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To: N.C. Sheriffs' Offices

From: Wyatt A. Pettengill, *WAP*
Special Agent in Charge

Subject: Social Networking and Sex Offender Registry Online Identifiers

The State Bureau of Investigation has received numerous questions regarding the impact on registration procedures, especially regarding online identifiers, due to the U.S. Supreme Court decision to overturn the North Carolina law prohibiting sex offenders from using Facebook or other social networking sites that minors can join. After review, it's been determined that North Carolina's decision to allow sex offenders to utilize Facebook and other social networking sites will not impact registration procedures regarding online identifiers. Passwords are not required to be provided as part of the online identifier information. **The U.S. Supreme Court's decision to lift the ban on registered sex offenders using social networking sites does not change the requirement for registrants to provide and update any online identifiers as stated in N.C.G.S § 14-208.9A furthermore, failure to do so will result in a Class F felony as stated in N.C.G.S § 14-208.11.**

Please contact the SBI Sex Offender Coordination Unit at (919) 582-8670 or SORHelp@ncsbi.gov if you have additional questions.

Statute 14-208.9A. Verification of registration information.

- (a) The information in the county registry shall be verified semiannually for each registrant as follows:
 - (1) Every year on the anniversary of a person's initial registration date, and again six months after that date, the Department of Public Safety shall mail a nonforwardable verification form to the last reported address of the person.
 - (2) The person shall return the verification form in person to the sheriff within three business days after the receipt of the form.
 - (3) The verification form shall be signed by the person and shall indicate the following:
 - a. Whether the person still resides at the address last reported to the sheriff. If the person has a different address, then the person shall indicate that fact and the new address.
 - b. Whether the person still uses or intends to use any online identifiers last reported to the sheriff. If the person has any new or different online identifiers, then the person shall provide those online identifiers to the sheriff.

- c. Whether the person still uses or intends to use the name under which the person registered and last reported to the sheriff. If the person has any new or different name, then the person shall provide that name to the sheriff.
- (3a) 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.
- (4) If the person fails to return the verification form in person to the sheriff within three business days after receipt of the form, the person is subject to the penalties provided in G.S. 14-208.11. If the person fails to report in person and provide the written verification as provided by this section, the sheriff shall make a reasonable attempt to verify that the person is residing at the registered address. If the person cannot be found at the registered address and has failed to report a change of address, the person is subject to the penalties provided in G.S. 14-208.11, unless the person reports in person to the sheriff and proves that the person has not changed his or her residential address.

(b) **Additional Verification May Be Required.** - During the period that an offender is required to be registered under this Article, the sheriff is authorized to attempt to verify that the offender continues to reside at the address last registered by the offender.

(c) **Additional Photograph May Be Required.** - 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. (1997-516, s. 1; 2006-247, s. 7(a); 2008-117, s. 10; 2008-220, s. 6; 2011-61, s. 4; 2014-100, s. 17.1(r).)

Statute 14-208.11 of Article 27A. Failure to register; falsification of verification notice; failure to return verification form; order for arrest.

(a) A person required by this Article to register who willfully does any of the following is guilty of a Class F felony:

- (1) Fails to register as required by this Article, including failure to register with the sheriff in the county designated by the person, pursuant to G.S. 14-208.8, as their expected county of residence.
- (2) Fails to notify the last registering sheriff of a change of address as required by this Article.
- (3) Fails to return a verification notice as required under G.S. 14-208.9A.
- (4) Forges or submits under false pretenses the information or verification notices required under this Article.
- (5) Fails to inform the registering sheriff of enrollment or termination of enrollment as a student.
- (6) Fails to inform the registering sheriff of employment at an institution of higher education or termination of employment at an institution of higher education.
- (7) Fails to report in person to the sheriff's office as required by G.S. 14-208.7, 14-208.9, and 14-208.9A.
- (8) Reports his or her intent to reside in another state or jurisdiction but remains in this State without reporting to the sheriff in the manner required by G.S. 14-208.9.
- (9) Fails to notify the registering sheriff of out-of-county employment if temporary residence is established as required under G.S. 14-208.8A.

(10) Fails to inform the registering sheriff of any new or changes to existing online identifiers that the person uses or intends to use.

(a1) If a person commits a violation of subsection (a) of this section, the probation officer, parole officer, or any other law enforcement officer who is aware of the violation shall immediately arrest the person in accordance with G.S. 15A-401, or seek an order for the person's arrest in accordance with G.S. 15A-305.

(a2) A person arrested pursuant to subsection (a1) of this section shall be subject to the jurisdiction of the prosecutorial and judicial district that includes the sheriff's office in the county where the person failed to register, pursuant to this Article. If the arrest is made outside of the applicable prosecutorial district, the person shall be transferred to the custody of the sheriff of the county where the person failed to register and all further criminal and judicial proceedings shall be held in that county.

(b) Before a person convicted of a violation of this Article is due to be released from a penal institution, an official of the penal institution shall conduct the prerelease notification procedures specified under G.S. 14-208.8(a)(2) and (3). If upon a conviction for a violation of this Article, no active term of imprisonment is imposed, the court pronouncing sentence shall, at the time of sentencing, conduct the notification procedures specified under G.S. 14-208.8(a)(2) and (3).

(c) A person who is unable to meet the registration or verification requirements of this Article shall be deemed to have complied with its requirements if:

- (1) The person is incarcerated in, or is in the custody of, a local, State, private, or federal correctional facility,
- (2) The person notifies the official in charge of the facility of their status as a person with a legal obligation or requirement under this Article and
- (3) The person meets the registration or verification requirements of this Article no later than 10 days after release from confinement or custody. (1995, c. 545, s. 1; 1997-516, s. 1; 2002-147, s. 20; 2006-247, ss. 8(a), 8(b); 2008-220, s. 7; 2013-205, s. 1.)