

Senate Bill No. 382

(By Senator Unger)

[Introduced January 23, 2012; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §15-12-2, §15-12-3 and §15-12-10 of the Code of West Virginia, 1931, as amended, all relating to the sex offender registration; requiring registration and updating of information in the offender's county of residence; and adding an internal code reference.

Be it enacted by the Legislature of West Virginia:

That §15-12-2, §15-12-3 and §15-12-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 12. SEX OFFENDER REGISTRATION ACT.

§15-12-2. Registration.

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

(b) Any person who has been convicted of an offense or an

1 attempted offense or has been found not guilty by reason of mental
2 illness, mental retardation or addiction of an offense under any of
3 the following provisions of chapter sixty-one of this code or under
4 a statutory provision of another state, the United States Code or
5 the Uniform Code of Military Justice which requires proof of the
6 same essential elements shall register as set forth in subsection
7 (d) of this section and according to the internal management rules
8 promulgated by the superintendent under authority of section
9 twenty-five, article two of this chapter:

10 ~~(1)~~ (1) Article eight-a

11 ~~(1)~~ (2) Article eight-b, including the provisions of former
12 section six of said article, relating to the offense of sexual
13 assault of a spouse, which was repealed by an act of the
14 Legislature during the year 2000 legislative session;

15 ~~(2)~~ (3) Article eight-c;

16 ~~(3)~~ (4) Sections five and six, article eight-d;

17 ~~(4)~~ (5) Section fourteen, article two;

18 ~~(5)~~ (6) Sections six, seven, twelve and thirteen, article
19 eight; or

20 ~~(6)~~ (7) Section fourteen-b, article three-c, as it relates to
21 violations of those provisions of chapter sixty-one listed in this
22 subsection.

23 (c) Any person who has been convicted of a criminal offense
24 and the sentencing judge made a written finding that the offense

1 was sexually motivated shall also register as set forth in this
2 article.

3 (d) Persons required to register under the provisions of this
4 article shall register in person at the West Virginia State Police
5 detachment in the county of his or her residence, ~~the county in~~
6 ~~which he or she owns or leases habitable real property that he or~~
7 ~~she visits regularly, the county of his or her place of employment~~
8 ~~or occupation and the county in which he or she attends school or~~
9 ~~a training facility,~~ and in doing so, provide or cooperate in
10 providing, at a minimum, the following when registering:

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

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

24 (3) The registrant's social security number;

1 (4) A full-face photograph of the registrant at the time of
2 registration;

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

5 (6) Fingerprints;

6 (7) Information related to any motor vehicle, trailer or motor
7 home owned or regularly operated by a registrant, including vehicle
8 make, model, color and license plate number: *Provided, That for*
9 *the purposes of this article, the term "trailer" shall mean travel*
10 *trailer, fold-down camping trailer and house trailer as those terms*
11 *are defined in section one, article one, chapter seventeen-a of*
12 *this code;*

13 (8) Information relating to any Internet accounts the
14 registrant has and the screen names, user names or aliases the
15 registrant uses on the Internet; and

16 (9) Information related to any telephone or electronic paging
17 device numbers that the registrant has or uses, including, but not
18 limited to, residential, work and mobile telephone numbers.

19 (e) (1) On the date that any person convicted or found not
20 guilty by reason of mental illness, mental retardation or addiction
21 of any of the crimes listed in subsection (b) of this section,
22 hereinafter referred to as a "qualifying offense", including those
23 persons who are continuing under some post-conviction supervisory
24 status, are released, granted probation or a suspended sentence,

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

18 (2) Notwithstanding any provision of this article to the
19 contrary, a court of this state shall, upon presiding over a
20 criminal matter resulting in conviction or a finding of not guilty
21 by reason of mental illness, mental retardation or addiction of a
22 qualifying offense, cause, within seventy-two hours of entry of the
23 commitment or sentencing order, the transmittal to the sex offender
24 registry for inclusion in the registry all information required for

1 registration by a registrant as well as the following non-
2 identifying information regarding the victim or victims:

3 (A) His or her sex;

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

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

6 The provisions of this paragraph do not relieve a person
7 required to register pursuant to this section from complying with
8 any provision of this article.

