

OPPOSITION Response to SB 120

Requiring registered sex offenders pay annual fee

January 27, 2023

Senate Judiciary Committee:

[West Virginians for Rational Sexual Offence Laws \(WVRSOL\)](#) is a West Virginia non-profit association and affiliate of the [National Association for Rational Sexual Offence Laws \(NARSOL\)](#), which advocates for society's segment that is adversely affected by the sex offender registry. We try to help families impacted by the registry, seek ways to maintain and improve public safety, recommend prudent use of state funding in this area, and work to ensure that proposed legislation is constitutional.

WVRSOL **opposes** SB 120 because it is ex post facto punitive in effect.

SB 120 is ex post facto punitive in effect

1. The new section § 15-2C-2(d) imposes an annual fee of \$75 on persons required to register with the State Police as part of the Central Abuse Registry; however, the person needed to pay receives no benefit from said registry. Consequently, an ordinary person's interpretation is that the fee compounded with the other requirements outlined in § 15-2C-2 and § 15-12-2 sans any benefit constitutes punishment and ipso facto ex post facto punishment.
2. When similar regulatory scheme fees were challenged in Massachusetts in *DOE, SEX OFFENDER REGISTRY BOARD NO. 10800 v. Sex Offender Registry Board* the court ruled in favor of allowing the fee but only in light of the benefit the fee provided to the persons required to pay it. To wit, the court said, "We add that the regulatory scheme governing the registration of sex offenders is not wholly devoid of any benefit to a sex offender because it provides the offender with the opportunity to alter his classification level or terminate his registration obligation" (*Doe v. SEX OFFENDER REGISTRY BOARD*, 947 N.E.2d 9, 459 Mass. 603, 2011). The same; however, can't be said and isn't the case with the West Virginia registry in that it has no levels/classifications to petition for change nor any provision to petition for removal. Consequently, void of similar benefits, any fee requirement must be deemed punitive.
3. Moreover, as written, this new section § 15-2C-2(d) provides no provision for relief for persons living below the poverty line, which adds to and compounds its punitive effect.

WVRSOL supports legislation that actually works to reduce abuse and sexual offenses, help children and families, and improve public safety. Unfortunately, SB 120 does none of these things. Therefore, we **oppose** and respectfully urge the Senate, its members, and Senate Judiciary Committee to **reject SB 120** and, if deemed necessary, amend it to address the issues mentioned above.

Sincerely,

Philip W. Kaso

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WVRSOL does not in any way condone sexual activity between adults and children, nor does it condone any sexual activity that would break the laws of any state. We do not advocate lowering the age of consent, and we have no affiliation with any group that does condone such activities.

Works Cited

Doe v. Sex offender Registry Board, 947 N.E.2d 9, 459 Mass. 603, 2011. Retrieved March 7, 2022, from https://scholar.google.com/scholar_case?case=15980701723813006904&q=registry+fee+and+payments&hl=en&as_sdt=6,49