

1 and prospectively.

2 (b) Any person who has been convicted of an offense or an
3 attempted offense or has been found not guilty by reason of mental
4 illness, mental retardation or addiction of an offense under any of
5 the following provisions of chapter sixty-one of this code or under
6 a statutory provision of another state, the United States Code or
7 the Uniform Code of Military Justice which requires proof of the
8 same essential elements shall register as set forth in subsection
9 (d) of this section and according to the internal management rules
10 promulgated by the superintendent under authority of section
11 twenty-five, article two of this chapter:

12 (1) Article eight-b, including the provisions of former
13 section six of said article, relating to the offense of sexual
14 assault of a spouse, which was repealed by an act of the
15 Legislature during the year 2000 legislative session;

16 (2) Article eight-c;

17 (3) Sections five and six, article eight-d;

18 (4) Section fourteen, article two;

19 (5) Sections six, seven, twelve and thirteen, article eight;

20 or

21 (6) Section fourteen-b, article three-c, as it relates to
22 violations of those provisions of chapter sixty-one listed in this
23 subsection.

24 (c) Any person who has been convicted of a criminal offense

1 and the sentencing judge made a written finding that the offense
2 was sexually motivated shall also register as set forth in this
3 article.

4 (d) Persons required to register under the provisions of this
5 article shall register in person at the West Virginia State Police
6 detachment in the county of his or her residence, the county in
7 which he or she owns or leases habitable real property that he or
8 she visits regularly, the county of his or her place of employment
9 or occupation and the county in which he or she attends school or
10 a training facility, and in doing so, provide or cooperate in
11 providing, at a minimum, the following when registering:

12 (1) The full name of the registrant, including any aliases,
13 nicknames or other names used by the registrant;

14 (2) The address where the registrant intends to reside or
15 resides at the time of registration, the address of any habitable
16 real property owned or leased by the registrant that he or she
17 regularly visits: *Provided*, That a post office box may not be
18 provided in lieu of a physical residential address, the name and
19 address of the registrant's employer or place of occupation at the
20 time of registration, the names and addresses of any anticipated
21 future employers or places of occupation, the name and address of
22 any school or training facility the registrant is attending at the
23 time of registration and the names and addresses of any schools or
24 training facilities the registrant expects to attend;

1 (3) The registrant's social security number;

2 (4) A full-face photograph of the registrant at the time of
3 registration;

4 (5) A brief description of the crime or crimes for which the
5 registrant was convicted;

6 (6) Fingerprints;

7 (7) Information related to any motor vehicle, trailer or motor
8 home owned or regularly operated by a registrant, including vehicle
9 make, model, color and license plate number: *Provided*, That for
10 the purposes of this article, the term "trailer" ~~shall mean~~ means
11 travel trailer, fold-down camping trailer and house trailer as
12 those terms are defined in section one, article one of chapter
13 seventeen-a;

14 (8) Information relating to any Internet accounts the
15 registrant has and the screen names, user names or aliases the
16 registrant uses on the Internet; and

17 (9) Information related to any telephone or electronic paging
18 device numbers that the registrant has or uses, including, but not
19 limited to, residential, work and mobile telephone numbers.

20 (e) (1) On the date that any person convicted or found not
21 guilty by reason of mental illness, mental retardation or addiction
22 of any of the crimes listed in subsection (b) of this section,
23 hereinafter referred to as a "qualifying offense", including those
24 persons who are continuing under some post-conviction supervisory

1 status, are released, granted probation or a suspended sentence,
2 released on parole, probation, home detention, work release,
3 conditional release or any other release from confinement, the
4 Commissioner of Corrections, regional jail administrator, city
5 official or sheriff operating a jail or Secretary of the Department
6 of Health and Human Resources who releases the person and any
7 parole or probation officer who releases the person or supervises
8 the person following the release, shall obtain all information
9 required by subsection (d) of this section prior to the release of
10 the person, inform the person of his or her duty to register and
11 send written notice of the release of the person to the State
12 Police within three business days of receiving the information.
13 The notice must include the information required by said
14 subsection. Any person having a duty to register for a qualifying
15 offense shall register upon conviction, unless that person is
16 confined or incarcerated, in which case he or she shall register
17 within three business days of release, transfer or other change in
18 disposition status.

