

COMMITTEE SUBSTITUTE

for

**H. B. 2429**

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(BY DELEGATE(S) P. SMITH, PERRY, HARTMAN,  
MOYE, ELDRIDGE, LYNCH, WILLIAMS, FERRO, REYNOLD,  
FAIRCLOTH AND SOBONYA)

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(Originating in the House Committee on the Judiciary)  
[February 16, 2015]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-12A-1, §15-12A-2 and §15-12A-3, relating to requiring a convicted sex offender who volunteers for an organization whose volunteers have contact with minors to inform that organization of his or her conviction; providing legislative intent and findings; requiring the organization that accepts the sex offender as a volunteer to notify the parents or

guardians of those minors of his or her conviction; providing for a limited immunity for organizations; and setting forth penalties.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §15-12A-1, §15-12A-2 and §15-12A-3, to read as follows:

**ARTICLE 12A. NOTIFICATION BY SEX OFFENDERS FOR VOLUNTEER SERVICES.**

**§15-12A-1. Intent and findings.**

1       (a) It is the intent of this article to aid organizations working  
2       with children, and the parents of such children, to be  
3       knowledgeable about the sex offender registration status of  
4       volunteers working in direct contact with children. It is not the  
5       intent of the Legislature that the information be used to inflict  
6       retribution or additional punishment on any person convicted of  
7       any offense requiring registration.

8       (b) The Legislature finds and declares that there is a  
9       compelling and necessary public interest that the public have  
10      information concerning persons convicted of sexual offenses in

11 order to allow members of the public to adequately protect  
12 themselves and their children from these persons.

13 (c) The Legislature also finds and declares that persons  
14 required to register as sex offenders pursuant to this article have  
15 a reduced expectation of privacy because of the state's interest  
16 in public safety.

**§15-12A-2. Sex offender acting as volunteer; notice requirement.**

1 (a) Any person who is required to register pursuant to article  
2 twelve of this chapter shall not volunteer for an organization  
3 whose volunteers have direct contact with minors for a period of  
4 ten years after conviction of release from prison, whichever is  
5 greater.

6 (b) Any person who is required to register pursuant to article  
7 twelve of this chapter who volunteers for an organization in  
8 which the person required to register will have direct contact  
9 with minors must inform the organization of his or her  
10 conviction and sex offender registration at the time of  
11 volunteering. This notification must be in writing and submitted  
12 to the head of the organization or, if applicable, the person who  
13 has principal control of the organization's activities.

14 (c) For purposes of this section, the services, places or  
15 activities where there is or may be direct contact with a minor  
16 referred to in subsection (a) of this section include, but are not  
17 limited to:

18 (1) Child protection services;

19 (2) Child care services;

20 (3) Educational institutions;

21 (4) Community services, youth residential centers, youth  
22 supervision units or youth training centers;

23 (5) Retreats or other residential facilities used by children;

24 (6) Pediatric wards of hospitals;

25 (7) Clubs or associations (including of a cultural,  
26 recreational or sporting nature) that provide services or conduct  
27 activities for, or directed at, children or whose membership is  
28 mainly comprised of children, such as Boy and Girl Scouts, 4-H,  
29 Big Brother or Big Sister programs;

30 (8) Religious organizations;

31 (9) Baby sitting or child minding services;

32 (10) Fostering children;

33 (11) Providing a transport service specifically for children;

34 (12) Coaching or tutoring services of any kind for children;

35 (13) Counseling or other support services for children;

36 (14) Overnight or day camps for children regardless of the  
37 type of accommodation or of how many children are involved;

38 (15) School crossing services, being services provided by  
39 people to assist children to cross roads on their way to or from  
40 school;

41 (16) Providing an entertainment or party service for children;

42 (17) Providing, gym or play facilities for children;

43 (18) Providing photography services for children; and

44 (19) Talent, sporting or beauty competitions held for  
45 children.

46 (d) If, after the notification required by subsection (a) of this  
47 section has been received, and the organization permits the  
48 offender to be a volunteer, the organization must notify, in  
49 writing, the parents or guardians of all minors with whom the  
50 organization reasonably believes the sex offender will have  
51 direct contact.

52 (e) This section applies to all registered sex offenders  
53 regardless of the date of conviction while under the obligation to  
54 register pursuant to article twelve of this chapter.

55 (f) A person who has a continuing obligation to be registered  
56 as a sex offender shall be notified of his or her obligation  
57 pursuant to this section, with the first reregistration form to be  
58 sent to that person after July 1, 2015.

59 (g) If the registered sex offender is currently volunteering for  
60 an organization that has direct contact with minors, the offender  
61 must, upon receipt of notice requiring notification, resign or  
62 immediately notify, in writing, the organization of his or her sex  
63 offender registration status and related conviction.

**§15-12A-3. Penalty; limited liability.**

1 (a) In addition to any other penalty or provision, a registered  
2 sex offender who fails to comply with the provisions of his  
3 article shall be guilty of a felony and shall be imprisoned in the  
4 penitentiary not less than one year nor more than five years, or  
5 fined not more than \$5,000, or both: *Provided*, That a registered  
6 sex offender required to register for ten years or less under  
7 article twelve who fails to comply with the provisions of this  
8 article is guilty of a misdemeanor and, upon conviction, shall be  
9 confined in jail for not more than one year, or fined not more  
10 than \$1,000, or both confined and fined.

- 11        (b) Nothing in this article shall give rise to a cause of action  
12 against an organization for failure to properly notify a parent or  
13 guardian in accordance with this article.

