

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 376

FISCAL
NOTE

BY SENATOR BOSO

[Introduced February 21, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §15-12-2 of the Code of West Virginia, 1931, as amended, relating
2 to requiring any person who has been convicted or adjudicated delinquent of a qualifying
3 offense to comply with registration requirements of the Sex Offender Registration Act.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 12. SEX OFFENDER REGISTRATION ACT.

§15-12-2. Registration.

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

4 (b) Any person who has been convicted or adjudicated delinquent as a juvenile of an
5 offense or an attempted offense or has been found not guilty by reason of mental illness, mental
6 retardation or addiction of an offense under any of the following provisions of chapter sixty-one of
7 this code or under a statutory provision of another state, the United States Code or the Uniform
8 Code of Military Justice which requires proof of the same essential elements shall register as set
9 forth in subsection (d) of this section and according to the internal management rules promulgated
10 by the superintendent under authority of section twenty-five, article two of this chapter:

11 (1) Article eight-a;

12 (2) Article eight-b, including the provisions of former section six of said article, relating to
13 the offense of sexual assault of a spouse, which was repealed by an Act of the Legislature during
14 the year 2000 legislative session;

15 (3) Article eight-c;

16 (4) Sections five and six, article eight-d;

17 (5) Section fourteen, article two;

18 (6) Sections six, seven, twelve and thirteen, article eight; or

19 (7) Section fourteen-b, article three-c, as it relates to violations of those provisions of
20 chapter sixty-one listed in this subsection.

21 (c) Any person who has been convicted or adjudicated delinquent as a juvenile of a
22 criminal offense and the sentencing judge made a written finding that the offense was sexually
23 motivated shall also register as set forth in this article.

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

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

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

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

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

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

41 (6) Fingerprints and palm prints;

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

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 (e) (1) On the date that any person convicted or adjudicated delinquent as a juvenile or
53 found not guilty by reason of mental illness, mental retardation or addiction of any of the crimes
54 listed in subsection (b) of this section, hereinafter referred to as a "qualifying offense", including
55 those persons who are continuing under some post-conviction supervisory status, are released,
56 granted probation or a suspended sentence, released on parole, probation, home detention, work
57 release, conditional release or any other release from confinement, the Commissioner of
58 Corrections, regional jail administrator, city official or sheriff operating a jail or Secretary of the
59 Department of Health and Human Resources who releases the person and any parole or
60 probation officer who releases the person or supervises the person following the release, shall
61 obtain all information required by subsection (d) of this section prior to the release of the person,
62 inform the person of his or her duty to register and send written notice of the release of the person
63 to the State Police within three business days of receiving the information. The notice must include
64 the information required by said subsection. Any person having a duty to register for a qualifying
65 offense shall register upon conviction, unless that person is confined or incarcerated, in which
66 case he or she shall register within three business days of release, transfer or other change in
67 disposition status. Any person currently registered who is incarcerated for any offense shall
68 reregister within three business days of his or her release.

69 (2) Notwithstanding any provision of this article to the contrary, a court of this state shall,
70 upon presiding over a criminal matter resulting in conviction or adjudication of a juvenile
71 delinquent or a finding of not guilty by reason of mental illness, mental retardation or addiction of
72 a qualifying offense, cause, within seventy-two hours of entry of the commitment or sentencing

73 order, the transmittal to the sex offender registry for inclusion in the registry all information
74 required for registration by a registrant as well as the following nonidentifying information
75 regarding the victim or victims:

76 (A) His or her sex;

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

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

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

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

83 (1) Identifying factors, including physical characteristics;

84 (2) History of the offense; and

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

87 (g) At the time the person is convicted or adjudicated delinquent as a juvenile or found not
88 guilty by reason of mental illness, mental retardation or addiction in a court of this state of the
89 crimes set forth in subsection (b) of this section, the person shall sign in open court a statement
90 acknowledging that he or she understands the requirements imposed by this article. The court
91 shall inform the person so convicted of the requirements to register imposed by this article and
92 shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant
93 or juvenile respondent has received notice of the provisions of this article and that the defendant
94 understands the provisions. The statement, when signed and witnessed, constitutes prima facie
95 evidence that the person had knowledge of the requirements of this article. Upon completion of
96 the statement, the court shall provide a copy to the registry. Persons who have not signed a
97 statement under the provisions of this subsection and who are subject to the registration
98 requirements of this article must be informed of the requirement by the State Police whenever the

99 State Police obtain information that the person is subject to registration requirements.

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

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

106 (1) Sexual assault in the first degree as set forth in section three, article eight-b, chapter
107 sixty-one of this code or of a similar provision in another state, federal or military jurisdiction;

108 (2) Sexual assault in the second degree as set forth in section four, article eight-b, chapter
109 sixty-one of this code or of a similar provision in another state, federal or military jurisdiction;

110 (3) Sexual assault of a spouse as set forth in the former provisions of section six, article
111 eight-b, chapter sixty-one of this code, which was repealed by an Act of the Legislature during the
112 2000 legislative session, or of a similar provision in another state, federal or military jurisdiction;

113 (4) Sexual abuse in the first degree as set forth in section seven, article eight-b, chapter
114 sixty-one of this code or of a similar provision in another state, federal or military jurisdiction.

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

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

122 (l) For purposes of this article, the term "mental abnormality" means a congenital or
123 acquired condition of a person, that affects the emotional or volitional capacity of the person in a
124 manner that predisposes that person to the commission of criminal sexual acts to a degree that

125 makes the person a menace to the health and safety of other persons.

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

129 (n) For the purposes of this article, the term "business days" means days exclusive of
130 Saturdays, Sundays and legal holidays as defined in section one, article two, chapter two of this
131 code.

NOTE: The purpose of this bill is to add persons who have been adjudicated as a juvenile delinquent for conduct related to qualifying offenses to comply with the registration requirements of 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.