

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3164

By Delegates Flanigan, Funkhouser, Pritt, Dillon,

Eldridge, Campbell, and Kump

[Introduced March 05, 2025; referred to the

Committee on the Judiciary]

A BILL to amend and reenact §15-2C-2 and §15-12-2 of the Code of West Virginia, 1931, as amended, relating to increasing the fee for registration by a person required to be placed on the Central Abuse Registry and the Sex Offender Registration Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2C. CENTRAL ABUSE REGISTRY.
§15-2C-2. Central Abuse Registry; required information; procedures.

(a) The Criminal Identification Bureau of the West Virginia State Police shall establish a Central Abuse Registry, to contain information relating to criminal convictions involving child abuse or neglect, abuse or neglect of an incapacitated adult or an adult receiving behavioral health services and misappropriation of property by individuals specified in subsection (b) of this section and information relating to individuals required to be registered as a sex offender.

(b) The Central Abuse Registry shall contain, at a minimum, information relating to: Convictions of a misdemeanor or a felony involving abuse, neglect or misappropriation of property, by an individual performing services for compensation, within the scope of the individual's employment or contract to provide services, in a residential care facility, in a licensed day care center in connection with providing behavioral health services, or in connection with the provision of home care services; information relating to individuals convicted of specific offenses enumerated in §15-2C-3 (a) of this code with respect to a child or an incapacitated adult or an adult receiving behavioral health services; information relating to all individuals required to register with the Child Abuse and Neglect Registry established pursuant to article thirteen, chapter fifteen of this code; and information relating to all individuals required to register with the West Virginia State Police as sex offenders pursuant to the provisions of article twelve, chapter fifteen of this code. The Central Abuse Registry shall contain the following information:

(1) The individual's full name;

(2) Sufficient information to identify the individual, including date of birth, social security number and fingerprints if available;

(3) Identification of the criminal offense constituting abuse, neglect or misappropriation of property of a child or an incapacitated adult or an adult receiving behavioral health services;

(4) For cases involving abuse, neglect or misappropriation of property of a child or an incapacitated adult or an adult receiving behavioral health services in a residential care facility or a day care center, or of a child or an incapacitated adult or an adult receiving behavioral health services receiving home care services, sufficient information to identify the location where the documentation of any investigation by the Department of Human Services is on file and the location of pertinent court files; and

(5) Any statement by the individual disputing the conviction, if he or she chooses to make and file one.

(c) Upon conviction in the criminal courts of this state of a misdemeanor or a felony offense constituting child abuse or neglect or abuse or neglect of an incapacitated adult or an adult receiving behavioral health services, the individual so convicted shall be placed on the Central Abuse Registry.

(d) A person required to be placed on the Central Abuse Registry pursuant to this section shall pay an annual fee of \$250, to be paid between January 1 and January 30 of each year. The fee shall be collected and utilized by the State Police to defray costs associated with maintaining the registry: *Provided*, That failure to pay the annual fee under this subsection may not be considered a violation of the person's supervised release: *Provided, however*, That notice by the State Police that the annual fee has not been paid may be recorded in the office of the clerk of the county commission where the person required to register resides, where the notice shall have the force and effect of a judgment, and the notice shall be recorded and indexed by the clerk in the judgment lien docket.

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 attempted offense or has been found not guilty by reason of mental illness, mental retardation, or addiction of an offense under any of the following provisions of this code or under a statutory provision of another state, the United States Code or the Uniform Code of Military Justice which requires proof of the same essential elements shall register as set forth in §15-12-2(d) of this code and according to the internal management rules promulgated by the superintendent under authority of §15-2-25 of this code:

(1) §61-8A-1 *et seq.* of this code;

(2) §61-8B-1 *et seq.* of this code, including the provisions of former §61-8B-6 of this code, relating to the offense of sexual assault of a spouse, which was repealed by an act of the Legislature during the 2000 legislative session;

(3) §61-8C-1 *et seq.* of this code;

(4) §61-8D-5 and §61-8D-6 of this code;

(5) §61-2-14(a) of this code;

(6) §61-8-6, §61-8-7, §61-8-12, and §61-8-13 of this code;

(7) §61-3C-14b of this code, as it relates to violations of those provisions of chapter 61 listed in this subsection; or

(8) §61-14-2, §61-14-5, and §61-14-6 of this code: *Provided*, That as to §61-14-2 of this code only those violations involving human trafficking for purposes of sexual servitude require registration pursuant to this subdivision.

(c) Any person who has been convicted of a criminal offense where the sentencing judge made a written finding that the offense was sexually motivated shall also register as set forth in this article.

