

13.9 Registration of Juvenile Adjudicated for Certain Sex Crimes

13.9 Registration of Juvenile Adjudicated for Certain Sex Crimes

Registration requirements. A juvenile convicted as an adult of an offense requiring sex offender registration or monitoring is subject to the requirements, restrictions, and procedures applicable to adults, which are numerous. *See* G.S. 14-208.32 (so stating). If adjudicated in juvenile court, the restrictions are fewer and the offenses triggering them narrower.

A juvenile who is at least 11 years old may be ordered to register with the county sheriff for a sex crime if the court finds the juvenile to be a danger to the community and the juvenile is adjudicated delinquent for a violation of one of the following criminal statutes: G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second degree forcible rape), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), or G.S. 14-27.29 (first-degree statutory sexual offense). G.S. 7B-2509. The registration statute also refers to G.S. 14-27.6, but that statute has been repealed. Also included are an attempt, conspiracy, or solicitation of another to commit any of the offenses, or aiding or abetting any of the offenses. G.S. 14-208.26(a1). The court must specifically find that the juvenile is a danger to the community before ordering the juvenile to register.

If the court orders the juvenile to register, it must conduct the notification procedures specified in G.S. 14-208.8. The court must inform the juvenile of the requirement to register and obtain a statement signed by the juvenile stating that the juvenile was informed of the registration requirement. The court must also obtain biographical information from the juvenile, any aliases the juvenile might have, a statement indicating whether the juvenile is a student, and any online identifier the juvenile uses. G.S. 14-208.8(a)(2). The chief court counselor, not the juvenile, is responsible for filing the registration information with the sheriff. G.S. 14-208.26(b).

The Department of Public Safety must include the registration information in the Criminal Information Network. G.S. 14-208.31. That statute provides that the Department must maintain the registration information permanently. The information does not appear to be subject to expunction because all of the triggering offenses are Class C felonies or higher and therefore not subject to expunction under the applicable statutes. *See infra* Chapter 17, Expunction of Juvenile Records.

The information must also be maintained separately by the sheriff. It may be released only to law enforcement agencies and local boards of education. G.S. 14-208.29(b). The information is not a public record and not open to public inspection. G.S. 14-208.29(a). The statute also states that the information must not be included in the county or statewide registries of adults convicted of sex crimes or be made available to the public

through the internet. *Id.*; see also G.S. 14-208.31 (stating that information maintained by Department of Public Safety is confidential).

Every year on the anniversary of the juvenile's initial registration and six months after that date, the sheriff must mail a verification form to the juvenile court counselor assigned to the juvenile. G.S. 14-208.28. The form must be signed by the court counselor and the juvenile and must indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a new address, the court counselor must include the new address on the form. The court counselor must also return the form to the sheriff within three business days of receiving the form.

If the juvenile is ordered to register, the registration requirement automatically terminates on the juvenile's eighteenth birthday or when the jurisdiction of the juvenile court ends, whichever first occurs. G.S. 14-208.30.

Other requirements based on sex crimes. Adults convicted of sex crimes are subject to an array of regulations and restrictions, such as satellite-based monitoring and limitations on areas where they can reside and premises where they can go. It is clear that some of these provisions do not apply to juveniles. For example, juveniles are not subject to satellite-based monitoring. The satellite-based monitoring program is generally limited to individuals who are "convicted of a reportable conviction." G.S. 14-208.40(a). An adjudication is not a conviction, G.S. 7B-2412, and thus does not subject the juvenile to satellite-based monitoring. Likewise, the sexually violent predator registration program, which provides for lifetime registration, requires a conviction for a crime classified as a sexually violent offense. G.S. 14-208.20. Therefore, that program, too, does not apply to a juvenile adjudicated of a sex crime in juvenile court.

It is less clear whether other provisions applicable to adults, such as residential and premises restrictions or the crime of failure to register, apply to juveniles adjudicated of sex crimes. On the one hand, these provisions state that they apply to "registrants" or individuals "required to register under this Article"—that is, Article 27A of G.S. Chapter 14. See, e.g., G.S. 14-208.11 (penalties for the failure to register), 14-208.16 (residential restrictions), and 14-208.18 (premises restrictions). The juvenile registry is one of four parts in Article 27A, which includes the residential and premises restrictions and the crime of failure to register.

On the other hand, the term "statewide registry" is defined under G.S. 14-208.6(8) as the adult registry described in G.S. 14-208.14 and does not include the juvenile registry. Thus, the general references to "registrants" in the various restrictions noted above do not necessarily apply to juvenile registrants. To the contrary, G.S. 14-208.26(a) states that a juvenile required to register on the juvenile registry is only required to register and maintain that registration as provided by "this Part"—that is, Part 4 of Article 27A—which does not contain any residential or premises restrictions or penalties for the failure to register or maintain registration. Those provisions are contained in Parts 2 and 3 of Article 27A. G.S. 14-208.32 states that the requirements of Parts 2 and 3 apply only to

juveniles convicted as adults, suggesting that the residential, premises, and other restrictions in Parts 2 and 3 do not apply to juveniles on the juvenile registry.

Beyond a close reading of the relevant statutes, some of the restrictions applicable to adults are a poor fit for those on the juvenile registry. For example, some of the adult failure to register provisions in G.S. 14-208.11 center on the adult's failure to report to the sheriff or return verification forms. However, the juvenile court counselor, not the juvenile registrant, is required to complete those responsibilities. G.S. 14-208.26(b), 14-208.28. As a practical matter, the residential and premises restrictions are also difficult to apply to juveniles. If applicable, those restrictions could bar a juvenile from living at home with parents or from being present at any place intended for the use, care, or supervision of minors. It seems unlikely that the General Assembly intended this result.

Although there is no case law addressing whether residential and premises restrictions or the crime of failure to register apply to juveniles, counsel should argue that those provisions do not apply if the State intends charge a violation against a juvenile.

Impact of potential federal requirements. In 2006, Congress enacted the Adam Walsh Child Protection and Safety Act, which set federal sex offender registration requirements. The legislation provided financial incentives for states to create comparable registration requirements for convictions and adjudications for sex crimes. *In re McClain*, 226 N.C. App. 465, 468 (2013). North Carolina, like many other states, did not adopt the more stringent federal requirements for juveniles. See Jamie Markham, [The SORNA-Compliance Dog That Didn't Bark](#), N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (June 23, 2011). Nevertheless, counsel must advise juvenile clients adjudicated of sex crimes about the possible need for registration if they move to a state that has adopted the federal standards or if North Carolina adopts a fully compliant registration regime in the future. The law in other states is beyond the scope of this manual. For more information, consult the federal Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking [website](#).