

Delegate Chiarelli moves to amend Com Sub on page 2, line 29 following Section 1b, by striking out the remainder of the bill and inserting in lieu thereof, the following:

**"§15-12-2. Registration.**

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

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

(1) §61-8A-1 et seq. of this code;

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the provisions of former §61-8B-6 of this code, relating to the offense of sexual assault of a spouse, which was repealed by an act of the Legislature during the 2000 legislative session;

(3) §61-8C-1 et seq. of this code;

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

(5) §61-2-14(a) of this code;

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

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

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

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

(d) A person required to register under the provisions of this article shall register in person at the West Virginia State Police detachment responsible for covering the county of his or her residence, and ensure their information is updated within 10 days of any registration change. ~~and in~~ In doing so, he or she will provide or cooperate in providing, at a minimum, the following when registering or updating:

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

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

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

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

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

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

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

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

~~(8)~~ (9) Information relating to any Internet accounts, Internet Protocol (IP) addresses of any computer or electronic device the registrant has ~~and the screen names, user names, or aliases the registrant uses on the Internet;~~

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

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

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

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

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

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

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

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

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

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

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

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

(g) At the time the person is convicted or found not guilty by reason of mental illness, mental retardation, or addiction in a court of this state of the crimes set forth in §15-12-2(b) of this code, the person shall sign in open court a statement acknowledging that he or she understands the requirements imposed by this article. The court shall inform the person so convicted of the requirements to register ~~imposed by this article~~ and shall further satisfy itself by interrogation of the defendant or his or her counsel that the defendant has received notice of the provisions of this article and that the defendant understands the provisions. The statement, when

signed and witnessed, constitutes prima facie evidence that the person had knowledge of the requirements of this article. Upon completion of the statement, the court shall provide a copy to the registry. Persons who have not signed a statement under the provisions of this subsection and who are subject to the registration requirements of this article must be informed of the requirement by the State Police whenever the State Police obtain information that the person is subject to registration requirements.

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

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

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

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

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

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

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

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

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

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

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

(i) For any conviction in another jurisdiction that requires a resident of the state to register, upon a determination by a court of record of this state that the registrant qualifies for expungement for that conviction under the laws of this state, the court may enter an order removing that person from the registry.

(j) Any person who had registered prior to when a DNA sample was required to be provided shall provide a DNA sample within 30 days of receipt of notice from the State Police.

(k) For the purposes of this article, the term "DNA sample" means a tissue, fluid, or other bodily sample of an individual on which a DNA analysis can be carried out.

#### **§15-12-2b. Creation of sex offender registration advisory board.**

[Repealed]

#### **§15-12-3. Change in registry information.**

(a) When any person required to register under this article changes his or her residence, address, place of employment or occupation, motor vehicle, trailer or motor home information required by section two of this article, or school or training facility which he or she is attending, or when any of the other information required by this article changes, he or she shall, within ~~ten~~ three business days, inform the West Virginia State Police of the changes in the manner prescribed by the Superintendent of State Police in procedural rules promulgated in accordance with the provisions of §29A-3-1 et seq. of this code: Provided, That when any person required to register under this article changes his or her residence, place of employment or occupation or school or training facility he or she is attending from one county of this state to another county of this state, he or she shall in person inform the West Virginia State Police detachment responsible for covering the county of his or her residence within ~~ten~~ three business days of the change in the manner prescribed by the superintendent in procedural rules promulgated in accordance with the provisions of §29A-3-1 et seq. of this code.

(b) Each person required to register for 15 years shall appear annually at the State Police detachment to confirm that all information is still complete and accurate. Persons required to register for 25 years shall appear every six months at the State Police detachment to confirm that all information is still complete and accurate. Persons required to register for life shall personally appear four times a year to confirm that all information is still complete and accurate.

#### **§15-12-4. Duration.**

(a) A person required to register under the terms of this article shall continue to comply with this section, except during ensuing periods of incarceration or confinement, until:

(1) ~~Ten~~ Fifteen years have elapsed since the person was released from prison, jail, or a mental health facility or ~~40~~ 15 years have elapsed since the person was placed on probation, parole, or supervised or conditional release. The ~~40-year~~ 15-year registration period may not be reduced by the sex offender's release from probation, parole, or supervised or conditional release; ~~or~~

(2) Twenty-five years have elapsed since the person was released from prison, jail, or a mental health facility or 25 years have elapsed since the person was placed on probation, parole, or supervised or conditional release, and the conviction was for one of the following offenses.

(A) Sexual assault in the third degree when the victim was a minor pursuant to §61-8B-5 of this code;

(B) Soliciting a minor pursuant to §61-3C-14b of this code;

(C) Commission of certain sexual offenses against a minor pursuant to §61-8B-9a of this code;

(D) Human trafficking pursuant to §61-14-3, §61-14-4, §61-14-5, §61-14-6 or §61-14-7 of this code; or

(E) Sexual abuse and other acts by a person of trust against a child pursuant to §61-8D-5 and §61-8D-6 of this code;

The 25-year registration period may not be reduced by the sex offender's release from probation, parole, or supervised or conditional release; or

~~(2)~~ (3) For the life of that person, if that person: (A) Has one or more prior convictions or has previously been found not guilty by reason of mental illness, mental retardation, or addiction for any qualifying offense referred to in this article; (B) has been convicted or has been found not guilty by reason of mental illness, mental retardation, or addiction of a qualifying offense as referred to in this article, and upon motion of the prosecuting attorney, the court finds by clear and convincing evidence that the qualifying offense involved multiple victims or multiple violations of the qualifying offense; (C) has been convicted or has been found not guilty by reason of mental illness, mental retardation, or addiction of a sexually violent offense; (D) has been determined pursuant to §15-12-2a of this code to be a sexually violent predator; ~~or~~ (E) has been convicted or has been found not guilty by reason of mental illness, mental retardation, or addiction of a qualifying offense as referred to in this article, involving a minor or a person believed or perceived by the registrant to be a minor; or (E) has been convicted or has been found not guilty by reason of mental illness, mental retardation, or addiction of sexual assault or sexual abuse as provided in §61-8b-1 et seq. of this code and the victim was a vulnerable adult as defined by §9-6-1 of this code.

