

Reportable Convictions

SEXUALLY VIOLENT OFFENSES (14-208.6(5))

- First-degree rape (14-27.2) ❶
- Rape of a child by an adult offender (14-27.2A) ❷
- Second-degree rape (14-27.3) ❶
- First-degree sexual offense (14-27.4) ❶
- Sexual offense with a child by an adult offender (14-27.4A) ❷
- Second-degree sexual offense (14-27.5) ❶
- Sexual battery (14-27.5A) ❷
- Attempted rape/sexual offense (14-27.6) ❶
- Intercourse/sexual offense w/ certain victims (14-27.7) ❶
- Statutory rape (13-15 y.o. & D 6+ yrs.older) (14-27.7A(a)) ❸
- Sexual Servitude (14-43.13) ❸
- Incest between near relatives (14-178) ❶
- Employ minor in offense/public morality (14-190.6) ❶
- Felony indecent exposure (14-190.9(a1)) ❷
- First-degree sexual exploitation of minor (14-190.16) ❶
- Second-degree sexual exploitation of minor (14-190.17) ❶
- Third-degree sexual exploitation of minor (14-190.17A) ❶
- Promoting prostitution of minor (14-190.18) ❶
- Participating in prostitution of minor (14-190.19) ❶
- Taking indecent liberties with children (14-202.1) ❶
- Solicitation of child by computer (14-202.3) ❷
- Taking indecent liberties with a student (14-202.4(a)) ❸
- Parent/caretaker prostitution (14-318.4(a1)) ❸
- Parent/guardian commit/allow sexual act (14-318.4(a2)) ❸

OFFENSES AGAINST A MINOR (14-208.6(1m))

Includes the following three crimes, only when the victim is a minor [under age 18] and the offender is not the minor's parent [biological or adoptive parent, not stepparent, State v. Stanley, 697 S.E.2d 389 (2010)]:

- Kidnapping (14-39) ❷
- Abduction of children (14-41) ❷
- Felonious restraint (14-43.3) ❷

SECRETLY PEEPING (14-208.6(4)d.)

The following are reportable only if the court decides registration furthers purposes of the registry (14-208.5) and that offender is a danger to community:

Felony peeping under 14-202 (d), (e), (f), (g), or (h) ❹; or Second/subsequent conviction of:

Misd. peeping under 14-202(a) or (c) ❹

Misd. peeping w/ mirror/device under 14-202(a1) ❻

Note: Inchoate & aiding/abet peeping are not reportable.

ATTEMPTS, CONSPIRACIES, SOLICITATIONS, & AID/ABETTING

Attempt: Final convictions for attempts to commit an "offense against a minor" or a "sexually violent offense" are reportable. 14-208.6(4)a. At a minimum, applies to offenses committed on/after April 1, 1998 (unless target offense has a later date). [S.L. 1997-516](#).

Conspiracy/Solicitation: Conspiracy and solicitation to commit an "offense against a minor" or a "sexually violent offense" are reportable. 14-208.6(1m); -208.6(5). Applies to offenses committed on/after Dec. 1, 1999 (unless target offense has later date). [S.L. 1999-363](#).

Aiding & Abetting: Aiding and abetting an "offense against a minor" or "sexually violent offense" is reportable **only** if the court finds that registration furthers the purposes of the registry (set out in 14-208.5). 14-208.6(4)a. Applies to offenses committed on or after December 1, 1999 (unless the underlying offense has a later date). [S.L. 1999-363](#).

FEDERAL CONVICTIONS (including court-martial) (14-208.6(4)c.)

Offenses *substantially similar* to a North Carolina "offense against a minor" or "sexually violent offense" (includes conspiracy, solicitation, and aiding/abetting; excludes attempts) ❸

CONVICTIONS FROM ANOTHER STATE (14-208.6(4)b.)

1. Offenses substantially similar to NC offense against a minor or sexually violent offense (includes conspiracy, solicitation, and aid/abetting; excludes attempts) (use effective date of similar NC offense); or
2. Any offense that requires registration in the state of conviction (applies to offenders who moved to NC on/after Dec. 1, 2006; and to offenders who moved to NC before Dec. 1, 2006 if they serve active time, are on probation/parole/PRS, are req'd to register in NC for another offense, or are convicted of any felony on/after Oct. 1, 2010. [S.L. 2010-174](#)).

