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H. B. 2400

(By Delegate M. Smith)
[Introduced February 13, 2013; referred to the
Committee on Education then the Judiciary.]

10 A BILL to amend and reenact §15-12-5 of the Code of West Virginia,
11 1931, as amended, relating to disclosure of sex offender
12 registration to public and private elementary and secondary
13 schools and institutions of higher education where the
14 registrant is employed or attends school.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §15-12-5 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 12. SEX OFFENDER REGISTRATION ACT.**

19 **§15-12-5. Distribution and disclosure of information; community
20 information programs by prosecuting attorney and
21 State Police; petition to circuit court.**

22 (a) Within five business days after receiving ~~any~~ a
23 notification as described in this article, the State Police shall

1 distribute a copy of the notification statement to:

2 (1) The supervisor of each county and municipal law-enforcement
3 office and any campus police department in the city and county where
4 the registrant resides, owns or leases habitable real property that
5 he or she regularly visits, is employed or attends school or a
6 training facility;

7 (2) The county superintendent of schools in each county where
8 the registrant resides, owns or leases habitable real property that
9 he or she regularly visits, is employed or attends school or a
10 training facility;

11 (3) The child protective services office charged with
12 investigating allegations of child abuse or neglect in the county
13 where the registrant resides, owns or leases habitable real property
14 that he or she regularly visits, is employed or attends school or
15 a training facility;

16 (4) All community organizations or religious organizations
17 which regularly provide services to youths in the county where the
18 registrant resides, owns or leases habitable real property that he
19 or she regularly visits, is employed or attends school or a training
20 facility;

21 (5) Individuals and organizations which provide day care
22 services for youths or day care, residential or respite care or
23 other supportive services for mentally or physically incapacitated
24 or infirm persons in the county where the registrant resides, owns

1 or leases habitable real property that he or she regularly visits,
2 is employed or attends school or a training facility; and

3 (6) The Federal Bureau of Investigation (FBI).

4 (7) The State Police detachments in the county of the
5 offender's occupation, employment, owned or leased habitable real
6 property and school or training.

7 (8) The president, chief administrator or his or her designee
8 of any elementary school, secondary school and institution of higher
9 education, public or private, within the state where the registrant
10 is a student or is employed.

11 (b) Information concerning persons whose names are contained
12 in the sex offender registry is not subject to the requirements of
13 the West Virginia Freedom of Information Act, as set forth in
14 chapter twenty-nine-b of this code, and may be disclosed and
15 disseminated only as otherwise provided in this article and as
16 follows:

17 (1) When a person has been determined to be a sexually violent
18 predator under the terms of section two-a of this article, the State
19 Police shall notify the prosecuting attorney of the county in which
20 the person resides, owns or leases habitable real property that he
21 or she regularly visits, is employed or attends a school or training
22 facility. The prosecuting attorney shall cooperate with the State
23 Police in conducting a community notification program which is to
24 include publication of the offender's name, photograph, place of

1 residence, location of regularly visited habitable real property
2 owned or leased by the offender, county of employment and place at
3 which the offender attends school or a training facility, as well
4 as information concerning the legal rights and obligations of both
5 the offender and the community. Information relating to the victim
6 of an offense requiring registration may not be released to the
7 public except to the extent the prosecuting attorney and the State
8 Police consider it necessary to best educate the public as to the
9 nature of sexual offenses. ~~Provided, That~~ No victim's name may be
10 released in any public notification pursuant to this subsection.
11 No information relating to telephone or electronic paging device
12 numbers a registrant has or uses may be released to the public with
13 this notification program. The prosecuting attorney and State
14 Police may conduct a community notification program in the county
15 where a person who is required to register for life under the terms
16 of subdivision (2), subsection (a), section four of this article
17 resides, owns or leases habitable real property that he or she
18 regularly visits, is employed or attends a school or training
19 facility. Community notification may be repeated when determined
20 to be appropriate by the prosecuting attorney;

21 (2) The State Police shall maintain and make available to the
22 public at least quarterly the list of all persons who are required
23 to register for life according to the terms of subdivision (2),
24 subsection (a), section four of this article. No information

1 concerning the identity of a victim of an offense requiring
2 registration or telephone or electronic paging device numbers a
3 registrant has or uses may be released with this list. The method
4 of publication and access to this list are to be determined by the
5 superintendent; and

6 (3) A resident of a county may petition the circuit court for
7 an order requiring the State Police to release information about
8 persons that reside or own or lease habitable real property that the
9 persons regularly visit in that county and who are required to
10 register under section two of this article. The court shall
11 determine whether information contained on the list is relevant to
12 public safety and whether its relevance outweighs the importance of
13 confidentiality. If the court orders information to be released,
14 it may further order limitations upon secondary dissemination by the
15 resident seeking the information. In no event may information
16 concerning the identity of a victim of an offense requiring
17 registration or information relating to telephone or electronic
18 paging device numbers a registrant has or uses be released.

19 (c) The State Police may furnish information and documentation
20 required in connection with the registration to authorized law-
21 enforcement, campus police and governmental agencies of the United
22 States and its territories, of foreign countries duly authorized to
23 receive the same, of other states within the United States and of
24 the State of West Virginia upon proper request stating that the

1 records will be used solely for law-enforcement-related purposes.
2 The State Police may disclose information collected under this
3 article to federal, state and local governmental agencies
4 responsible for conducting preemployment checks. The State Police
5 also may disclose information collected under this article to the
6 Division of Motor Vehicles pursuant to the provisions of section
7 three, article two, chapter seventeen-b of this code. The State
8 Police may also disclose information collected under this article
9 to the president or chief administrator of any elementary school,
10 secondary school or higher education institution without a campus
11 police department pursuant to subdivision (8), subsection (a) of
12 this section.

13 (d) An elected public official, public employee or public
14 agency is immune from civil liability for damages arising out of any
15 action relating to the provisions of this section except when the
16 official, employee or agency acted with gross negligence or in bad
17 faith.

NOTE: The purpose of this bill is to provide sex offender registration information to elementary schools, secondary schools, higher education institutions that lack a campus police department where the registrant is employed or attends school.

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