

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2412

FISCAL
NOTE

2015 Carryover

(BY DELEGATES P. SMITH, PERRY, HARTMAN, ELDRIDGE,
CAMPBELL, LYNCH, LONGSTRETH, FRICH, ROWE AND
PETHTEL)

[Introduced January 13, 2016; referred to the
Committee on Education then the Judiciary.]

1 A BILL to amend and reenact §15-12-5 of the Code of West Virginia, 1931, as amended, relating
 2 to disclosure of sex offender registration to public and private elementary and secondary
 3 schools and institutions of higher education where the registrant is employed or attends
 4 school.

Be it enacted by the Legislature of West Virginia:

1 That §15-12-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted
 2 to read as follows:

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~~ a 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, owns
 7 or leases habitable real property that he or she regularly visits, is employed or attends school or a
 8 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 he
 14 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 (8) The president, chief administrator or his or her designee of any elementary school,
23 secondary school and institution of higher education, public or private, within the state where the
24 registrant is a student or is employed.

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

29 (1) When a person has been determined to be a sexually violent predator under the terms
30 of section two-a of this article, the State Police shall notify the prosecuting attorney of the county
31 in which the person resides, owns or leases habitable real property that he or she regularly visits,
32 is employed or attends a school or training facility. The prosecuting attorney shall cooperate with
33 the State Police in conducting a community notification program which is to include publication of
34 the offender's name, photograph, place of residence, location of regularly visited habitable real
35 property owned or leased by the offender, county of employment and place at which the offender
36 attends school or a training facility, as well as information concerning the legal rights and
37 obligations of both the offender and the community. Information relating to the victim of an
38 offense requiring registration may not be released to the public except to the extent the prosecuting

39 attorney and the State Police consider it necessary to best educate the public as to the nature of
40 sexual offenses. ~~Provided, That~~ No victim's name may be released in any public notification
41 pursuant to this subsection. No information relating to telephone or electronic paging device
42 numbers a registrant has or uses may be released to the public with this notification program.
43 The prosecuting attorney and State Police may conduct a community notification program in the
44 county where a person who is required to register for life under the terms of subdivision (2),
45 subsection (a), section four of this article resides, owns or leases habitable real property that he or
46 she regularly visits, is employed or attends a school or training facility. Community notification
47 may be repeated when determined to be appropriate by the prosecuting attorney;

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

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

63 (c) The State Police may furnish information and documentation required in connection
64 with the registration to authorized law-enforcement, campus police and governmental agencies of
65 the United States and its territories, of foreign countries duly authorized to receive the same, of
66 other states within the United States and of the State of West Virginia upon proper request stating
67 that the records will be used solely for law-enforcement-related purposes. The State Police may
68 disclose information collected under this article to federal, state and local governmental agencies
69 responsible for conducting preemployment checks. The State Police also may disclose
70 information collected under this article to the Division of Motor Vehicles pursuant to the provisions
71 of section three, article two, chapter seventeen-b of this code. The State Police may also disclose
72 information collected under this article to the president or chief administrator of any elementary
73 school, secondary school or higher education institution without a campus police department
74 pursuant to subdivision (8), subsection (a) of this section.

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