

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4497

By Delegates Heckert and Young

[Introduced January 10, 2024; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §15-17-1, §15-17-2, §15-17-3, §15-17-4, §15-17-5, §15-17-6, §15-17-7, §15-
 3 17-8, §15-17-9, §15-17-10, §15-17-11, and §15-17-12, all relating to the creation of a
 4 Domestic Violence Registry.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. DOMESTIC VIOLENCE REGISTRY.

§15-17-1. Intent of this Article.

1 (a) It is the intent of this article to assist law-enforcement agencies' efforts to protect the
 2 public from domestic violence offenders by requiring offenders to register with the State Police
 3 detachment in the county where he or she shall reside and by making certain information about the
 4 offenders available to the public as provided in this article. It is not the intent of the Legislature that
 5 the information be used to inflict retribution or additional punishment on any person convicted of
 6 any offense requiring registration under this article. This article is intended to be regulatory in
 7 nature and not penal.

8 (b) The Legislature finds and declares that there is a compelling and necessary public
 9 interest that the public have information concerning persons convicted of domestic violence
 10 offenses in order to allow members of the public to adequately protect themselves and their
 11 children from these persons.

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

§15-17-2. Definitions.

1 The following terms when used in this article have meanings ascribed to them in this
 2 section, except in those instances where the context clearly indicates a different meaning:

3 (a) "Domestic violence registry" or "registry" means the registry created by this article
 4 which contains the names of individuals who have been charged, indicted, or convicted of a felony

5 or a misdemeanor offense constituting domestic violence.

6 (b) "Domestic violence" is a set of crimes that are described in §61-2-28 and §61-2-9d of
7 this code:

8 (1) *Domestic battery.* - Any person who unlawfully and intentionally makes physical contact
9 of an insulting or provoking nature with his or her family or household member, or unlawfully and
10 intentionally causes physical harm to his or her family or household member is guilty of a
11 misdemeanor.

12 (2) *Domestic assault.* - Any person who unlawfully attempts to commit a violent injury
13 against his or her family or household member, or unlawfully commits an act that places his or her
14 family or household member in reasonable apprehension of immediately receiving a violent injury,
15 is guilty of a misdemeanor.

16 (3) *Strangulation.* - Any person who strangles, suffocates, or asphyxiates another without
17 that person's consent and thereby causes the other person bodily injury or loss of consciousness
18 is guilty of a felony: *Provided*, That the victim of the strangulation is a household member or
19 another group included in the domestic violence definitions of this code.

20 (4) *Intimate Partner.* - Means a current or former spouse, a person with whom one shares a
21 child in common, a person with whom one is cohabiting or has cohabited, or a person with whom
22 one is or has been in a relationship of a romantic or intimate nature.

§15-17-3. 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 §15-15-3 of this code and according to the internal
7 management rules promulgated by the superintendent under authority of §15-2-25 of this code:

8 (1) §61-2-28 of this code; and

9 (2) §61-2-9d of this code;

10 (3) Either of the crimes outlined in the section above where the crime was committed
11 against an "intimate partner."

12 (c) Any person who has been convicted of a criminal offense where the sentencing judge
13 made a written finding that the offense was found to be domestic violence shall also register as set
14 forth in this article.

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

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

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

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

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

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

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

33 (7) Information related to any motor vehicle, trailer, or motor home owned or regularly

34 operated by a registrant, including vehicle make, model, color, and license plate number:

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

37 (8) Information relating to any Internet accounts the registrant has and the screen names,
38 user names, or aliases the registrant uses on the Internet;

39 (9) Information related to any telephone or electronic paging device numbers that the
40 registrant has or uses, including, but not limited to, residential, work, and mobile telephone
41 numbers;

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

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

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

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

49 (e) On the date that any person convicted or found not guilty by reason of mental illness,
50 mental retardation, or addiction of any of the crimes listed in §15-15-3 of this code, hereinafter
51 referred to as a "qualifying offense", including those persons who are continuing under some post-
52 conviction supervisory status, are released, granted probation or a suspended sentence, released
53 on parole, probation, home detention, work release, conditional release or any other release from
54 confinement, the Commissioner of Corrections, regional jail administrator, city official, or sheriff
55 operating a jail or Secretary of the Department of Health and Human Resources who releases the
56 person and any parole or probation officer who releases the person or supervises the person
57 following the release shall obtain all information required by §15-15-3 of this code prior to the
58 release of the person, inform the person of his or her duty to register, and send written notice of the
59 release of the person to the State Police within three business days of receiving the information.

