

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### Senate Bill 120

FISCAL  
NOTE

By Senators Azinger, Tarr, Hunt, and Jeffries

[Introduced January 11, 2023; referred  
to the Committee on the Judiciary; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §15-2C-2 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §15-12-2 of said code, all relating to requiring certain persons required  
3 to register with State Police to pay an annual fee; requiring registered sex offenders to pay  
4 annual fee; providing for use of fee by State Police to defray costs associated with  
5 monitoring sex offenders; providing that failure to pay annual fee shall not be deemed a  
6 violation of the person's supervised release; requiring persons required to be placed on  
7 Central Abuse Registry to pay annual fee; providing for use of fee by State Police to defray  
8 costs associated with maintaining registry; providing that failure to pay annual fee shall not  
9 be deemed a violation of the person's supervised release; and providing for recordation  
10 and indexing of nonpayment of annual fee which shall have the force of a judgment.

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

## **ARTICLE 2C. CENTRAL ABUSE REGISTRY.**

### **§15-2C-2. Central Abuse Registry; required information; procedures.**

1 (a) The Criminal Identification Bureau of the West Virginia State Police shall establish a  
2 Central Abuse Registry, to contain information relating to criminal convictions involving child  
3 abuse or neglect, abuse or neglect of an incapacitated adult or an adult receiving behavioral health  
4 services, and misappropriation of property by individuals specified in subsection (b) of this section  
5 and information relating to individuals required to be registered as a sex offender.

6 (b) The Central Abuse Registry shall contain, at a minimum, information relating to:  
7 Convictions of a misdemeanor or a felony involving abuse, neglect or misappropriation of property,  
8 by an individual performing services for compensation, within the scope of the individual's  
9 employment or contract to provide services, in a residential care facility, in a licensed day care  
10 center in connection with providing behavioral health services, or in connection with the provision  
11 of home care services; information relating to individuals convicted of specific offenses  
12 enumerated in §15-2C-3(a) of this code with respect to a child or an incapacitated adult or an adult  
13 receiving behavioral health services; information relating to all individuals required to register with

14 the Child Abuse and Neglect Registry established pursuant to §15-13-1 *et seq.* of this code; and  
15 information relating to all individuals required to register with the West Virginia State Police as sex  
16 offenders pursuant to the provisions of §15-12-1 *et seq.* of this code. The Central Abuse Registry  
17 shall contain the following information:

18 (1) The individual's full name;

19 (2) Sufficient information to identify the individual, including date of birth, social security  
20 number and fingerprints if available;

21 (3) Identification of the criminal offense constituting abuse, neglect or misappropriation of  
22 property of a child or an incapacitated adult or an adult receiving behavioral health services;

23 (4) For cases involving abuse, neglect or misappropriation of property of a child or an  
24 incapacitated adult or an adult receiving behavioral health services in a residential care facility or a  
25 day care center, or of a child or an incapacitated adult or an adult receiving behavioral health  
26 services receiving home care services, sufficient information to identify the location where the  
27 documentation of any investigation by the Department of Health and Human Resources is on file  
28 and the location of pertinent court files; and

29 (5) Any statement by the individual disputing the conviction, if he or she chooses to make  
30 and file one.

31 (c) Upon conviction in the criminal courts of this state of a misdemeanor or a felony offense  
32 constituting child abuse or neglect or abuse or neglect of an incapacitated adult or an adult  
33 receiving behavioral health services, the individual so convicted shall be placed on the Central  
34 Abuse Registry.

35 (d) A person required to be placed on the Central Abuse Registry pursuant to this section  
36 shall pay an annual fee of \$75, to be paid between January 1 and January 30 of each year. The fee  
37 shall be collected and utilized by the State Police to defray costs associated with maintaining the  
38 registry: *Provided*, That failure to pay the annual fee under this subsection shall not be deemed a  
39 violation of the person's supervised release: *Provided, however*, That notice by the State Police

40 that the annual fee has not been paid may be recorded in the office of the clerk of the county  
 41 commission where the person required to register resides, where the same shall have the force  
 42 and effect of a judgment, and the same shall be recorded and indexed by the clerk in the judgment  
 43 lien docket.