(d) A person required to register under the provisions of this article shall register in person at the West Virginia State Police detachment responsible for covering the county of his or her residence, and in doing so, provide or cooperate in providing, at a minimum, the following when

28 registering:

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

31 (2) The address where the registrant intends to reside or resides at the time of registration,
32 the address of any habitable real property owned or leased by the registrant that he or she
33 regularly visits: *Provided*, That a post office box may not be provided in lieu of a physical
34 residential address, the name and address of the registrant's employer or place of occupation at
35 the time of registration, the names and addresses of any anticipated future employers or places of
36 occupation, the name and address of any school or training facility the registrant is attending at the
37 time of registration and the names and addresses of any schools or training facilities the registrant
38 expects to attend;

39 (3) The registrant's Social Security number;

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

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

42 (6) The registrant's fingerprints and palm prints;

43 (7) Information related to any motor vehicle, trailer, or motor home owned or regularly
44 operated by a registrant, including vehicle make, model, color, and license plate number:
45 *Provided*, That for the purposes of this article, the term "trailer" means travel trailer, fold-down
46 camping trailer, and house trailer as those terms are defined in §17A-1-1 of this code;

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

49 (9) Information related to any telephone or electronic paging device numbers that the
50 registrant has or uses, including, but not limited to, residential, work, and mobile telephone
51 numbers;

52 (10) A photocopy of a valid driver's license or government-issued identification card,
53 including a tribal identification card;

(11) A photocopy of any passport and immigration documents;

(12) A photocopy of any professional licensing information that authorizes the registrant to engage in an occupation or carry out a trade or business; and

(13) Any identifying information, including make, model, serial number, and photograph, regarding any unmanned aerial vehicle owned or operated by a registrant.

(e) (1) On the date that any person convicted or found not guilty by reason of mental illness, mental retardation, or addiction of any of the crimes listed in §15-12-2(b) of this code, hereinafter referred to as a "qualifying offense", including those persons who are continuing under some post-conviction supervisory status, are released, granted probation or a suspended sentence, released on parole, probation, home detention, work release, conditional release or any other release from confinement, the Commissioner of Corrections, regional jail administrator, city official, or sheriff operating a jail or Secretary of the Department of Health Facilities who releases the person and any parole or probation officer who releases the person or supervises the person following the release shall obtain all information required by §15-12-2(d) of this code prior to the release of the person, inform the person of his or her duty to register, and send written notice of the release of the person to the State Police within three business days of receiving the information. The notice must include the information required by §15-12-2(d) of this code. Any person having a duty to register for a qualifying offense shall register upon conviction, unless that person is confined or incarcerated, in which case he or she shall register within three business days of release, transfer, or other change in disposition status. Any person currently registered who is incarcerated for any offense shall re-register within three business days of his or her release.

(2) Notwithstanding any provision of this article to the contrary, a court of this state shall, upon presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of mental illness, mental retardation, or addiction of a qualifying offense, cause, within 72 hours of entry of the commitment or sentencing order, the transmittal to the sex offender registry for inclusion in the registry all information required for registration by a registrant as well as the

following nonidentifying information regarding the victim or victims:

(A) His or her sex;

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

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

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

(f) For any person determined to be a sexually violent predator, the notice required by §15-12-2(d) of this code must also include:

(1) Identifying factors, including physical characteristics;

(2) History of the offense; and

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

(g) At the time the person is convicted or found not guilty by reason of mental illness, mental retardation, or addiction in a court of this state of the crimes set forth in §15-12-2(b) of this code, the person shall sign in open court a statement acknowledging that he or she understands the requirements imposed by this article. The court shall inform the person so convicted of the requirements to register imposed by this article and shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant has received notice of the provisions of this article and that the defendant understands the provisions. The statement, when signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

(h) The State Police shall maintain a central registry of all persons who register under this

article and shall release information only as provided in this article. The information required to be made public by the State Police by §15-12-5(b)(2) of this code is to be accessible through the Internet. Information relating to telephone or electronic paging device numbers a registrant has or uses may not be released through the Internet.

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

(1) Sexual assault in the first degree as set forth in §61-8B-3 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(2) Sexual assault in the second degree as set forth §61-8B-4 of this code, or of a similar provision in another state, federal, or military jurisdiction;

(3) Sexual assault of a spouse as set forth in the former provisions of §61-8B-6 of this code, which was repealed by an act of the Legislature during the 2000 legislative session, or of a similar provision in another state, federal, or military jurisdiction;

(4) Sexual abuse in the first degree as set forth in §61-8B-7 of this code, or of a similar provision in another state, federal, or military jurisdiction;

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

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

(l) For purposes of this article, the term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

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

132 purpose of victimization.

133 (n) For the purposes of this article, the term "business days" means days exclusive of
134 Saturdays, Sundays, and legal holidays as defined in §2-2-1 of this code.

135 (o) A person required to register pursuant to this section shall pay an annual fee of \$250, to
136 be paid between January 1 and June 30 of each year. The fee shall be collected and utilized by the
137 State Police to defray costs associated with monitoring sex offenders: *Provided*, That failure to pay
138 the annual fee under this subsection may not be considered a violation of the person's supervised
139 release: *Provided, however*, That notice by the State Police that the annual fee has not been paid
140 may be recorded in the office of the clerk of the county commission where the person is required to
141 register resides, where the notice shall have the force and effect of a judgment, and the notice
142 shall be recorded and indexed by the clerk in the judgment lien docket.

NOTE: The purpose of this bill is to increase the fee from \$75 to \$250 for registration by a person required to be placed on the Central Abuse Registry and the Sex Offender Registration Act.

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