60 The notice must include the information required by §15-15-3(d) of this code. Any person having a
61 duty to register for a qualifying offense shall register upon conviction, unless that person is
62 confined or incarcerated, in which case he or she shall register within three business days of
63 release, transfer, or other change in disposition status. Any person currently registered who is
64 incarcerated for any offense shall re-register within three business days of his or her release.

65 Notwithstanding any provision of this article to the contrary, a court of this state shall, upon
66 presiding over a criminal matter resulting in conviction or a finding of not guilty by reason of mental
67 illness, mental retardation, or addiction of a qualifying offense, cause, within 72 hours of entry of
68 the commitment or sentencing order, the transmittal to the domestic violence registry for inclusion
69 in the registry all information required for registration by a registrant as well as the following
70 nonidentifying information regarding the victim or victims:

71 (A) His or her sex;

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

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

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

76 (f) For any person determined to be a physically violent abuser, the notice required by §15-
77 15-3(d) of this code must also include:

78 (1) Identifying factors, including physical characteristics;

79 (2) History of the offense; and

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

82 (g) At the time the person is convicted or found not guilty by reason of mental illness,
83 mental retardation, or addiction in a court of this state of the crimes set forth in §15-15-3(b) of this
84 code, the person shall sign in open court a statement acknowledging that he or she understands
85 the requirements imposed by this article. The court shall inform the person so convicted of the

86 requirements to register imposed by this article and shall further satisfy itself by interrogation of the
 87 defendant or his or her counsel that the defendant has received notice of the provisions of this
 88 article and that the defendant understands the provisions. The statement, when signed and
 89 witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of
 90 this article. Upon completion of the statement, the court shall provide a copy to the registry.
 91 Persons who have not signed a statement under the provisions of this subsection and who are
 92 subject to the registration requirements of this article must be informed of the requirement by the
 93 State Police whenever the State Police obtain information that the person is subject to registration
 94 requirements.

95 (h) The State Police shall maintain a central registry of all persons who register under this
 96 article and shall release information only as provided in this article. The information required to be
 97 made public by the State Police by the provisions of this code is to be accessible through the
 98 Internet. Information relating to telephone or electronic paging device numbers a registrant has or
 99 uses may not be released through the Internet.

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

§15-17-4. Change in Registry Information.

1 When any person required to register under this article changes his or her residence,
 2 address, place of employment or occupation, motor vehicle, trailer or motor home information
 3 required by §15-15-3 of this code, or school or training facility which he or she is attending, or when
 4 any of the other information required by this article changes, he or she shall, within 10 business
 5 days, inform the West Virginia State Police of the changes in the manner prescribed by the
 6 Superintendent of State Police in procedural rules promulgated in accordance with the provisions
 7 of §29A-3-1 et seq. of this code: *Provided*, That when any person required to register under this
 8 article changes his or her residence, place of employment or occupation or school or training
 9 facility he or she is attending from one county of this state to another county of this state, he or she

10 shall inform the West Virginia State Police detachment responsible for covering the county of his
 11 or her residence within 10 business days of the change in the manner prescribed by the
 12 superintendent in procedural rules promulgated in accordance with the provisions of § 29A-3-1 et
 13 seq. of this code.

§15-17-5. Duration.

1 (a) A person required to register pursuant to the provisions of this article shall continue to
 2 comply with this section, except during ensuing periods of incarceration or confinement, until 10
 3 years have elapsed since the person was released from prison, jail or a mental health facility or 10
 4 years have elapsed since the person was placed on probation, parole or supervised or conditional
 5 release. The 10-year registration period shall not be reduced by the offender's release from
 6 probation, parole or supervised or conditional release.