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

**§15-12-2. Registration.**

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

2            (b) Any person who has been convicted of an offense or an attempted offense or has been  
 3 found not guilty by reason of mental illness, mental retardation, or addiction of an offense under  
 4 any of the following provisions of this code or under a statutory provision of another state, the  
 5 United States Code or the Uniform Code of Military Justice which requires proof of the same  
 6 essential elements shall register as set forth in §15-12-2(d) of this code and according to the  
 7 internal management rules promulgated by the superintendent under authority of §15-2-25 of this  
 8 code:

9            (1) §61-8A-1 *et seq.* of this code;

10            (2) §61-8B-1 *et seq.* of this code, including the provisions of former §61-8B-6 of this code,  
 11 relating to the offense of sexual assault of a spouse, which was repealed by an act of the  
 12 Legislature during the 2000 legislative session;

13            (3) §61-8C-1 *et seq.* of this code;

14            (4) §61-8D-5 and §61-8D-6 of this code;

15            (5) §61-2-14(a) of this code;

16            (6) §61-8-6, §61-8-7, §61-8-12, and §61-8-13 of this code;

17            (7) §61-3C-14b of this code, as it relates to violations of those provisions of chapter 61  
 18 listed in this subsection; or

19 (8) §61-14-2, §61-14-5, and §61-14-6 of this code: *Provided*, That as to §61-14-2 of this  
20 code only those violations involving human trafficking for purposes of sexual servitude require  
21 registration pursuant to this subdivision.

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

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

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

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

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

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

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

42 (6) The registrant's fingerprints and palm prints;

43 (7) Information related to any motor vehicle, trailer, or motor home owned or regularly  
44 operated by a registrant, including vehicle make, model, color, and license plate number:

45 *Provided*, That for the purposes of this article, the term "trailer" means travel trailer, fold-down  
46 camping trailer, and house trailer as those terms are defined in §17A-1-1 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;

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 (10) A photocopy of a valid driver's license or government-issued identification card,  
53 including a tribal identification card;

54 (11) A photocopy of any passport and immigration documents;

55 (12) A photocopy of any professional licensing information that authorizes the registrant to  
56 engage in an occupation or carry out a trade or business; and

57 (13) Any identifying information, including make, model, serial number, and photograph,  
58 regarding any unmanned aerial vehicle owned or operated by a registrant.

59 (e) (1) On the date that any person convicted or found not guilty by reason of mental  
60 illness, mental retardation, or addiction of any of the crimes listed in §15-12-2(b) of this code,  
61 hereinafter referred to as a "qualifying offense", including those persons who are continuing under  
62 some post-conviction supervisory status, are released, granted probation or a suspended  
63 sentence, released on parole, probation, home detention, work release, conditional release, or  
64 any other release from confinement, the Commissioner of Corrections, regional jail administrator,  
65 city official, or sheriff operating a jail or Secretary of the Department of Health and Human  
66 Resources who releases the person and any parole or probation officer who releases the person  
67 or supervises the person following the release shall obtain all information required by §15-12-2(d)  
68 of this code prior to the release of the person, inform the person of his or her duty to register, and  
69 send written notice of the release of the person to the State Police within three business days of  
70 receiving the information. The notice must include the information required by §15-12-2(d) of this

71 code. Any person having a duty to register for a qualifying offense shall register upon conviction  
72 thereof, unless that person is confined or incarcerated, in which case he or she shall register within  
73 three business days of release, transfer, or other change in disposition status. Any person  
74 currently registered who is incarcerated for any offense shall re-register within three business days  
75 of his or her release.

76 (2) Notwithstanding any provision of this article to the contrary, a court of this state shall,  
77 upon presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of  
78 mental illness, mental retardation, or addiction of a qualifying offense, cause, within 72 hours of  
79 entry of the commitment or sentencing order, the transmittal to the sex offender registry for  
80 inclusion in the registry all information required for registration by a registrant as well as the  
81 following nonidentifying information regarding the victim or victims:

82 (A) His or her sex;

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

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

85 The provisions of this subdivision do not relieve a person required to register pursuant to  
86 this section from complying with any provision of this article.

