

Executive Summary

Preliminary Injunction Motion Filed – Challenge to West Virginia Sex Offender Registry Annual Fee

- **What was filed**
 - Plaintiffs filed a **Motion for Preliminary Injunction** in the U.S. District Court for the Southern District of West Virginia seeking to **halt enforcement** of West Virginia Code § 15-12-2(o) during the pendency of the case.
- **What the statute does**
 - Imposes a **mandatory \$125 annual fee, for life**, on every person listed on the West Virginia Sex Offender Registry.
 - **No waiver, no hardship exception, no hearing** on ability to pay.
 - Nonpayment triggers an **automatic judgment lien** against a registrant's property.
- **Who is affected**
 - Approximately **6,450 registrants statewide**, including elderly, disabled, and indigent individuals.
 - Named plaintiffs include individuals on **fixed or subsistence income**, including one who relies entirely on SSI and SNAP.
- **Core constitutional claims**
 - **Eighth Amendment (Excessive Fines):**
 - The assessment is a **punitive fine**, not a regulatory fee, because proceeds are directed to **State Police mental-health services and general operations**, not registry costs.
 - A lifetime, flat annual charge untethered to cost, risk, or culpability is **grossly disproportionate**.
 - **Fourteenth Amendment (Due Process & Equal Protection):**
 - Punishes individuals **solely for poverty**, without any inquiry into ability to pay.
 - Imposes **property deprivations (liens)** without notice, hearing, or meaningful opportunity to contest.
- **Why immediate relief is necessary**
 - Enforcement causes **ongoing, irreparable harm**:
 - Property encumbrances
 - Credit destruction
 - Barriers to housing and employment
 - These harms **cannot be undone** after the fact by monetary relief.
- **Relief requested**
 - Temporarily **enjoin the collection of the annual fee**.
 - **Prohibit recording or maintaining liens** arising from alleged nonpayment.
 - Preserve the **status quo** until the court resolves the constitutional claims.
- **Bottom line**
 - The motion asks the court to stop enforcement of a **lifetime, poverty-blind financial penalty** that operates as punishment and property deprivation without due process, while the case is litigated.

Constituent Announcement

Federal Court Filing Challenges West Virginia's Lifetime Registry Fee

Today, plaintiffs in a federal civil rights case filed a **motion for preliminary injunction** asking the court to immediately **stop enforcement of West Virginia's annual sex offender registry fee** while the case proceeds.

The challenged law requires everyone on the registry to pay **\$125 every year for life**, with **no waiver for disability, age, or inability to pay**. If a person cannot pay, the State may automatically place a **judgment lien on their property**, damaging credit and limiting access to housing and employment.

The motion explains that this fee is **not used to operate the registry**. Instead, the money is diverted to **State Police mental health programs and general operations**, making the charge a **punitive fine rather than** a regulatory cost. Plaintiffs argue that imposing a lifetime financial penalty—without regard to income or circumstances—violates the **U.S. Constitution's protections against excessive fines, punishment for poverty, and deprivation of property without due process**.

Notably, the filing highlights the real-world harm caused by the law:

- Elderly and disabled registrants living on fixed incomes
- Individuals forced to choose between basic necessities and compliance
- Automatic liens that follow people indefinitely and cannot be meaningfully challenged

The requested injunction would **pause collection of the fee and prevent the filing of new or existing liens** during the case. It would **not** affect public safety, registry reporting, or law enforcement operations—only the collection and enforcement of a constitutionally suspect charge.

This filing represents a critical step toward ensuring that West Virginia’s laws **protect public safety without imposing permanent financial punishment based solely on poverty.**

Frequently Asked Questions (FAQ)

Q: What exactly was filed in court?

- A **motion for preliminary injunction** asking the federal court to temporarily stop enforcement of West Virginia’s annual \$125 registry fee while the lawsuit proceeds.

Q: Does this mean the fee has been struck down already?

- No. This motion asks the court to **pause enforcement pending a complete constitutional challenge, given ongoing harm.**

Q: Who would be protected if the injunction is granted?

- At a minimum, the **named plaintiffs**. Because the law operates automatically and uniformly, the motion asks the court to stop enforcement **more broadly**, thereby effectively protecting all registrants during the case.

Q: What enforcement actions would be stopped?

- Collection of the annual fee
- Recording new liens
- Maintaining or enforcing existing liens **during the litigation**

Q: Do registrants still have to comply with registration requirements?

- Yes. This case **does not challenge registration itself**—only the lifetime annual fee and lien enforcement.

Q: Why is the fee considered unconstitutional?

- The filing argues the fee is a **punitive fine**, not a regulatory cost, because:
 - It is charged **every year for life**
 - There is **no ability-to-pay review**
 - The money is used for **State Police operations**, not registry administration
 - Nonpayment results in **automatic property liens**

Q: What harm is the court being asked to prevent right now?

- Immediate and ongoing harm, such as:
 - Credit damage
 - Barriers to housing and employment
 - Permanent property encumbrancesThese harms cannot be fixed later with monetary damages.

Q: What happens next?

- The State will have an opportunity to respond.
- The court may set an **expedited briefing schedule and hearing.**
- The judge will decide whether to grant temporary relief while the case continues.

Q: Does this case affect fees already paid?

- No decision has been made on past payments. The current motion focuses only on **stopping enforcement going forward** during the lawsuit.
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What Should Registrants Do Right Now?

- **Do not panic or assume the fee is canceled.**
 - The court has **not yet ruled**. The motion asks for a pause in enforcement while the case is decided.
- **Do not ignore official notices.**
 - If you receive a payment notice or lien-related communication, **keep it** and note the date received.
- **Document everything.**
 - Save:
 - Payment receipts
 - Certified mail notices
 - Lien filings
 - Credit report entries related to the registry fee
 - This documentation may become important later.
- **If you cannot afford the fee, do not incur new debt to pay it.**
 - The lawsuit challenges the explicit **punishment for the inability to pay**. Do not worsen your financial position out of fear.
- **Stay informed through official updates.**
 - Rely on updates from WVRSOL/NARSOL or court filings—not rumors or social media speculation.
- **Do not stop complying with registration requirements.**
 - This case challenges only fee and lien enforcement, not registration or reporting duties.
- **If a lien is filed against you now:**
 - Preserve all paperwork.
 - Do not attempt to resolve it without understanding your options.
 - Monitor your credit report for changes.
- **Be prepared for rapid changes.**
 - If the court grants the injunction, enforcement may stop immediately.
 - Clear guidance will be issued if and when that occurs.