(b) A person whose conviction is overturned for the offense which required him or her to register under this article shall, upon petition to the court, have his or her name removed from the registry.

**§15-12-5. Distribution and disclosure of information; community information programs by prosecuting attorney and State Police; petition to circuit court.**

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

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

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

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

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

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

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

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

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

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

or training facility. Community notification may be repeated when determined to be appropriate by the prosecuting attorney;

(2) The State Police shall maintain and make available to the public ~~at least quarterly~~ on a website the list of all persons who are required to register ~~for life~~ according to the terms of subdivision (2), subsection (a), section four of this article. No information concerning the identity of a victim of an offense requiring registration or telephone or electronic paging device numbers a registrant has or uses may be released with this list. The method of publication and access to this list are to be determined by the superintendent; and

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

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

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

**§15-12-7. Information shall be released when person moves out of state or travels abroad.**

A person who is required to register pursuant to the provisions of this article, who intends to move to another state ~~or country~~ shall at least 10 business days prior to such move notify the State Police of his or her intent to move and of the location to which he or she intends to move, or if that person is incarcerated he or she shall notify correctional officials of his or her intent to reside in some other state or country upon his or her release, and of the location to which he or she intends to move. Upon such notification, the State Police shall notify law-enforcement officials of the jurisdiction where the person indicates he or she intends to reside of the



information provided by the person under the provisions of this article. A person who is required to register pursuant to the provisions of this article, who intends to travel to another country for any purpose shall, at least 21 business days prior to such travel, notify the State Police of his or her travel plans,

**§15-12-8. Failure to register or provide notice of registration changes; penalty; penalty for aiding and abetting.**

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

(b) Except as provided in this section, any person required to register for ~~ten~~ 15 or 25 years pursuant to §15-12-4(a)(1) or §15-12-4(a)(2) of this code who knowingly provides materially false information, fails to provide a DNA sample, ~~or who~~ refuses to provide accurate information when so required by the terms of this article, ~~or who~~ knowingly fails to register, or knowingly fails to provide a change in any required information as required by this article, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or confined in jail not more than one year, or both. Any person convicted of a second offense under this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than five years. Any person convicted of a third or subsequent offense under this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than five nor more than 25 years.

(c) Any person required to register for life pursuant to this article who knowingly provides materially false information, ~~or who~~ refuses to provide accurate information when so required by the terms of this article, fails to provide a DNA sample, ~~or who~~ knowingly fails to register, or knowingly fails to provide a change in any required information as required by this article, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than five years. Any person convicted of a second or subsequent offense under this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than ten nor more than 25 years.

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

(e) Notwithstanding the provisions of subsection (c) of this section, any person required to register as a sexually violent predator pursuant to this article who knowingly provides materially false information, fails to provide a DNA sample, ~~or who~~ refuses to provide accurate information when so required by terms of this article,

or who knowingly fails to register, or knowingly fails to provide a change in any required information as required by this article is guilty of a felony and, upon conviction thereof, shall, for a first offense, be confined in a state correctional facility not less than two nor more than 10 years and for a second or subsequent offense, is guilty of a felony and, shall be confined in a state correctional facility not less than 15 nor more than 35 years.

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

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

(2) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sex offender; or

(3) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or

(4) Provides information to the law-enforcement agency regarding the sex offender which the person knows to be false information is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or confined in jail not more than one year, or both: Provided, That where the person assists or seeks to assist a sex offender whose violation of this section would constitute a felony, the person shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than five years.

#### **§15-12-10. Address and online information verification; prohibiting living near schools**

(a) ~~All~~ In addition to the reporting requirements for change of registry information required pursuant to §15-12-3 of this code, all registrants required to report for 15 years, including those for whom there has been no change in registration information since their initial registration or previous address verification, must report, in the month of their birth, all registrants required to report for 25 years must report, in the month of their birth and the 6<sup>th</sup> month following their date of birth, or and in the case of a sexually violent predator, must report in the months of January, April, July and October, to the State Police detachment responsible for covering their county of registration and must respond to all verification inquiries and informational requests, including, but not limited to, requests for online information made by the State Police pursuant to this section. The State Police shall verify addresses of those persons registered as sexually violent predators every 90 days and all other registered persons once a year. As used in this section, the term "online information" shall mean all information required by §15-12-2(d)(8) of this code. The State Police may require registrants to periodically submit to new fingerprints and photographs as part of the verification process. The method of verification shall

be in accordance with internal management rules pertaining thereto promulgated by the superintendent under authority of §15-2-25 of this code.

(b) Effective January 1, 2026, during the duration of the registration period, no registrant may reside within 2,500 feet of any public or private school or child daycare facility. Any registrant that is found to be residing within 2,500 feet of a public or private school or child daycare facility shall be subject to the penalty provided pursuant to §15-12-8 (d) of this code. "