

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 250

BY SENATORS RUCKER AND PHILLIPS

[Introduced February 12, 2021; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §15-13-2 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting a person required to register with the child abuse and neglect registry from
3 having contact with a victim of abuse for 10 years from the date of conviction or from
4 having been found not guilty by reason of mental illness, mental retardation, or addiction.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. CHILD ABUSE AND NEGLECT REGISTRATION.

§15-13-2. Registration.

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

2 (b) Any person who has been convicted of an offense or has been found not guilty solely
3 by reason of mental illness, mental retardation or addiction of an offense under any of the
4 provisions of §61-2-2 *et seq.*, §61-2-2a *et seq.*, §61-2-3 *et seq.*, §61-2-3a *et seq.*, §61-2-4 *et seq.*,
5 §61-2-4a *et seq.* and §61-2-8d *et seq.* of this code or under a statutory provision of another state,
6 the United States Code or the Uniform Code of Military Justice which requires proof of the same
7 essential elements shall register as set forth in subsection (e) of this section and according to the
8 internal management rules promulgated by the superintendent under authority of §15-2-25 of this
9 code.

10 (c) The clerk of the court in which a person is convicted for an offense described in
11 subsection (b) of this section, or for an offense described in a municipal ordinance which has the
12 same elements as an offense described in said section, shall forward to the superintendent, at a
13 minimum, information required on forms provided by the State Police relating to the person
14 required to register.

15 (1) If the conviction is the judgment of a magistrate court, mayor, police court judge or
16 municipal court judge, the clerk or recorder shall forward to the superintendent, at a minimum,
17 information required on forms provided by the State Police relating to the person required to
18 register when the person convicted has not requested an appeal within 30 days of the sentencing
19 for such conviction.

20 (2) If the conviction is the judgment of a circuit court, the circuit clerk shall submit, at a
21 minimum, the required information to the superintendent regarding the person convicted within
22 30 days after the judgment was entered.

23 (d) If a person has been convicted of any criminal offense against a child in his or her
24 household or of whom he or she has custodial responsibility, ~~and the sentencing judge makes a~~
25 ~~written finding that there is a continued likelihood that the person will continue to have regular~~
26 ~~contact with that child or other children and that as such it is in the best interest of the child or~~
27 ~~children for that person to be monitored~~ then that person is subject to the reporting requirements
28 of this article.

29 (e) In addition to any other requirements of this article, persons required to register under
30 the provisions of this article shall provide or cooperate in providing, at a minimum, the following
31 when registering:

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

34 (2) The address where the registrant intends to reside or resides at the time of registration,
35 the name and address of the registrant's employer or place of occupation at the time of
36 registration, the names and addresses of any anticipated future employers or places of
37 occupation, the name and address of any school or training facility the registrant is attending at
38 the time of registration and the names and addresses of any schools or training facilities the
39 registrant expects to attend: *Provided*, That a post office box or other address that does not have
40 a physical street address of residence may not be provided in lieu of a physical residence address;

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

42 (4) Ages and names of any children in the household of the registrant, and any children
43 currently living or subsequently born to the registrant.

44 (5) A brief description of the offense or offenses for which the registrant was convicted;
45 and

46 (6) A complete set of the registrant's fingerprints.

47 (f) On the date that any person convicted or found not guilty solely by reason of mental
48 illness, mental retardation or addiction of any of the offenses listed in subsection (b) of this section,
49 hereinafter referred to as a "qualifying offense", including those persons who are continuing under
50 some post-conviction supervisory status, are released, granted probation or a suspended
51 sentence, released on parole, probation, home detention, work release, conditional release or
52 any other release from confinement, the Commissioner of Corrections, Regional Jail
53 Administrator, city or sheriff operating a jail or Secretary of the Department of Health and Human
54 Resources who releases the person, and any parole or probation officer who releases the person
55 or supervises the person following the release, shall inform the person of his or her duty to register
56 and send written notice of the release to the superintendent within three business days of release,
57 and provide any other information as directed by rule of the State Police. The notice must include,
58 at a minimum, the information required by subsection (e) of this section.