7 (b) A person whose conviction is overturned for the offense which required them to register
 8 under this article shall, upon petition to the court, have their name removed from the registry.

§15-17-6. Distribution and disclosure of information.

1 (a) Within five business days after receiving any notification as described in this article, the
 2 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, is employed or attends
 5 school or a training facility;

6 (2) The county superintendent of schools where the registrant resides, is employed or
 7 attends school or a training facility; and

8 (3) The Child Protective Services office charged with investigating allegations of child
 9 abuse or neglect in the county where the registrant resides, is employed or attends school or a
 10 training facility.

11 (4) All community organizations or religious organizations which regularly provide services
 12 to victims of domestic violence in the county where the registrant resides, owns or leases habitable

13 real property that he or she regularly visits, is employed or attends school or a training facility;

14 (5) The Federal Bureau of Investigation (FBI).

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

17 (b) Information concerning persons whose names are contained in the domestic violence
18 offender registry is not subject to the requirements of the West Virginia Freedom of Information
19 Act, as set forth in §29B-1-1 et seq. of this code, and may be disclosed and disseminated only as
20 otherwise provided in this article and as follows:

21 (1) When a person has been convicted of a domestic violence offense, the prosecuting
22 attorney shall cooperate with the State Police in conducting a community notification program
23 which is to include publication of the offender's name, photograph, place of residence, location of
24 regularly visited habitable real property owned or leased by the offender, county of employment
25 and place at which the offender attends school or a training facility, as well as information
26 concerning the legal rights and obligations of both the offender and the community. Information
27 relating to the victim of an offense requiring registration may not be released to the public except to
28 the extent the prosecuting attorney and the State Police consider it necessary to best educate the
29 public as to the nature of domestic violence offenses: *Provided*, That no victim's name may be
30 released in any public notification pursuant to this subsection. No information relating to telephone
31 or electronic paging device numbers a registrant has or uses may be released to the public with
32 this notification program. The prosecuting attorney and State Police may conduct a community
33 notification program in the county where a person who is required to register;

34 (2) The State Police shall maintain and make available to the public at least quarterly the
35 list of all persons who are required to register. No information concerning the identity of a victim of
36 an offense requiring registration or telephone or electronic paging device numbers a registrant has
37 or uses may be released with this list. The method of publication and access to this list are to be
38 determined by the superintendent; and

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

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

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

§15-17-7. Duties of institution officials.

1 The official in charge of the place of confinement of any person required to register under
2 this article shall, before the person is paroled or released, inform that person of his or her duty to
3 register. Further, the official shall obtain the full address of the person and a statement signed by
4 the person acknowledging that the person has been informed of his or her duty to register.

§15-17-8. Release of Information to the Domestic Violence Registry.

1 Upon the request of the West Virginia State Police, agencies in possession of records
2 produced in conjunction with investigation, prosecution, adjudication, incarceration, probation,
3 parole or presentence review of a domestic violence offender and any other records produced in
4 conjunction with a domestic violence offense shall provide those records to the State Police.

§15-17-9. Information shall be released when person moves out of state.

1 A person who is required to register pursuant to the provisions of this article, who intends to
2 move to another state or country shall at least ten business days prior to such move notify the
3 State Police of his or her intent to move and of the location to which he or she intends to move, or if
4 that person is incarcerated he or she shall notify correctional officials of his or her intent to reside in
5 some other state or country upon his or her release, and of the location to which he or she intends
6 to move. Upon such notification, the State Police shall notify law-enforcement officials of the
7 jurisdiction where the person indicates he or she intends to reside of the information provided by
8 the person under the provisions of this article.

**§15-17-10. Failure to register or provide notice of registration changes; penalty; penalty for
aiding and abetting.**

1 (a) Each time a person has a change in any of the registration information as required by
2 this article and knowingly fails to register the change or changes, each failure to register each
3 separate item of information changed shall constitute a separate offense under this section.

