

1 **H. B. 2480**

2
3 (By Delegates Sobonya and Border)

4 [Introduced February 15, 2013; referred to the
5 Committee on the Judiciary.]

6
7
8
9
10 A BILL to amend and reenact §15-12-2 of the Code of West Virginia,
11 1931, as amended, relating to requiring the inclusion of
12 additional information on the sex offender registry.

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

14 That §15-12-2 of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

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

17 **§15-12-2. Registration.**

18 (a) The provisions of this article apply both retroactively
19 and prospectively.

20 (b) Any person who has been convicted of an offense or an
21 attempted offense or has been found not guilty by reason of mental
22 illness, mental retardation or addiction of an offense under any of
23 the following provisions of chapter sixty-one of this code or under

1 a statutory provision of another state, the United States Code or
2 the Uniform Code of Military Justice which requires proof of the
3 same essential elements shall register as set forth in subsection
4 (d) of this section and according to the internal management rules
5 promulgated by the superintendent under authority of section
6 twenty-five, article two of this chapter:

7 (1) Article eight-a;

8 (2) Article eight-b, including the provisions of former
9 section six of said article, relating to the offense of sexual
10 assault of a spouse, which was repealed by an Act of the
11 Legislature during the year 2000 legislative session;

12 (3) Article eight-c;

13 (4) Sections five and six, article eight-d;

14 (5) Section fourteen, article two;

15 (6) Sections six, seven, twelve and thirteen, article eight;

16 or

17 (7) Section fourteen-b, article three-c, as it relates to
18 violations of those provisions of chapter sixty-one listed in this
19 subsection.

20 (c) Any person who has been convicted of a criminal offense
21 and the sentencing judge made a written finding that the offense
22 was sexually motivated shall also register as set forth in this
23 article.

24 (d) Persons required to register under the provisions of this

1 article shall register in person at the West Virginia State Police
2 detachment responsible for covering the county of his or her
3 residence, and in doing so, provide or cooperate in providing, at
4 a minimum, the following when registering:

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

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

18 (3) The registrant's Social Security number;

19 (4) A full-face photograph of the registrant at the time of
20 registration;

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

23 (6) Fingerprints and palm prints;

24 (7) Information related to any motor vehicle, trailer or motor

1 home owned or regularly operated by a registrant, including vehicle
2 make, model, color and license plate number: *Provided*, That for
3 the purposes of this article, the term "trailer" shall mean travel
4 trailer, fold-down camping trailer and house trailer as those terms
5 are defined in section one, article one, chapter seventeen-a of
6 this code;

7 (8) Information relating to any Internet accounts the
8 registrant has and the screen names, user names or aliases the
9 registrant uses on the Internet; ~~and~~

10 (9) Information related to any telephone or electronic paging
11 device numbers that the registrant has or uses, including, but not
12 limited to, residential, work and mobile telephone numbers;

13 (10) Information related to the exact age of any victim of the
14 offender at the time of the offense;

15 (11) Information concerning the familial relation, if any, of
16 the offender to the victim;

17 (12) Information concerning any past sexual offenses committed
18 by the offender; and

19 (13) Information concerning any date or dates the offender
20 will be eligible for parole.

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

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

22 (2) Notwithstanding any provision of this article to the
23 contrary, a court of this state shall, upon presiding over a
24 criminal matter resulting in conviction or a finding of not guilty

1 by reason of mental illness, mental retardation or addiction of a
2 qualifying offense, cause, within seventy-two hours of entry of the
3 commitment or sentencing order, the transmittal to the sex offender
4 registry for inclusion in the registry all information required for
5 registration by a registrant as well as the following
6 nonidentifying information regarding the victim or victims:

7 (A) His or her sex;

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

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

10 The provisions of this paragraph do not relieve a person
11 required to register pursuant to this section from complying with
12 any provision of this article.

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

16 (1) Identifying factors, including physical characteristics;

17 (2) History of the offense; and

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

20 (g) At the time the person is convicted or found not guilty by
21 reason of mental illness, mental retardation or addiction in a
22 court of this state of the crimes set forth in subsection (b) of
23 this section, the person shall sign in open court a statement
24 acknowledging that he or she understands the requirements imposed

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

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

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

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

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

9 (3) Sexual assault of a spouse as set forth in the former
10 provisions of section six, article eight-b, chapter sixty-one of
11 this code, which was repealed by an Act of the Legislature during
12 the 2000 legislative session, or of a similar provision in another
13 state, federal or military jurisdiction;

14 (4) Sexual abuse in the first degree as set forth in section
15 seven, article eight-b, chapter sixty-one of this code or of a
16 similar provision in another state, federal or military
17 jurisdiction.

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

21 (k) For purposes of this article, the term "sexually violent
22 predator" means a person who has been convicted or found not guilty
23 by reason of mental illness, mental retardation or addiction of a
24 sexually violent offense and who suffers from a mental abnormality

1 or personality disorder that makes the person likely to engage in
2 predatory sexually violent offenses.

3 (1) For purposes of this article, the term "mental
4 abnormality" means a congenital or acquired condition of a person,
5 that affects the emotional or volitional capacity of the person in
6 a manner that predisposes that person to the commission of criminal
7 sexual acts to a degree that makes the person a menace to the
8 health and safety of other persons.

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

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

NOTE: The purpose of this bill is to require the inclusion of
additional information on the sex offender registry.

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