59 (g) Any person having a duty to register for a qualifying offense shall register upon
60 conviction, unless that person is confined or incarcerated, in which case he or she shall register
61 within three business days of release, transfer or other change in disposition status.

62 (h) At the time the person is convicted or found not guilty solely by reason of mental illness,
63 mental retardation or addiction in a court of this state of the offenses set forth in subsection (b) of
64 this section, the person shall sign in open court a notification statement acknowledging that he or
65 she understands the requirements imposed by this article. The court shall inform the person so
66 convicted of the requirements to register imposed by this article and shall further satisfy itself by
67 interrogation of the defendant or his or her counsel that the defendant has received notice of the
68 provisions of this article and that the defendant understands the provisions. The statement, when
69 signed and witnessed, constitutes prima facie evidence that the person had knowledge of the
70 requirements of this article. Upon completion of the statement, the court shall provide a copy to
71 the registry. Persons who have not signed a statement under the provisions of this subsection

72 and who are subject to the registration requirements of this article must be informed of the
73 requirement by the State Police whenever the State Police obtain information that the person is
74 subject to registration requirements.

75 (i) Any person having a duty to register for a qualifying offense shall not have contact with
76 his or her victim for a period of 10 years from the date of conviction or from having been found
77 not guilty by reason of mental illness, mental retardation or addiction.

78 (j) If a person has been convicted of any criminal offense against a child in his or her
79 household or of whom he or she has custodial responsibility, and the sentencing judge makes a
80 written finding that there is a continued likelihood that the person will continue to have regular
81 contact with that child or other children, the judge must direct that person's contact with the victim
82 be supervised or monitored for 10 years from the date of conviction or having been found not
83 guilty by reason of mental illness, mental retardation, or addiction.

84 (1) The judge must establish conditions of supervised or monitored contact if the court
85 finds that adequate provision for the safety of the child or other children can be made.

86 (2) In an order that establishes conditions of supervised or monitored contact, a court may:

87 (A) Order that supervision or monitoring be provided by another person or agency;

88 (B) Order the person subject to supervision to attend and complete, to the satisfaction of
89 the court, a program of intervention for perpetrators as a condition of contact with the child or
90 other children;

91 (C) Order the person subject to supervision to abstain from possession or consumption of
92 alcohol or controlled substances during the contact with the child or other children and for the 12
93 hours that precede the contact;

94 (D) Order the person subject to supervision to pay the costs of supervised or monitored
95 contact, if any;

96 (E) Prohibit overnight contact with the child or other children; and

97 (F) Impose any other condition that the court considers necessary to provide for the safety

98 of the child or other children, or any other family or household member.

99 ~~(j)~~ (k) The State Police shall maintain a central registry of all persons who register under
100 this article and shall release information only as provided in this article.

101 ~~(j)~~ (l) The superintendent shall provide forms to law-enforcement agencies, circuit clerks
102 and parole officers to facilitate submission of appropriate information necessary to administer the
103 child abuse and neglect registry established by this article.

104 ~~(k)~~ (m) For the purposes of this article, the term “business days”, means days exclusive of
105 Saturdays, Sundays and legal holidays as defined in §15-2-2 of this code.

NOTE: The purpose of this bill is to prohibit a person required to register with the child abuse and neglect registry from having contact with a victim of abuse for ten years from the date of conviction or from having been found not guilty by reason of mental illness, mental retardation or addiction. The bill requires a sentencing judge to direct that a person convicted of a criminal offense against a child in his or her household or of whom he or she has custodial responsibility be supervised or monitored for ten years if that person will continue to have regular contact with that child or other children. The bill sets forth conditions of supervised or monitored contact the judge may establish if the court finds that adequate provision for the safety for the child or other children can be made.

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