KEY FOR EFFECTIVE DATE CRITERIA:

- ❶ Convicted/released from prison on/after Jan. 1, 1996. [S.L. 1995-545](#)
- ❷ Committed on/after Dec. 1, 2005. [S.L. 2005-226](#); -121; -130
- ❸ Committed on/after Dec. 1, 2006. [S.L. 2006-247](#)
- ❹ Committed on/after Dec. 1, 2008. [S.L. 2008-117](#)
- ❺ Convicted /released on/after Dec. 1, 2008. [S.L. 2008-220](#)
- ❻ Convicted /released on/after Dec. 1, 2009. [S.L. 2009-498](#)
- ❼ Committed on/after Apr. 1, 1998 (at a minimum). [S.L. 1997-516](#)
- ❽ Convicted/released on/after Apr. 3, 1997 (or use effective date of similar NC offense if later). [S.L. 1997-15](#)
- ❾ Committed on/after Dec. 1, 2003. [S.L. 2003-303](#)
- ❿ Committed on/after Dec. 1, 2004. [S.L. 2004-109](#)

An offender with a reportable conviction must register for 30 years (reducible to 10 in some cases by petition under 14-208.12A), unless lifetime registration applies. 14-208.7. Lifetime registration applies to recidivists; offenders convicted of an aggravated offense; or sexually violent predators. 14-208.23. Because most of the case law related to those categories has arisen in the context of satellite-based monitoring, they are described in greater detail on the reverse side of this sheet.

A satellite-based monitoring (SBM) determination hearing must be held for a defendant with a reportable conviction. See reverse for applicable procedures.

Effective date. The SBM law applies to offenders with a reportable conviction who: (1) Commit a reportable offense on/after Aug. 16, 2006; (2) are sentenced to intermediate punishment on/after Aug. 16, 2006; (3) are released from prison by parole/post-release supervision on/after Aug. 16, 2006; or (4) complete a sentence on/after Aug. 16, 2006 and are not on post-release supervision or parole. [S.L.2006-247 § 15\(j\)](#). SBM determinations should be held at sentencing for defendants sentenced after December 1, 2007. [G.S. 14-208.40A](#). [S.L. 2007-484 §42\(b\)](#). Use [AOC-CR-615](#).

The court first determines whether the defendant falls into one of the four categories requiring lifetime SBM. If the defendant falls into the one of the categories set out below, the court must order SBM for life. 14-208.40A(c).

- 1. SEXUALLY VIOLENT PREDATOR (SVP) (14-208.6(6)).** A person convicted of a sexually violent offense who suffers from an abnormality or disorder, as determined by the court after examination by an expert panel under [14-208.20](#).
 - The court cannot classify an offender as a SVP without following 14-208.20. *State v. Zinkand*, 190 N.C. App. 765 (2008).
- 2. RECIDIVIST (14-208.6(2b)).** A person with a prior conviction for an offense described in [14-208.6\(4\)](#).
 - A prior conviction need not itself be reportable to qualify a person as a recidivist. *State v. Wooten*, 194 N.C. App. 524 (2008).
 - At least one of the offender’s convictions must be committed on/after Oct. 1, 2001. [S.L. 2001-373](#).
- 3. COMMITTED AN AGGRAVATED OFFENSE (14-208.6(1a)).** An aggravated offense is one that includes:
 - (1) Engaging in a sexual act involving vaginal, anal, or oral penetration;
 - (2) (a) With a victim of any age through the use of force or the threat of serious violence, or
(b) With a victim who is less than 12 years old.
 - Only offenses committed on/after Oct. 1, 2001 can be aggravated. [S.L. 2001-373](#).
 - To determine whether an offense is aggravated, the court may only look at the elements of the conviction offense, not the underlying facts of what might have happened in a particular case. *State v. Davison*, 689 S.E.2d 510 (2009).

