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H. B. 2412

(By Delegates P. Smith, Perry, Hartman, Eldridge, Campbell,
Lynch, Williams, Longstreth, Frich, Rowe and Pethtel)

[Introduced January 27, 2015; referred to the
Committee on Education then the Judiciary.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

That §15-12-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted 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.

(a) Within five business days after receiving any a notification as described in this article, the State Police shall distribute a copy of the notification statement to:

(1) The supervisor of each county and municipal law-enforcement office and any campus

1 police department in the city and county where the registrant resides, owns or leases habitable real
2 property that he or she regularly visits, is employed or attends school or a training facility;

3 (2) The county superintendent of schools in each county where the registrant resides, owns
4 or leases habitable real property that he or she regularly visits, is employed or attends school or a
5 training facility;

6 (3) The child protective services office charged with investigating allegations of child abuse
7 or neglect in the county where the registrant resides, owns or leases habitable real property that he or
8 she regularly visits, is employed or attends school or a training facility;

9 (4) All community organizations or religious organizations which regularly provide services
10 to youths in the county where the registrant resides, owns or leases habitable real property that he or
11 she regularly visits, is employed or attends school or a training facility;

12 (5) Individuals and organizations which provide day care services for youths or day care,
13 residential or respite care or other supportive services for mentally or physically incapacitated or
14 infirm persons in the county where the registrant resides, owns or leases habitable real property that
15 he or she regularly visits, is employed or attends school or a training facility; and

16 (6) The Federal Bureau of Investigation (FBI).

17 (7) The State Police detachments in the county of the offender's occupation, employment,
18 owned or leased habitable real property and school or training.

19 (8) The president, chief administrator or his or her designee of any elementary school,
20 secondary school and institution of higher education, public or private, within the state where the
21 registrant is a student or is employed.

22 (b) Information concerning persons whose names are contained in the sex offender registry

1 is not subject to the requirements of the West Virginia Freedom of Information Act, as set forth in
2 chapter twenty-nine-b of this code, and may be disclosed and disseminated only as otherwise provided
3 in this article and as follows:

4 (1) When a person has been determined to be a sexually violent predator under the terms of
5 section two-a of this article, the State Police shall notify the prosecuting attorney of the county in
6 which the person resides, owns or leases habitable real property that he or she regularly visits, is
7 employed or attends a school or training facility. The prosecuting attorney shall cooperate with the
8 State Police in conducting a community notification program which is to include publication of the
9 offender's name, photograph, place of residence, location of regularly visited habitable real property
10 owned or leased by the offender, county of employment and place at which the offender attends
11 school or a training facility, as well as information concerning the legal rights and obligations of both
12 the offender and the community. Information relating to the victim of an offense requiring
13 registration may not be released to the public except to the extent the prosecuting attorney and the
14 State Police consider it necessary to best educate the public as to the nature of sexual offenses.
15 ~~Provided, That~~ No victim's name may be released in any public notification pursuant to this
16 subsection. No information relating to telephone or electronic paging device numbers a registrant has
17 or uses may be released to the public with this notification program. The prosecuting attorney and
18 State Police may conduct a community notification program in the county where a person who is
19 required to register for life under the terms of subdivision (2), subsection (a), section four of this
20 article resides, owns or leases habitable real property that he or she regularly visits, is employed or
21 attends a school or training facility. Community notification may be repeated when determined to
22 be appropriate by the prosecuting attorney;

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

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

16 (c) The State Police may furnish information and documentation required in connection with
17 the registration to authorized law-enforcement, campus police and governmental agencies of the
18 United States and its territories, of foreign countries duly authorized to receive the same, of other
19 states within the United States and of the State of West Virginia upon proper request stating that the
20 records will be used solely for law-enforcement-related purposes. The State Police may disclose
21 information collected under this article to federal, state and local governmental agencies responsible
22 for conducting preemployment checks. The State Police also may disclose information collected

1 under this article to the Division of Motor Vehicles pursuant to the provisions of section three, article
2 two, chapter seventeen-b of this code. The State Police may also disclose information collected under
3 this article to the president or chief administrator of any elementary school, secondary school or
4 higher education institution without a campus police department pursuant to subdivision (8),
5 subsection (a) of this section.

6 (d) An elected public official, public employee or public agency is immune from civil liability
7 for damages arising out of any action relating to the provisions of this section except when the
8 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.