4 (b) Except as provided in this section, any person required to register for 10 years who
5 knowingly provides materially false information or who refuses to provide accurate information
6 when so required by the terms of this article, or who knowingly fails to register or knowingly fails to
7 provide a change in any required information as required by this article, is guilty of a misdemeanor
8 and, upon conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or confined
9 in jail not more than one year, or both. Any person convicted of a second offense under this
10 subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state

11 correctional facility for not less than one year nor more than five years. Any person convicted of a
12 third or subsequent offense under this subsection is guilty of a felony and, upon conviction thereof,
13 shall be imprisoned in a state correctional facility for not less than five nor more than 25 years.

14 (c) In addition to any other penalty specified for failure to register under this article, any
15 person under the supervision of a probation officer, parole officer or any other sanction short of
16 confinement in jail or prison who knowingly refuses to register or who knowingly fails to provide a
17 change in information as required by this article shall be subject to immediate revocation of
18 probation or parole and returned to confinement for the remainder of any suspended or unserved
19 portion of his or her original sentence.

20 (d) Any person who knows or who has reason to know that a domestic violence offender is
21 not complying, or has not complied, with the requirements of this section and who, with the intent
22 to assist the domestic violence offender in eluding a law-enforcement agency that is seeking to
23 find the sex offender to question the domestic violence offender about, or to arrest the domestic
24 violence offender for, his or her noncompliance with the requirements of this section:

25 (1) Withholds information from, the law-enforcement agency about the domestic violence
26 offender's noncompliance with the requirements of this section and, if known, the whereabouts of
27 the domestic violence offender; or

28 (2) Harbors, or attempts to harbor, or assists another person in harboring or attempting to
29 harbor, the domestic violence offender; or

30 (3) Conceals or attempts to conceal, or assists another person in concealing or attempting
31 to conceal, the domestic violence offender; or

32 (4) Provides information to the law-enforcement agency regarding the domestic violence
33 offender which the person knows to be false information is guilty of a misdemeanor and, upon
34 conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or confined in jail not
35 more than one year, or both: *Provided*, That where the person assists or seeks to assist a
36 domestic violence offender whose violation of this section would constitute a felony, the person

37 shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional
38 facility for not less than one year nor more than five years.

§15-17-11. Registration of out-of-state offenders.

1 (a) When any probation or parole officer accepts supervision of and has legal authority
2 over any person required to register under this article from another state under the terms and
3 conditions of the uniform act for out-of-state parolee supervision established under §28-6-1 et seq.
4 of this code, the officer shall give the person written notice of the registration requirements of this
5 section and obtain a signed statement from the person required to register acknowledging the
6 receipt of the notice. The officer shall obtain and submit to the State Police the information
7 required in this section.

8 (b) Any person:

9 (1) Who resides in another state or federal or military jurisdiction;

10 (2) Who is employed, carries on a vocation, is a student in this state, is a visitor to this state
11 for a period of more than 15 continuous days or owns or leases habitable real property in this state
12 that he or she regularly visits; and

13 (3) Who is required by the state, federal or military jurisdiction in which he or she resides to
14 register in that state, federal or military jurisdiction as a domestic violence offender, or has been
15 convicted of a violation in that state, federal or military jurisdiction that is similar to a violation in this
16 article requiring registration as a domestic violence offender in this state, shall register in this state
17 and otherwise comply with the provisions of this article.

18 (c) Any person changing residence to this state from another state or federal or military
19 jurisdiction who is required to register as a domestic violence offender under the laws of that state
20 or federal or military jurisdiction shall register as a domestic violence offender in this state.

§15-17-12. Address and online information verification.

1 All registrants, including those for whom there has been no change in registration
2 information since their initial registration or previous address verification, must report, in the month

3 of their birth, to the State Police detachment responsible for covering their county of registration
4 and must respond to all verification inquiries and informational requests, including, but not limited
5 to, requests for online information made by the State Police pursuant to this section. As used in
6 this section, the term "online information" shall mean all information required by this article. The
7 State Police may require registrants to periodically submit to new fingerprints and photographs as
8 part of the verification process. The method of verification shall be in accordance with internal
9 management rules pertaining thereto promulgated by the superintendent under authority of this
10 article.

NOTE: The purpose of this bill is to create a Domestic Violence Registry.

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