

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2429**

4 (By Delegate P. Smith, Perry, Hartman, Moye, Eldridge, Lynch,
5 Williams, Ferro, Reynold, Faircloth and Sobonya)

6
7 (Originating in the House Committee on the Judiciary)

8
9 [February 16, 2015]

10
11 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
12 designated §15-12A-1, §15-12A-2 and §15-12A-3, relating to requiring a convicted sex
13 offender who volunteers for an organization whose volunteers have contact with minors to
14 inform that organization of his or her conviction; providing legislative intent and findings;
15 requiring the organization that accepts the sex offender as a volunteer to notify the parents
16 or guardians of those minors of his or her conviction; providing for a limited immunity for
17 organizations; and setting forth penalties.

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

19 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
20 article, designated §15-12A-1, §15-12A-2 and §15-12A-3, to read as follows:

21 **ARTICLE 12A. NOTIFICATION BY SEX OFFENDERS FOR VOLUNTEER SERVICES.**

22 **§15-12A-1. Intent and findings.**

23 (a) It is the intent of this article to aid organizations working with children, and the parents
24 of such children, to be knowledgeable about the sex offender registration status of volunteers

1 working in direct contact with children. It is not the intent of the Legislature that the information
2 be used to inflict retribution or additional punishment on any person convicted of any offense
3 requiring registration.

4 (b) The Legislature finds and declares that there is a compelling and necessary public interest
5 that the public have information concerning persons convicted of sexual offenses in order to allow
6 members of the public to adequately protect themselves and their children from these persons.

7 (c) The Legislature also finds and declares that persons required to register as sex offenders
8 pursuant to this article have a reduced expectation of privacy because of the state's interest in public
9 safety.

10 **§15-12A-2. Sex offender acting as volunteer; notice requirement**

11 (a) Any person who is required to register pursuant to article twelve of this chapter shall not
12 volunteer for an organization whose volunteers have direct contact with minors for a period of ten
13 years after conviction of release from prison, whichever is greater.

14 (b) Any person who is required to register pursuant to article twelve of this chapter who
15 volunteers for an organization in which the person required to register will have direct contact with
16 minors must inform the organization of his or her conviction and sex offender registration at the time
17 of volunteering. This notification must be in writing and submitted to the head of the organization
18 or, if applicable, the person who has principal control of the organization's activities.

19 (c) For purposes of this section, the services, places or activities where there is or may be
20 direct contact with a minor referred to in subsection (a) of this section include, but are not limited
21 to:

- 1 (1) Child protection services;
- 2 (2) Child care services;
- 3 (3) Educational institutions;
- 4 (4) Community services, youth residential centers, youth supervision units or youth training
5 centers;
- 6 (5) Retreats or other residential facilities used by children;
- 7 (6) Pediatric wards of hospitals;
- 8 (7) Clubs or associations (including of a cultural, recreational or sporting nature) that provide
9 services or conduct activities for, or directed at, children or whose membership is mainly comprised
10 of children, such as Boy and Girl Scouts, 4-H, Big Brother or Big Sister programs;
- 11 (8) Religious organizations;
- 12 (9) Baby sitting or child minding services;
- 13 (10) Fostering children;
- 14 (11) Providing a transport service specifically for children;
- 15 (12) Coaching or tutoring services of any kind for children;
- 16 (13) Counseling or other support services for children;
- 17 (14) Overnight or day camps for children regardless of the type of accommodation or of how
18 many children are involved;
- 19 (15) School crossing services, being services provided by people to assist children to cross
20 roads on their way to or from school;
- 21 (16) Providing an entertainment or party service for children;

1 (17) Providing, gym or play facilities for children;

2 (18) Providing photography services for children; and

3 (19) Talent, sporting or beauty competitions held for children.

4 (d) If, after the notification required by subsection (a) of this section has been received, and
5 the organization permits the offender to be a volunteer, the organization must notify, in writing, the
6 parents or guardians of all minors with whom the organization reasonably believes the sex offender
7 will have direct contact..

8 (e) This section applies to all registered sex offenders regardless of the date of conviction
9 while under the obligation to register pursuant to article twelve of this chapter.

10 (f) A person who has a continuing obligation to be registered as a sex offender shall be
11 notified of his or her obligation pursuant to this section, with the first reregistration form to be sent
12 to that person after July 1, 2015.

13 (g) If the registered sex offender is currently volunteering for an organization that has direct
14 contact with minors, the offender must, upon receipt of notice requiring notification, resign or
15 immediately notify, in writing, the organization of his or her sex offender registration status and
16 related conviction.

17 **§15-12A-3. Penalty; limited liability.**

18 (a) In addition to any other penalty or provision, a registered sex offender who fails to comply
19 with the provisions of his article shall be guilty of a felony and shall be imprisoned in the
20 penitentiary not less than one year nor more than five years, or fined not more than \$5,000, or both:
21 Provided, a registered sex offender required to register for ten years or less under article. twelve who

1 fails to comply with the provisions of this article is guilty of a misdemeanor and, upon conviction,
2 shall be confined in jail for not more than one year, or fined not more than \$1,000, or both confined
3 and fined.

4 (b) Nothing in this article shall give rise to a cause of action against an organization for
5 failure to properly notify a parent or guardian in accordance with this article.

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