

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

**Introduced**

### **House Bill 4572**

**FISCAL  
NOTE**

BY DELEGATES MILEY, C. MILLER, HAMRICK, QUEEN, AND

IAQUINTA.

[Introduced February 13, 2018; Referred

to the Committee on the Judiciary.]

1 A BILL to amend and reenact §15-12-5 of the Code of West Virginia, as amended, relating to  
2 increasing frequency of the State Police updating the state sex offender registry.

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

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

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

1 (a) Within five business days after receiving any notification as described in this article,  
2 the State Police shall distribute a copy of the notification statement to:

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

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

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

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

15 (5) Individuals and organizations which provide day care services for youths or day care,  
16 residential or respite care, or other supportive services for mentally or physically incapacitated or  
17 infirm persons in the county where the registrant resides, owns or leases habitable real property  
18 that he or she regularly visits, is employed or attends school or a training facility; and

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

20 (7) The State Police detachments in the county of the offender's occupation, employment,

21 owned or leased habitable real property and school or training.

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

26 (1) When a person has been determined to be a sexually violent predator under the terms  
27 of §15-12-2a of this code, the State Police shall notify the prosecuting attorney of the county in  
28 which the person resides, owns or leases habitable real property that he or she regularly visits, is  
29 employed or attends a school or training facility. The prosecuting attorney shall cooperate with  
30 the State Police in conducting a community notification program which is to include publication of  
31 the offender's name, photograph, place of residence, location of regularly visited habitable real  
32 property owned or leased by the offender, county of employment and place at which the offender  
33 attends school or a training facility, as well as information concerning the legal rights and  
34 obligations of both the offender and the community. Information relating to the victim of an offense  
35 requiring registration may not be released to the public except to the extent the prosecuting  
36 attorney and the State Police consider it necessary to best educate the public as to the nature of  
37 sexual offenses: *Provided*, That no victim's name may be released in any public notification  
38 pursuant to this subsection. No information relating to telephone or electronic paging device  
39 numbers a registrant has or uses may be released to the public with this notification program. The  
40 prosecuting attorney and State Police may conduct a community notification program in the  
41 county where a person who is required to register for life under the terms of §15-12-4(a)(2) of this  
42 code resides, owns or leases habitable real property that he or she regularly visits, is employed  
43 or attends a school or training facility. Community notification may be repeated when determined  
44 to be appropriate by the prosecuting attorney;

45 (2) The State Police shall maintain and make available to the public at least ~~quarterly~~ every  
46 fifteen business days the list of all persons who are required to register for life according to the  
47 terms §15-12-4(a)(2) of this code. No information concerning the identity of a victim of an offense

48 requiring registration or telephone or electronic paging device numbers a registrant has or uses  
49 may be released with this list. The method of publication and access to this list are to be  
50 determined by the superintendent; and

51 (3) A resident of a county may petition the circuit court for an order requiring the State  
52 Police to release information about persons that reside or own or lease habitable real property  
53 that the persons regularly visit in that county and who are required to register under §15-12-2 of  
54 this code. The court shall determine whether information contained on the list is relevant to public  
55 safety and whether its relevance outweighs the importance of confidentiality. If the court orders  
56 information to be released, it may further order limitations upon secondary dissemination by the  
57 resident seeking the information. In no event may information concerning the identity of a victim  
58 of an offense requiring registration or information relating to telephone or electronic paging device  
59 numbers a registrant has or uses be released.

60 (c) The State Police may furnish information and documentation required in connection  
61 with the registration to authorized law-enforcement, campus police and governmental agencies  
62 of the United States and its territories, of foreign countries duly authorized to receive the same,  
63 of other states within the United States and of the State of West Virginia upon proper request  
64 stating that the records will be used solely for law-enforcement-related purposes. The State Police  
65 may disclose information collected under this article to federal, state and local governmental  
66 agencies responsible for conducting preemployment checks. The State Police also may disclose  
67 information collected under this article to the Division of Motor Vehicles pursuant to the provisions  
68 of §17B-2-3 of this code.

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

NOTE: The purpose of this bill is to require the State Police to update the Sex Offender Registry at least every three weeks.

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