

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5345**

By Delegates Chiarelli, T. Clark, Hott, Petitto,  
Stephens, Forsht, DeVault, Hillenbrand,  
and Sheedy

[Originating in the Committee on the Judiciary;

Reported on February 12, 2024]





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18 code, which was repealed by an act of the Legislature during the 2000 legislative session, or of a  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

20           (D) Sexual abuse in the first degree as set forth in §61-8B-7 of this code, or of a similar  
21 provision in another state, federal, or military jurisdiction.

22           (6) "Sexually violent predator" means a person who has been convicted or found not guilty  
23 by reason of mental illness, mental retardation, or addiction of a sexually violent offense and who  
24 suffers from a mental abnormality or personality disorder that makes the person likely to engage in  
25 predatory sexually violent offenses.

26           (7) "Transient residence" means a location where a person lives, or is located for a period  
27 of three or more days in the aggregate during a calendar year, and which is not the person's  
28 temporary or permanent address. The term includes, but is not limited to, a place where the  
29 person sleeps or receives shelter, and a location that has no specific street address.

**§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11 relating to the offense of sexual assault of a spouse, which was repealed by an act of the  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 ensure their information is updated within 10 days of any registration change. ~~and~~  
28 ~~in~~ In doing so, he or she will provide or cooperate in providing, at a minimum, the following when  
29 registering or updating:

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

32 (2) The address where the registrant intends to reside or resides at the time of registration;  
33 if no permanent address or temporary address exists, any transient residence within the state;

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

39 time of registration and the names and addresses of any schools or training facilities the registrant  
40 expects to attend;

41 ~~(3)~~ (4) The registrant's Social Security number;

42 ~~(4)~~ (5) A full-face photograph of the registrant at the time of registration;

43 ~~(5)~~ (6) A brief description of the crime or crimes for which the registrant was convicted;

44 ~~(6)~~ (7) The registrant's fingerprints and palm prints;

45 ~~(7)~~ (8) Information related to any motor vehicle, trailer, or motor home owned or regularly  
46 operated by a registrant, including vehicle make, model, color, and license plate number:  
47 *Provided*, That for the purposes of this article, the term "trailer" means travel trailer, fold-down  
48 camping trailer, and house trailer as those terms are defined in §17A-1-1 of this code;

49 ~~(8)~~ (9) Information relating to any Internet accounts the registrant has and the screen  
50 names, user names, or aliases the registrant uses on the Internet;

51 ~~(9)~~ (10) Information related to any telephone or electronic paging device numbers that the  
52 registrant has or uses, including, but not limited to, residential, work, and mobile telephone  
53 numbers;

54 ~~(10)~~ (11) A photocopy of a valid driver's license or government-issued identification card,  
55 including a tribal identification card;

56 ~~(11)~~ (12) A photocopy of any passport and immigration documents;

57 ~~(12)~~ (13) A photocopy of any professional licensing information that authorizes the  
58 registrant to engage in an occupation or carry out a trade or business; and

59 ~~(13)~~ (14) Any identifying information, including make, model, serial number, and  
60 photograph, regarding any unmanned aerial vehicle owned or operated by a registrant.

61 (e) (1) On the date that any person convicted or found not guilty by reason of mental  
62 illness, mental retardation, or addiction of any of the crimes listed in §15-12-2(b) of this code,  
63 hereinafter referred to as a "qualifying offense", including those persons who are continuing under  
64 some post-conviction supervisory status, are released, granted probation or a suspended

65 sentence, released on parole, probation, home detention, work release, conditional release or any  
66 other release from confinement, the Commissioner of Corrections and Rehabilitation, regional jail  
67 administrator supervisor, city official, or sheriff operating a jail or ~~Secretary of the Department of~~  
68 ~~Health and Human Resources~~, or Secretary of the Department of Health Facilities who releases  
69 the person and any parole or probation officer who releases the person or supervises the person  
70 following the release shall obtain all information required by §15-12-2(d) of this code prior to the  
71 release of the person, inform the person of his or her duty to register, and send written notice of the  
72 release of the person to the State Police within three business days of receiving the information.  
73 The notice must include the information required by §15-12-2(d) of this code. Any person having a  
74 duty to register for a qualifying offense shall register upon conviction, unless that person is  
75 confined or incarcerated, in which case he or she shall register within three business days of  
76 release, transfer, or other change in disposition status. Any person currently registered who is  
77 incarcerated for any offense shall re-register within three business days of his or her release.

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

- 84 (A) His or her sex;
- 85 (B) His or her age at the time of the offense; and
- 86 (C) The relationship between the victim and the perpetrator.

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

89 (f) For any person determined to be a sexually violent predator, the notice required by §15-  
90 12-2(d) of this code must also include:

- 91 (1) Identifying factors, including physical characteristics;  
92 (2) History of the offense; and  
93 (3) Documentation of any treatment received for the mental abnormality or personality  
94 disorder.

95 (g) At the time the person is convicted or found not guilty by reason of mental illness,  
96 mental retardation, or addiction in a court of this state of the crimes set forth in §15-12-2(b) of this  
97 code, the person shall sign in open court a statement acknowledging that he or she understands  
98 the requirements imposed by this article. The court shall inform the person so convicted of the  
99 requirements to register ~~imposed by this article~~ and shall further satisfy itself by interrogation of the  
100 defendant or his or her counsel that the defendant has received notice of the provisions of this  
101 article and that the defendant understands the provisions. The statement, when signed and  
102 witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of  
103 this article. Upon completion of the statement, the court shall provide a copy to the registry.  
104 Persons who have not signed a statement ~~under the provisions of this subsection~~ and who are  
105 subject to the registration requirements of this article must be informed of the requirement by the  
106 State Police whenever the State Police obtain information that the person is subject to registration  
107 requirements.

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

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

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



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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to clarify how those required to register sex offenders, who have no permanent residence, can satisfy their legal obligation.

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