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

12 (1) Identifying factors, including physical characteristics;

13 (2) History of the offense; and

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

16 (g) At the time the person is convicted or found not guilty by
17 reason of mental illness, mental retardation or addiction in a
18 court of this state of the crimes set forth in subsection (b) of
19 this section, the person shall sign in open court a statement
20 acknowledging that he or she understands the requirements imposed
21 by this article. The court shall inform the person so convicted of
22 the requirements to register imposed by this article and shall
23 further satisfy itself by interrogation of the defendant or his or
24 her counsel that the defendant has received notice of the

1 provisions of this article and that the defendant understands the
2 provisions. The statement, when signed and witnessed, constitutes
3 prima facie evidence that the person had knowledge of the
4 requirements of this article. Upon completion of the statement,
5 the court shall provide a copy to the registry. Persons who have
6 not signed a statement under the provisions of this subsection and
7 who are subject to the registration requirements of this article
8 must be informed of the requirement by the State Police whenever
9 the State Police obtain information that the person is subject to
10 registration requirements.

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

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

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

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

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

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

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

17 (k) For purposes of this article, the term "sexually violent
18 predator" means a person who has been convicted or found not guilty
19 by reason of mental illness, mental retardation or addiction of a
20 sexually violent offense and who suffers from a mental abnormality
21 or personality disorder that makes the person likely to engage in
22 predatory sexually violent offenses.

23 (l) For purposes of this article, the term "mental
24 abnormality" means a congenital or acquired condition of a person,

1 that affects the emotional or volitional capacity of the person in
2 a manner that predisposes that person to the commission of criminal
3 sexual acts to a degree that makes the person a menace to the
4 health and safety of other persons.

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

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

13 **§15-12-3. Change in registry information.**

14 When any person required to register under this article
15 changes his or her residence, address, place of employment or
16 occupation, motor vehicle, trailer or motor home information
17 required by section two of this article, or school or training
18 facility which he or she is attending, or when any of the other
19 information required by this article changes, he or she shall,
20 within ten business days, inform the West Virginia State Police of
21 the changes in the manner prescribed by the superintendent of State
22 Police in procedural rules promulgated in accordance with the
23 provisions of article three, chapter twenty-nine-a of this code:
24 *Provided*, That when any person required to register under this

1 article changes his or her residence, place of employment or
2 occupation or school or training facility he or she is attending
3 from one county of this state to another county of this state, he
4 or she shall inform the West Virginia State Police detachment in
5 ~~both counties~~ the county of his or her residence within ten
6 business days of the change in the manner prescribed by the
7 superintendent in procedural rules promulgated in accordance with
8 the provisions of article three, chapter twenty-nine-a of this
9 code.

10 **§15-12-10. Address and online information verification.**

11 All registrants, including those for whom there has been no
12 change in registration information since their initial registration
13 or previous address verification, must report, in the month of
14 their birth, or in the case of a sexually violent predator in the
15 months of January, April, July and October, to the State Police
16 detachment in their county ~~or counties~~ of registration and must
17 respond to all verification inquiries and informational requests,
18 including, but not limited to, requests for online information made
19 by the State Police pursuant to this section. The State Police
20 shall verify addresses of those persons registered as sexually
21 violent predators every ninety days and all other registered
22 persons once a year. As used in this section, the term "online
23 information" shall mean all information required by subdivision
24 (8), subsection (d), section two, article twelve, chapter fifteen

1 of this code. The State Police may require registrants to
2 periodically submit to new fingerprints and photographs as part of
3 the verification process. The method of verification shall be in
4 accordance with internal management rules pertaining thereto
5 promulgated by the superintendent under authority of section
6 twenty-five, article two, chapter fifteen of this code.

NOTE: The purpose of this bill is clarify that a sex offender must register with the State Police in the county of his or her residence and keep the State Police informed of any change to the required registration information. The sex offender registry is now computerized so offenders no longer have to register in every county they visit, work or attend school.

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