14-208.7(a). Registration must be maintained for at least 30 years following the date of initial county registration unless the person, after 10 years of registration, successfully petitions the superior court to shorten his or her registration time period. *Id.*

The information in the county registry must be verified semiannually for each registrant. G.S. 14-208.9A(a). Every year on the anniversary of a person's initial registration date, and again six months later, the Department of Public Safety must send a verification form by nonforwardable mail to the last reported address of the person. G.S. 14-208.9A(a)(1).

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Section 1(a) would provide that if a person is serving a sentence of more than 24 months in the custody of the North Carolina Division of Adult Correction, the Department of Public Safety may deliver the verification form to the Division by a means other than nonforwardable mail.

Section 1(b)

Ten years from the date of initial county registration, a person who must register under the Program may petition the superior court to terminate the 30-year registration requirement if the person has not been convicted of a subsequent offense requiring registration. G.S. 14-208.12A(a).

If the reportable conviction is for an offense that occurred in North Carolina, the petition must be filed in the district where the person was convicted of the offense. *Id.*

If the reportable conviction is for an offense that occurred in another state, the petition must be filed in the district where the person resides. *Id.*

Regardless of where the offense occurred, if the defendant was convicted of a reportable offense in any federal court, the conviction will be treated as an out-of-state offense. *Id.*

Section 1(b) would clarify that a petition to terminate registration for an offense committed in North Carolina shall be filed in the district where the conviction occurred, regardless of the petitioner's current county or state of residence.

Section 1 would become effective August 1, 2022, and would apply to verification forms sent and petitions filed on or after that date.

Section 2

Probation is a form of punishment that can be ordered by a court after a defendant is convicted of an offense. G.S. 15A-1341(a) provides that a person who has been convicted of any criminal offense may be placed on probation if structured sentencing would allow the offender to receive either community or intermediate punishment.

G.S. 15A-1344 authorizes a judge of the court which imposed probation to reduce the period that an offender must remain on probation.

Section 2 would create a new statute, G.S. 15A-1344.2, which would allow a court to delegate by written order the authority to reduce a term of probation to a probation officer if the probation officer finds that an offender both:

- Is following the offender's terms of probation.
- Made diligent progress on the offender's probation.

A reduction under this section does not become effective until after all of the following occur:

- The probation officer files a written affidavit with the court seeking an order confirming the officer's decision to reduce the term.
- Notice is given to the district attorney and the victim.
- The court issues a final order approving the reduction.

The term of probation may not be reduced by more than one-fourth of the total period of probation originally ordered.

Section 2 would become effective December 1, 2022, and applies to delegations of court authority entered on or after that date.

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Section 3

Post-release supervision is the time for which a sentenced prisoner is released from prison before the termination of the prisoner's maximum prison term. G.S. 15A-1368(e)(10) provides that as a condition of post-release supervision an offender must "submit at reasonable times to searches of the supervisee's person." This subsection does not expressly authorize warrantless searches.

Section 3 would expressly authorize the warrantless search of an offender on post-release supervision and the offender's vehicle and premises.

Section 3 would become effective when it becomes law, and applies to searches on or after that date.

Section 4

G.S. 42-45.1 currently authorizes victims of domestic violence, sexual assault, or stalking to terminate rental agreements with 30 days' notice to the landlord without penalty by providing certain documentation proving that the tenant is a protected tenant.

Section 4 would add victims of an attempted homicide or household members of a victim of a homicide as individuals allowed to terminate a rental agreement with proper documentation.

Section 4 would become effective August 1, 2022, and apply to rental agreements entered into, amended, or renewed on or after that date.

Section 5

Section 5 would create a new qualified privilege for communications between an agent of a victim assistance center and a victim of a homicide. A "victim" is a defined term and would be a person who does both of the following:

- Alleges a homicide was attempted against them or against a family member or someone with whom they have a significant relationship.
- Communicates with a victim assistance center to obtain services.

Communications between a victim and an agent of a victim assistance center would be privileged and could not be disclosed absent consent, a court order, or the death of the victim, which would terminate the privilege.

Qualification of Privilege: The court would be required to compel disclosure, either at or prior to trial, if the court finds a good faith, specific, and reasonable basis for believing each of the following:

- The records or testimony sought contain information that is relevant and material to certain factual issues.
- The evidence is not sought merely for character impeachment purposes.
- The evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure.

Section 5 would be effective when it becomes law and applies to communications and proceeding commenced on or after that date.

Section 6

G.S. 143-131.1 provides that 35 specifically listed sheriff's offices may contract for the purchase of food and food services supplies without being subject to certain public contract laws.

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Section 6 would amend G.S. 143-131.1 to allow all sheriff's offices in the state to contract for food and food services supplies without being subject to these public contract laws.

Section 7

S.L. 2015-186, as amended by Sec. 86 of S.L. 2015-264, limited the imposition of an additional period of revocation upon a conviction of driving while license revoked and made various conforming changes and applied to offenses committed on or after December 1, 2015.

Section 7 provides that the changes made by S.L. 2015-186 would apply to offenses committed before December 1, 2015.

Section 8

G.S. 20-20.1 provides the procedure for a court to issue a limited driving privilege to drivers with certain revocations.

Section 8 would allow a court to extend the term of a limited driving privilege issued under G.S. 20-20.1 to bridge the gap between the expiration of the limited driving privilege and the date set by the Division of Motor Vehicles to consider reinstatement of the driver's regular driving privilege.

Section 9

G.S. 14-401.27 provides that it is unlawful for a person to impersonate a transportation network company driver (TNC driver). A TNC driver is a defined term meaning: "An individual that uses a passenger vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers in exchange for payment of a fee to the transportation network company." A violation of this section during the commission of a separate felony offense is a Class H felony. Any other violation of this section is a Class 2 misdemeanor.

Section 9 would also make impersonation of a taxicab driver unlawful.

EFFECTIVE DATE

Except as otherwise provided, this act would be effective when it becomes law.

BACKGROUND

To provide background for section 3 of the bill, in a recent case, State v. McCants¹, an offender on post-release supervision was subjected to a warrantless search of his home and a firearm was discovered. The offender challenged the search as not authorized by statute and otherwise unconstitutional. The Court of Appeals agreed with this argument and found absent G.S. 15A-1368(e)(10) expressly authorizing a warrantless search, such a search would be illegal. The court noted that G.S. 15A-1368.4(b1)(8) (which applies to sex offenders) specifically authorizes warrantless searches of the offender and the offender's vehicle and premises.

**Brad Krehely and Susan Sitze, Staff Attorneys, substantially contributed to this summary.*

¹ 275 N.C.App. 801 (2020).