

§ 14-208.40A. Determination of satellite-based monitoring requirement by court.

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence of the following:

- (1) That the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20.
- (2) That the offender is a reoffender.
- (3) That the conviction offense was an aggravated offense.
- (4) That the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28.
- (5) That the offense involved the physical, mental, or sexual abuse of a minor.

The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection. The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying each of the following:

- (1) Whether the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20.
- (2) Whether the offender is a reoffender.
- (3) Whether the conviction offense was an aggravated offense.
- (4) Whether the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28.
- (5) Whether the offense involved the physical, mental, or sexual abuse of a minor.

(c) The court shall order that the Department of Adult Correction do a risk assessment of the offender if the court finds any of the following:

- (1) The offender has been classified as a sexually violent predator.
- (2) The offender has committed an aggravated offense.
- (3) The offender was convicted of G.S. 14-27.23 or G.S. 14-27.28.
- (4) The offender is a reoffender of a crime under G.S. 14-27.21, 14-27.22, 14-27.23, 14-27.24, 14-27.25(a), 14-27.26, 14-27.27, 14-27.28, 14-27.29, 14-27.30(a), 14-43.11, 14-43.13, 14-178(b)(1) and (b)(2), 14-190.16, 14-205.2(d), 14-205.3(b), 14-318.4(a1), or 14-318.4(a2).

The Department shall have up to 60 days to complete the risk assessment of the offender and report the results to the court. The Department may use a risk assessment of the offender done within six months of the date of the hearing.

(c1) Upon receipt of a risk assessment from the Department of Adult Correction pursuant to subsection (c) of this section, the court shall determine whether, based on the Department's risk assessment and all relevant evidence, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for the life of the offender.

(d) The court shall order that the Department of Adult Correction do a risk assessment of the offender if the court finds each of the following:

- (1) The offender committed an offense that involved the physical, mental, or sexual abuse of a minor.
- (2) The offense under subdivision (1) of this subsection is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28.
- (3) The offender is not a reoffender, or is a reoffender of a crime under G.S. 14-27.31, 14-27.32, 14-27.33, 14-178(b)(3), 14-190.6, 14-190.9(a1), 14-190.17, 14-190.17A, 14-202.1, 14-202.3, 14-202.4(a), or 14-205.2(c).

The Department shall have up to 60 days to complete the risk assessment of the offender and report the results to the court. The Department may use a risk assessment of the offender done within six months of the date of the hearing.

(e) Upon receipt of a risk assessment from the Department of Adult Correction pursuant to subsection (d) of this section, the court shall determine whether, based on the Department's risk assessment and all relevant evidence, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the court, not to exceed 50 years. (2007-213, s. 2; 2008-117, s. 16.1; 2011-145, s. 19.1(h); 2015-181, s. 41; 2017-186, s. 2(u); 2021-138, s. 18(d); 2021-180, s. 19C.9(jj); 2021-182, s. 2(b); 2023-14, s. 8.1(a).)