

1                                   **H. B. 4243**

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3                   (By Delegates Smith, Lawrence and Hunt)

4                   [Introduced January 20, 2012; referred to the

5                   Committee on Education then the Judiciary.]

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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 notification

23 as described in this article, the State Police shall distribute a

24 copy of the notification statement to:

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

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

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

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

20       (5) Individuals and organizations which provide day care  
21 services for youths or day care, residential or respite care, or  
22 other supportive services for mentally or physically incapacitated  
23 or infirm persons in the county where the registrant resides, owns  
24 or leases habitable real property that he or she regularly visits,

1 is employed or attends school or a training facility; ~~and~~

2 (6) The Federal Bureau of Investigation (FBI); and

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

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

13 (1) When a person has been determined to be a sexually violent  
14 predator under the terms of section two-a of this article, the State  
15 Police shall notify the prosecuting attorney of the county in which  
16 the person resides, owns or leases habitable real property that he  
17 or she regularly visits, is employed or attends a school or training  
18 facility. The prosecuting attorney shall cooperate with the State  
19 Police in conducting a community notification program which is to  
20 include publication of the offender's name, photograph, place of  
21 residence, location of regularly visited habitable real property  
22 owned or leased by the offender, county of employment and place at  
23 which the offender attends school or a training facility, as well  
24 as information concerning the legal rights and obligations of both

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

17       (2) The State Police shall maintain and make available to the  
18 public at least quarterly the list of all persons who are required  
19 to register for life according to the terms of subdivision (2),  
20 subsection (a), section four of this article. No information  
21 concerning the identity of a victim of an offense requiring  
22 registration or telephone or electronic paging device numbers a  
23 registrant has or uses may be released with this list. The method  
24 of publication and access to this list are to be determined by the

1 superintendent; and

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

15       (c) The State Police may furnish information and documentation  
16 required in connection with the registration to authorized  
17 law-enforcement, campus police and governmental agencies of the  
18 United States and its territories, of foreign countries duly  
19 authorized to receive the same, of other states within the United  
20 States and of the State of West Virginia upon proper request stating  
21 that the records will be used solely for law-enforcement-related  
22 purposes. The State Police may disclose information collected under  
23 this article to federal, state and local governmental agencies  
24 responsible for conducting preemployment checks. The State Police

1 ~~also~~ may disclose information collected under this article to the  
2 Division of Motor Vehicles pursuant to the provisions of section  
3 three, article two, chapter seventeen-b of this code. The State  
4 Police may also disclose information collected under this article  
5 to the president or chief administrator of any elementary school,  
6 secondary school or higher education institution without a campus  
7 police department pursuant to subdivision (7), subsection (a) of  
8 this section.

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