

1                                   **H. B. 2721**

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3                    (By Delegates Sobonya, Sumner, Moore, Rowan,  
4                                   C. Miller, Reynolds and Ellem)

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6                    [Introduced January 21, 2011; referred to the  
7                    Committee on the Judiciary.]

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10 A BILL to amend and reenact §15-12-2 of the Code of West Virginia,  
11       1931, as amended, relating to requiring the inclusion of  
12       additional information on the sex offender registry.

13 *Be it enacted by the Legislature of West Virginia:*

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

16 **ARTICLE 12.   SEX OFFENDER REGISTRATION ACT.**

17 **§15-12-2.   Registration.**

18       (a) ~~The provisions of~~ This article ~~apply~~ applies both  
19 retroactively and prospectively.

20       (b) Any person ~~who has been~~ convicted of an offense or an  
21 attempted offense or ~~has been~~ found not guilty by reason of mental  
22 illness, mental retardation or addiction of an offense under ~~any of~~  
23 ~~the following provisions of~~ chapter sixty-one of this code or under  
24 a statutory provision of another state, the United States Code or  
25 the Uniform Code of Military Justice which requires proof of the

1 same essential elements shall register as set forth in subsection  
2 (d) of this section and according to the internal management rules  
3 promulgated by the superintendent under authority of section  
4 twenty-five, article two of this chapter:

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7 assault of a spouse, which was repealed by an act of the  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

9 (2) Article eight-c;

10 (3) Sections five and six, article eight-d;

11 (4) Section fourteen, article two;

12 (5) Sections six, seven, twelve and thirteen, article eight;

13 or

14 (6) Section fourteen-b, article three-c, as it relates to  
15 violations of those provisions of chapter sixty-one listed in this  
16 subsection.

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

21 (d) Persons required to register under ~~the provisions of~~ this  
22 article shall register in person at the West Virginia State Police  
23 detachment in the county of his or her residence, the county in  
24 which he or she owns or leases habitable real property that he or

1 she visits regularly, the county of his or her place of employment  
2 or occupation and the county in which he or she attends school or  
3 a training facility, and in doing so, provide or cooperate in  
4 providing, at a minimum, the following when registering:

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

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

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

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

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

24       (6) Fingerprints;

1       (7) Information related to any motor vehicle, trailer or motor  
2 home owned or regularly operated by a registrant, including vehicle  
3 make, model, color and license plate number. ~~Provided, That~~ For  
4 the purposes of this article, the term "trailer" shall mean travel  
5 trailer, fold-down camping trailer and house trailer as those terms  
6 are defined in section one, article one, chapter seventeen-a;

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

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

13       (10) Information related to the exact age of any victim of the  
14 offender at the time of the offense;

15       (11) Information concerning the familial relation, if any, of  
16 the offender to the victim;

17       (12) Information concerning any past sexual offenses committed  
18 by the offender; and

19       (13) Information concerning any date or dates the offender  
20 will be eligible for parole.

21       (e) (1) On the date that any person convicted or found not  
22 guilty by reason of mental illness, mental retardation or addiction  
23 of any of the crimes listed in subsection (b) of this section,  
24 hereinafter referred to as a "qualifying offense", including those

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

20       (2) Notwithstanding any provision of this article to the  
21 contrary, a court of this state shall, upon presiding over a  
22 criminal matter resulting in conviction or a finding of not guilty  
23 by reason of mental illness, mental retardation or addiction of a  
24 qualifying offense, cause, within seventy-two hours of entry of the

1 commitment or sentencing order, the transmittal to the sex offender  
2 registry for inclusion in the registry all information required for  
3 registration by a registrant as well as the following  
4 nonidentifying information regarding the victim or victims:

5 (A) His or her sex;

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

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

8 ~~The provisions of~~ This paragraph do not relieve a person  
9 required to register pursuant to this section from complying with  
10 ~~any provision of~~ this article.

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

14 (1) Identifying factors, including physical characteristics;

15 (2) History of the offense; and

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

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

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

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

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

23 (1) Sexual assault in the first degree as set forth in section  
24 three, article eight-b, chapter sixty-one or of a similar provision

1 in another state, federal or military jurisdiction;

2 (2) Sexual assault in the second degree as set forth in  
3 section four, article eight-b, chapter sixty-one or of a similar  
4 provision in another state, federal or military 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,  
7 which was repealed by an act of the Legislature during the 2000  
8 legislative session, or of a similar provision in another state,  
9 federal or military jurisdiction;

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

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

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

22 (l) ~~For purposes of~~ Under this article, the term "mental  
23 abnormality" means a congenital or acquired condition of a person,  
24 that affects the emotional or volitional capacity of the person in



1 a manner that predisposes that person to the commission of criminal  
2 sexual acts to a degree that makes the person a menace to the  
3 health and safety of other persons.

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

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

NOTE: The purpose of this bill is to require the inclusion of  
additional information on the sex offender registry.

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