

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2171

BY DELEGATE MILEY

[Introduced January 9, 2019; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §15-12-5 of the Code of West Virginia, as amended, relating to
2 increasing frequency of the State Police updating the State Sex Offender Registry.

Be it enacted by the Legislature of West Virginia:

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.**

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

3 (1) The supervisor of each county and municipal law-enforcement office and any campus
4 police department in the city and county where the registrant resides, owns or leases habitable
5 real property that he or she regularly visits, is employed or attends school or a training facility;

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

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

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

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

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

20 (7) The State Police detachments in the county of the offender's occupation, employment,

21 owned or leased habitable real property and school or training.

22 (b) Information concerning persons whose names are contained in the sex offender
23 registry is not subject to the requirements of the West Virginia Freedom of Information Act, as set
24 forth in chapter 29-b of this code, and may be disclosed and disseminated only as otherwise
25 provided in this article and as follows:

26 (1) When a person has been determined to be a sexually violent predator under the terms
27 of §15-12-2a of this code, the State Police shall notify the prosecuting attorney of the county in
28 which the person resides, owns or leases habitable real property that he or she regularly visits, is
29 employed or attends a school or training facility. The prosecuting attorney shall cooperate with
30 the State Police in conducting a community notification program which is to include publication of
31 the offender's name, photograph, place of residence, location of regularly visited habitable real
32 property owned or leased by the offender, county of employment and place at which the offender
33 attends school or a training facility, as well as information concerning the legal rights and
34 obligations of both the offender and the community. Information relating to the victim of an offense
35 requiring registration may not be released to the public except to the extent the prosecuting
36 attorney and the State Police consider it necessary to best educate the public as to the nature of
37 sexual offenses: *Provided*, That no victim's name may be released in any public notification
38 pursuant to this subsection. No information relating to telephone or electronic paging device
39 numbers a registrant has or uses may be released to the public with this notification program. The
40 prosecuting attorney and State Police may conduct a community notification program in the
41 county where a person who is required to register for life under the terms of §15-12-4(a)(2) of this
42 code resides, owns or leases habitable real property that he or she regularly visits, is employed
43 or attends a school or training facility. Community notification may be repeated when determined
44 to be appropriate by the prosecuting attorney;

45 (2) The State Police shall maintain and make available to the public at least ~~quarterly~~ every
46 15 business days the list of all persons who are required to register for life according to the terms
47 of §15-12-4(a)(2) of this code. No information concerning the identity of a victim of an offense

48 requiring registration or telephone or electronic paging device numbers a registrant has or uses
49 may be released with this list. The method of publication and access to this list are to be
50 determined by the superintendent; and

51 (3) A resident of a county may petition the circuit court for an order requiring the State
52 Police to release information about persons that reside or own or lease habitable real property
53 that the persons regularly visit in that county and who are required to register under §15-12-2 of
54 this code. The court shall determine whether information contained on the list is relevant to public
55 safety and whether its relevance outweighs the importance of confidentiality. If the court orders
56 information to be released, it may further order limitations upon secondary dissemination by the
57 resident seeking the information. In no event may information concerning the identity of a victim
58 of an offense requiring registration or information relating to telephone or electronic paging device
59 numbers a registrant has or uses be released.

60 (c) The State Police may furnish information and documentation required in connection
61 with the registration to authorized law-enforcement, campus police and governmental agencies
62 of the United States and its territories, of foreign countries duly authorized to receive the same,
63 of other states within the United States and of the State of West Virginia upon proper request
64 stating that the records will be used solely for law-enforcement-related purposes. The State Police
65 may disclose information collected under this article to federal, state and local governmental
66 agencies responsible for conducting preemployment checks. The State Police also may disclose
67 information collected under this article to the Division of Motor Vehicles pursuant to the provisions
68 of §17B-2-3 of this code.

69 (d) An elected public official, public employee or public agency is immune from civil liability
70 for damages arising out of any action relating to the provisions of this section except when the
71 official, employee or agency acted with gross negligence or in bad faith.

NOTE: The purpose of this bill is to require the State Police to update the Sex Offender Registry at least every three weeks.

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