WEST VIRGINIA CODE: §15-12-2

§15-12-2. Registration; fees and use thereof.

(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;

(3) The provisions of former §61-8B-6 of this code, relating to the offense of sexual assault of a spouse, which was repealed by an act of the Legislature during the 2000 legislative session;

(4) §61-8C-1 *et seq*. of this code;

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

(6) §61-2-14(a) of this code;

(7) §61-8-6, §61-8-7, §61-8-12, §61-8-13, §61-8-28a, and §61-8-32 of this code;

(8) §61-3C-14b of this code, as it relates to violations of those provisions of chapter 61 listed in this subsection; or

(9) §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 in doing so, provide or cooperate in providing, at a minimum, the following when registering:

WV Legislature

(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, 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) The registrant's Social Security number;

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

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

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

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

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

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

(12) 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) 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

WV Legislature

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, regional jail administrator, city official, or sheriff operating a jail 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 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

WV Legislature

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

WV Legislature

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.

(o) A person required to register pursuant to this article shall pay an annual fee of $125, to be paid between January 1 and June 30 of each year. The annual fee shall be paid to the State Police. The State Police shall provide the registrant with a written receipt of each payment made by the registrant towards this annual fee. Once the annual fee is paid in full, the State Police will provide the registrant with a receipt that specifically provides that the annual fee contemplated in this article has been satisfied. The State Police shall compile and maintain a record of any payment made by a registrant.

(p) The State Police shall remit the entirety of a payment of the annual fee, made pursuant to this section, to the state treasurer who shall deposit these funds into the State Treasury and credit said funds to the account of the State Police. The State Police is hereby authorized to utilize the funds collected from these annual fees, first to enhance mental health services for current and former employees of the West Virginia State Police, including but not limited to hiring, or contracting, mental health professionals, conducting periodic educational seminars, meetings, trainings, or conferences addressing mental health issues that affect persons that are, or have been, employed as law enforcement, and then for any other use essential to the general operations of the State Police: *Provided*, That failure to pay the annual fee, or provide proof of payment of the annual fee, pursuant to this subsection may not be considered a violation of the person's supervised release: *Provided, however*, That a person required to register pursuant to both this article and §15-2C-2 of this code shall pay only one such annual fee of $125, which fee shall satisfy the registration requirements and payment obligations under both articles: *Provided further*, That written notice by the State Police served upon the registrant, by certified mail at the last address provided by the registrant, stating that the annual fee has not been paid, may be recorded 30 days after the notice was received by the registrant in the office of the county clerk where the person required to register resides. This notice shall have the effect of a judgment and shall be recorded and indexed by the county clerk in the judgment lien docket. This judgment lien will be released by the State Police within 30 days upon full and complete payment by the registrant. The State Police shall provide written verification of the release of the lien to the registrant at the last address provided by the registrant.

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