19 (2) Notwithstanding any provision of this article to the
20 contrary, a court of this state shall, upon presiding over a
21 criminal matter resulting in conviction or a finding of not guilty
22 by reason of mental illness, mental retardation or addiction of a
23 qualifying offense, cause, within seventy-two hours of entry of the
24 commitment or sentencing order, the transmittal to the sex offender

1 registry for inclusion in the registry all information required for
2 registration by a registrant as well as the following
3 nonidentifying information regarding the victim or victims:

4 (A) His or her sex;

5 (B) His or her age at the time of the offense; and

6 (C) The relationship between the victim and the perpetrator.

7 The provisions of this paragraph do not relieve a person
8 required to register pursuant to this section from complying with
9 any provision of this article.

10 (f) For any person determined to be a sexually violent
11 predator, the notice required by subsection (d) of this section
12 must also include:

13 (1) Identifying factors, including physical characteristics;

14 (2) History of the offense; and

15 (3) Documentation of any treatment received for the mental
16 abnormality or personality disorder.

17 (g) At the time the person is convicted or found not guilty by
18 reason of mental illness, mental retardation or addiction in a
19 court of this state of the crimes set forth in subsection (b) of
20 this section, the person shall sign in open court a statement
21 acknowledging that he or she understands the requirements imposed
22 by this article. The court shall inform the person so convicted of
23 the requirements to register imposed by this article and shall
24 further satisfy itself by interrogation of the defendant or his or

1 her counsel that the defendant has received notice of the
2 provisions of this article and that the defendant understands the
3 provisions. The statement, when signed and witnessed, constitutes
4 prima facie evidence that the person had knowledge of the
5 requirements of this article. Upon completion of the statement,
6 the court shall provide a copy to the registry. Persons who have
7 not signed a statement under the provisions of this subsection and
8 who are subject to the registration requirements of this article
9 must be informed of the requirement by the State Police whenever
10 the State Police obtain information that the person is subject to
11 registration requirements.

12 (h) The State Police shall maintain a central registry of all
13 persons who register under this article and shall release
14 information only as provided in this article. The information
15 required to be made public by the State Police by subdivision (2),
16 subsection (b), section five of this article is to be accessible
17 through the Internet. No information relating to telephone or
18 electronic paging device numbers a registrant has or uses may be
19 released through the Internet.

20 (i) For the purpose of this article, "sexually violent
21 offense" means:

22 (1) Sexual assault in the first degree as set forth in section
23 three, article eight-b, chapter sixty-one or of a similar provision
24 in another state, federal or military jurisdiction;

1 (2) Sexual assault in the second degree as set forth in
2 section four, article eight-b, chapter sixty-one or of a similar
3 provision in another state, federal or military jurisdiction;

4 (3) Sexual assault of a spouse as set forth in the former
5 provisions of section six, article eight-b, chapter sixty-one,
6 which was repealed by an act of the Legislature during the 2000
7 legislative session, or of a similar provision in another state,
8 federal or military jurisdiction;

9 (4) Sexual abuse in the first degree as set forth in section
10 seven, article eight-b, chapter sixty-one or of a similar provision
11 in another state, federal or military jurisdiction.

12 (j) For purposes of this article, the term "sexually
13 motivated" means that one of the purposes for which a person
14 committed the crime was for any person's sexual gratification.

15 (k) For purposes of this article, the term "sexually violent
16 predator" means a person who has been convicted or found not guilty
17 by reason of mental illness, mental retardation or addiction of a
18 sexually violent offense and who suffers from a mental abnormality
19 or personality disorder that makes the person likely to engage in
20 predatory sexually violent offenses.

21 (l) For purposes of this article, the term "mental
22 abnormality" means a congenital or acquired condition of a person,
23 that affects the emotional or volitional capacity of the person in
24 a manner that predisposes that person to the commission of criminal

1 sexual acts to a degree that makes the person a menace to the
2 health and safety of other persons.

3 (m) For purposes of this article, the term "predatory act"
4 means an act directed at a stranger or at a person with whom a
5 relationship has been established or promoted for the primary
6 purpose of victimization.