87 (f) For any person determined to be a sexually violent predator, the notice required by §15-  
88 12-2(d) of this code must also include:

89 (1) Identifying factors, including physical characteristics;

90 (2) History of the offense; and

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

93 (g) At the time the person is convicted or found not guilty by reason of mental illness,  
94 mental retardation, or addiction in a court of this state of the crimes set forth in §15-12-2(b) of this  
95 code, the person shall sign in open court a statement acknowledging that he or she understands  
96 the requirements imposed by this article. The court shall inform the person so convicted of the

97 requirements to register imposed by this article and shall further satisfy itself by interrogation of the  
98 defendant or his or her counsel that the defendant has received notice of the provisions of this  
99 article and that the defendant understands the provisions. The statement, when signed and  
100 witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of  
101 this article. Upon completion of the statement, the court shall provide a copy to the registry.  
102 Persons who have not signed a statement under the provisions of this subsection and who are  
103 subject to the registration requirements of this article must be informed of the requirement by the  
104 State Police whenever the State Police obtain information that the person is subject to registration  
105 requirements.

106 (h) The State Police shall maintain a central registry of all persons who register under this  
107 article and shall release information only as provided in this article. The information required to be  
108 made public by the State Police by §15-12-5(b)(2) of this code is to be accessible through the  
109 Internet. Information relating to telephone or electronic paging device numbers a registrant has or  
110 uses may not be released through the Internet.

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

112 (1) Sexual assault in the first degree as set forth in §61-8B-3 of this code, or of a similar  
113 provision in another state, federal, or military jurisdiction;

114 (2) Sexual assault in the second degree as set forth §61-8B-4 of this code, or of a similar  
115 provision in another state, federal, or military jurisdiction;

116 (3) Sexual assault of a spouse as set forth in the former provisions of §61-8B-6 of this  
117 code, which was repealed by an act of the Legislature during the 2000 legislative session, or of a  
118 similar provision in another state, federal, or military jurisdiction;

119 (4) Sexual abuse in the first degree as set forth in §61-8B-7 of this code, or of a similar  
120 provision in another state, federal, or military jurisdiction;

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

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

127 (l) For purposes of this article, the term "mental abnormality" means a congenital or  
128 acquired condition of a person that affects the emotional or volitional capacity of the person in a  
129 manner that predisposes that person to the commission of criminal sexual acts to a degree that  
130 makes the person a menace to the health and safety of other persons.

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

134 (n) For the purposes of this article, the term "business days" means days exclusive of  
135 Saturdays, Sundays, and legal holidays as defined in §2-2-1 of this code.

136 (o) A person required to register pursuant to this section shall pay an annual fee of \$75, to  
137 be paid between January 1 and June 30 of each year. The fee shall be collected and utilized by the  
138 State Police to defray costs associated with monitoring sex offenders: *Provided*, That failure to pay  
139 the annual fee under this subsection shall not be deemed a violation of the person's supervised  
140 release: *Provided, however*, That notice by the State Police that the annual fee has not been paid  
141 may be recorded in the office of the clerk of the county commission where the person is required to  
142 register resides, where the same shall have the force and effect of a judgment, and the same shall  
143 be recorded and indexed by the clerk in the judgment lien docket.

NOTE: The purpose of this bill is to require certain persons required to register with State Police to pay an annual fee; require registered sex offenders to pay annual fee; provide for use of fee by State Police to defray costs associated with monitoring sex offenders; provide that failure to pay annual fee shall not be deemed a violation of the person's supervised release; provide for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment; require persons required to be placed on Central Abuse Registry to pay annual fee; provide for use of fee by State Police to defray costs associated with maintaining registry; provide that failure to pay annual fee shall not be deemed a violation of the person's supervised release; and provide for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment.

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