

Welcome to the 2021 Third Quarter SBI SOR Unit Webinar



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Disclaimer:

This presentation is not to be construed as creating an attorney-client relationship and should not be relied upon as legal advice. This training is considered informational in nature and you should consult with the legal advisor for your agency or the local District Attorney's office regarding specific offenders and related legal matters.



Agenda

- Length of Registration
- Termination of Registration Requirement
- Miscellaneous topics
 - Photos of registered offenders
 - Change of Address (pending or moving out of state- verify address)
- Questions
- 4th Quarter Topics
- 2nd Annual SBI Sex Offender Management Conference

Length of Registration



North Carolina State Bureau of Investigation



Offenders must remain on the registry for at least 30 years, unless the person successfully petitions a court to shorten this time period.

Aggravated offenders, recidivists, and sexually violent predators must remain on the registry for life and are not eligible to petition for early removal.

N.C. Gen. Stat. §	Classification of Registrant	Period of Registration
14-208.6A 14-208.7 14-208.12A [2008 S.L. 117]	<u>Regular Registrants</u> registered before Dec. 1, 2008	<u>Ten (10) years to life.</u> Offender will be registered for life following the date of initial county registration <u>unless</u> the offender successfully petitions the superior court to shorten their registration period under N.C. Gen. Stat. § 14-208.12A. Offender first eligible to petition ten (10) years after the date of initial county registration in N.C.
14-208.6A 14-208.7 14-208.12A [2008 S.L. 117]	<u>Regular Registrants</u> registered on or after Dec. 1, 2008	<u>Ten (10) to thirty (30) years.</u> Offender will be registered for thirty (30) years following the date of initial county registration in N.C. <u>unless</u> the offender successfully petitions the superior court to shorten their registration period under N.C. Gen. Stat. § 14-208.12A. Offender first eligible to petition ten (10) years after the date of initial county registration in N.C.
14-208.23	Aggravated, Recidivists, & Sexually Violent Predators	Lifetime



Termination or Discontinuation of Registration



N.C. Gen. Stat. § 14-208.12A *Petition for Termination – when*

Ten years from the date of initial county registration a person required to register may petition the superior court to terminate his or her registration requirement.

This does not apply to aggravated offenders or persons who had subsequent offenses requiring registration

N.C. Gen. Stat. § 14-208.12A

Petition for Termination – where

- If the reportable conviction is from North Carolina, the petition must be filed in the district where the offender was convicted.
- If the reportable conviction is from any other jurisdiction, the petition must be filed in the district in N.C. where the offender resides.



N.C. Gen. Stat. § 14-208.12A

Petition for Termination – Notice

For an out-of-state reportable conviction, the offender must also provide notice of the petition to the sheriff of the county where the offender was convicted and include with the petition an affidavit signed by the offender verifying that he or she has provided this notice.

N.C. Gen. Stat. § 14-208.12A

Petition for Termination – Notice to DA

At least three weeks before the termination hearing, the district attorney in the district in which the petition is filed must be given notice of the petition by the offender.

N.C. Gen. Stat. § 14-208.12A

Petition for Termination – Evidence

The offender may present evidence in support of the petition, and the district attorney may present evidence in opposition to the offender being relieved of their duty to register.

The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a request for termination of the sex offender registration requirement. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, submission of an audio or video statement.

The court may terminate the offender's registration requirement if it finds all of the following:

- The offender has not been arrested for any crime that would require registration.
- The termination complies with the provisions of the federal Jacob Wetterling Act (length of registration for certain offenses), and any other federal standards.
- The offender is not a current or potential threat to public safety.

N.C. Gen. Stat. § 14-208.12A
Petition for Termination- Order granted

- If the court grants the petition to terminate the registration requirement, the clerk of court shall forward a certified copy of the order to the Department of Public Safety (SBI) to have the person's name removed from the registry.



N.C. Gen. Stat. § 14-208.12A
Petition for Termination – Additional
Petition

If the court denies the termination request, the offender may again file a petition one year from the date of the order denying the request.

A person who is registered as a recidivist, an aggravated offender, or a sexually violent predator shall maintain registration for the person's life and cannot be removed from the registry by a judge.



N.C. Gen. Stat. § 14-208.6C Discontinuation of Registration Requirement

The offender's registration must be discontinued if:

- The conviction requiring registration is reversed, vacated, or set aside; or
- The registrant has been granted an unconditional pardon of innocence for the offense requiring registration.

How do expungements impact registration?

- Many of the provisions in Chapter 15A authorizing expungement of convictions specifically precludes expungement of offenses requiring registration
- For ex:

15A-145.4. Expunction of records for first offenders who are under 18 years of age at the time of the commission of a nonviolent felony.

For purposes of this section, the term "nonviolent felony" means any felony **except** the following:

A felony that is an offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.



How do expungements impact registration?

- These all preclude convictions requiring registration from the expungement process:
- **§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**
- **15A-145.8A. Expunction of records for offenders under the age of 18 at the time of commission of certain misdemeanors and felonies upon completion of the sentence.**
- **§ 15A-145.9. Expunctions of certain offenses committed by human trafficking victims.**



Review of Registration Requirement by the Sheriff



Miscellaneous topics-

Photos of Registered Offenders

- 14-208.7 At the time of registration, a current photo is to be taken by the sheriff without a fee
- 14-208.9A (a)(3a) At the time of verification of information, if it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to include with the verification form.



Miscellaneous topics-

Photos of Registered Offenders

- 14-208.9A (c) If it appears to the sheriff that the current photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, upon in-person notice from the sheriff, the sex offender shall allow the sheriff to take another photograph of the sex offender at the time of the sheriff's request.
- If requested by the sheriff, the sex offender shall appear in person at the sheriff's office during normal business hours within three business days of being requested to do so and shall allow the sheriff to take another photograph of the sex offender. A person who willfully fails to comply with this subsection is guilty of a Class 1 misdemeanor.



Miscellaneous topics-

Photos of Registered Offenders

- Please ensure that the entire offender's face may be seen in the photo
- Try to avoid showing logos or other identifying info on clothing in the photos
- Please include a photo from the front and both sides



Miscellaneous topics

Pending/ Moving out of state- verify address

14-208.9 (b)

- If a person intends to move to another state, the person shall report in person to the sheriff of the county of current residence at least three business days before the date the person intends to leave this State to establish residence in another state or jurisdiction. The person shall provide to the sheriff a written notification that includes all of the following information: the address, municipality, county, and state of intended residence.

Miscellaneous topics

Pending/ Moving out of state- verify address

14-208.9 (b)

- (1) If it appears to the sheriff that the record photograph of the sex offender no longer provides a true and accurate likeness of the sex offender, then the sheriff shall take a photograph of the offender to update the registration.
- (2) The sheriff shall inform the person that the person must comply with the registration requirements in the new state of residence. The sheriff shall also immediately forward the information included in the notification to the SBI who will inform the other state.

Miscellaneous topics

Pending/ Moving out of state- verify address 14-208.9 (b1)

- A person who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this State shall, within three business days after the date upon which the person indicated he or she would leave this State, report in person to the sheriff's office to which the person reported the intended change of residence, of his or her intent to remain in this State.

Coming Soon

- Updated duty to register form to include reference to Megan's law; international travel provisions
- Notice regarding the 2nd Annual SBI Managing the Sex Offender Registry conference (tentative September, October and November in 3 separate locations)
- 4th Quarter Webinar in October 2021



QUESTIONS



- Topics for next quarter

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