7 (n) For the purposes of this article, the term "business
8 days", means days exclusive of Saturdays, Sundays and legal
9 holidays as defined in section one, article two of chapter two.

10 (o) Notwithstanding any other provision of this code to the
11 contrary, a person required to register under the provisions of
12 this section may not reside within one thousand feet of a school or
13 childcare facility. Any person violating the provisions of this
14 subsection is guilty of a felony and, upon conviction thereof,
15 shall be imprisoned in a state correctional facility for not less
16 than two years nor more than ten years.

17 **CHAPTER 62. CRIMINAL PROCEDURE.**

18 **ARTICLE 11D. HEIGHTENED EXAMINATION AND SUPERVISION FOR CERTAIN**
19 **SEX OFFENDERS.**

20 **§62-11D-3. Electronic monitoring of certain sex offenders under**
21 **supervision; tampering with devices; offenses and**
22 **penalties.**

23 (a) Notwithstanding any provisions of this code to the

1 contrary, any person convicted of committing a sexual crime against
2 a minor pursuant to the provisions of article eight-b, chapter
3 sixty-one of this code, who is on probation, parole or supervised
4 release, is subject to global positioning system monitoring as a
5 condition of probation, parole or supervised release for the
6 duration of his or her life. Any person designated as a sexually
7 violent predator pursuant to the provisions of section two-a,
8 article twelve, chapter fifteen who is on probation, parole or
9 supervised release, ~~shall be~~ is subject to electronic monitoring as
10 a condition of probation, parole or supervised release. A person
11 required to register as a sex offender pursuant to the provisions
12 of article twelve, chapter fifteen of this code may, as a condition
13 of probation, parole or supervised release, be subject to
14 electronic monitoring.

15 (b) Upon being placed on supervision, a person required to
16 undergo electronic monitoring pursuant to the provisions of this
17 section, other than persons convicted of sexual crimes against a
18 minor subjected to global positioning system monitoring in
19 accordance with the provisions of this section, shall be placed at
20 a minimum on radio frequency monitoring with curfews enforced.
21 Following an assessment designed to determine the level and type of
22 electronic monitoring necessary to effectuate the protection of the
23 public, a supervised person, other than persons convicted of sexual
24 crimes against a minor in accordance with the provisions of this

1 section, may be placed on a system providing a greater or lesser
2 degree of monitoring.

3 (c) A person subject to the provisions of this section ~~shall~~
4 ~~be~~ is responsible for the cost of the global positioning system or
5 electronic monitoring. In the event a person required to submit to
6 global positioning system or electronic monitoring as required by
7 the provisions of this section is unable to pay for the global
8 positioning system or electronic monitoring, that person may
9 present an affidavit reflecting the inability to pay for ~~such~~ the
10 monitoring to the circuit court of the county of supervision. If
11 it appears to the satisfaction of the court that ~~such~~ the person is
12 in fact financially unable to pay for ~~such~~ the monitoring, the
13 court shall issue an order reflecting ~~such~~ its findings and forward
14 ~~said~~ the order to the supervising entity. Upon receipt of ~~such~~ the
15 order, the supervising entity ~~shall then be~~ is responsible for
16 paying for ~~each testing~~ the monitoring.

17 (d) The assessment required by the provisions of subsection
18 (b) of this section shall be completed not later than thirty days
19 after the supervised person begins serving probation or parole or
20 supervised release. Under no circumstances may a person of whom
21 electronic monitoring has been mandated as a condition of
22 supervision be on a type of monitoring less effective than voice
23 verification with a curfew.

24 (e) Any person who intentionally alters, tampers with, damages

1 or destroys any global positioning system or electronic monitoring
2 equipment, with the intent to remove the device or impair its
3 effectiveness, is guilty of a felony and, upon conviction thereof,
4 shall be confined in a state correctional facility for not less
5 than one year nor more than ten years.

NOTE: The purpose of this bill is to ensure the safety of the community by prohibiting sexual offenders from residing in certain areas and to subject persons convicted of sexual offenses against minors who are on parole or probation to global positioning system monitoring for the duration of their life.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.