AGGRAVATED:	1st-deg. stat. rape (victim under 13, 14-27.2(a)(1)). <i>State v. Clark</i> , 714 S.E.2d 754 (2011). Stat. rape (victim 13, 14, 15/def. 6 yrs. older, 14-27.7A(a)). <i>State v. Sprouse</i> (Dec. 6, 2011). 2nd-deg. rape (forcible, 14-27.3(a)(1)). <i>State v. McCravey</i> , 692 S.E.2d 409 (2010). 2nd-deg. rape (mentally disabled victim, 14-27.3(a)(2)). <i>State v. Oxendine</i> , 696 S.E.2d 850 (2010).
NOT AGGRAVATED:	Sexual offense by a substitute parent (14-27.7(a)). <i>State v. Mann</i> , 715 S.E.2d 213 (2011). 1st-deg. sex offense (victim under 13, 14-27.4(a)(1)). <i>State v. Treadway</i> , 702 S.E.2d 335 (2010). Child abuse by sex act (14-318.4(a2)). <i>State v. Phillips</i> , 691 S.E.2d 104 (2010). Indecent liberties with a child. <i>State v. Singleton</i> , 689 S.E.2d 562 (2010). Sexual battery. <i>State v. Brooks</i> , 693 S.E.2d 204 (2010).
- 4. RAPE OR SEXUAL OFFENSE WITH MINOR BY ADULT (14-27.2A; -27.4A).** A conviction for one of these crimes (created by [S.L. 2008-117](#), effective for offenses committed on/after Dec. 1, 2008) requires lifetime SBM.

If the court finds that the defendant does not fit into any of the four categories set out above, it must determine whether the offender committed an “offense that involved the physical, mental, or sexual abuse of a minor.”14-208.40A(d).

“Physical, mental, or sexual abuse of a minor” is an undefined term. The following have been ruled abuse of a minor: Indecent liberties. *State v. Jarvis*, 715 S.E.2d 252 (2011); Solicitation to commit ind. liberties. Other crimes may also qualify.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, it must order DOC to do a risk assessment (Static-99). DOC shall have 30-60 days to complete the assessment. Upon receipt of the assessment, the court determines whether the offender requires the “highest possible level of supervision and monitoring.” If so, the court shall order SBM enrollment for a period specified by the court in its discretion. 14-208.40A(d)-(e).

- In determining whether an offender requires the highest possible level of supervision and monitoring, the court may consider any relevant evidence and is not limited to the risk assessment. *State v. Morrow*, 200 N.C. App. 123, aff’d, 364 N.C. 424 (2010); see *State v. Green*, 710 S.E.2d 292 (2011) (approving SBM for a defendant with a MODERATE-LOW Static-99 score when the court made additional findings that the victims were especially young and the defendant failed to complete treatment).
- The court should order a discrete time for SBM (e.g. 3 yrs.), *not* a range (7-10 yrs.). *State v. Morrow*, 200 N.C. App. 123 (2009).
- The trial court may not order lifetime SBM for a defendant in this category. *State v. Cowan*, 700 S.E.2d 239 (2010).

Bring-back hearings. For eligible offenders for whom no SBM determination was made at sentencing, DOC makes an initial determination as to whether SBM applies and notifies the offender. DOC must indicate the expected SBM eligibility category and summarize its reasons for that determination. *State v. Stines*, 200 N.C. App. 193 (2009). The DA schedules a superior court hearing in county of residence (15 days notice req’d). Indigent offenders are entitled to counsel. [14-208.40B](#). Use [AOC-CR-616](#).

Constitutional issues. SBM is civil in nature and thus does not violate the Ex Post Facto Clause, *State v. Bowditch*, 364 N.C. 335 (2010); double jeopardy, *State v. Wagoner*, 364 N.C. 422 (2010); or *Apprendi/Blakely*, *State v. Hagerman*, 364 N.C. 423 (2010).

Appeals. Because SBM is civil in nature, defendants must note their appeal of an SBM determination in writing pursuant to Rule 3(a) of the N.C. Rules of Appellate Procedure; oral notice is insufficient. *State v. Brooks*, 693 S.E.2d 204 (2010).