WEST VIRGINIA CODE CHAPTER 15 ARTICLE 13

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§15-13-1. Intent and findings.

(a) It is the intent of this article to assist law-enforcement agencies' efforts to protect children from abuse and neglect by requiring persons convicted of child abuse or neglect to register with the State Police detachment in the county of his or her residence and to report information as required by section two of this article. It is not the intent of the Legislature that this act be used to inflict retribution or additional punishment on any person convicted of any offense requiring registration under this article. This article is intended to be regulatory in nature and not penal, and is intended to provide for the safety of children who are exposed to persons convicted of child abuse and neglect.

(b) The Legislature finds and declares that there is a compelling and necessary public interest that children be protected from physical abuse and neglect, and that requirements of this article are appropriate and reasonable because of this compelling state interest.

(c) The Legislature also finds and declares that persons required to register for committing child abuse or neglect pursuant to this article have a reduced expectation of privacy because of the state's interest in public safety.

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§15-13-2. Registration.

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

(b) Any person who has been convicted of an offense or has been found not guilty solely by reason of mental illness, mental retardation or addiction of an offense under any of the provisions of sections two, two-a, three, three-a, four and four-a, article eight-d, of chapter sixty-one 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 subsection (e) of this section and according to the internal management rules promulgated by the superintendent under authority of section twenty-five, article two of this chapter.

(c) The clerk of the court in which a person is convicted for an offense described in subsection (b) of this section, or for an offense described in a municipal ordinance which has the same elements as an offense described in said section, shall forward to the superintendent, at a minimum, information required on forms provided by the State Police relating to the person required to register.

(1) If the conviction is the judgment of a magistrate court, mayor, police court judge or municipal court judge, the clerk or recorder shall forward to the superintendent, at a minimum, information required on forms provided by the State Police relating to the person required to register when the person convicted has not requested an appeal within thirty days of the sentencing for such conviction.

(2) If the conviction is the judgment of a circuit court, the circuit clerk shall submit, at a minimum, the required information to the superintendent regarding the person convicted within thirty days after the judgment was entered.

(d) If a person has been convicted of any criminal offense against a child in his or her household or of whom he or she has custodial responsibility, and the sentencing judge makes a written finding that there is a continued likelihood that the person will continue to have regular contact with that child or other children and that as such it is in the best interest of the child or children for that person to be monitored, then that person is subject to the reporting requirements of this article.

(e) In addition to any other requirements of this article, persons required to register under the provisions of this article shall provide or cooperate in providing, at a minimum, the following when registering:

(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 name and address of the registrant's employer or place of occupation at the time of

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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: *Provided*, That a post office box or other address that does not have a physical street address of residence may not be provided in lieu of a physical residence address;

(3) The registrant's social security number;

(4) Ages and names of any children in the household of the registrant, and any children currently living or subsequently born to the registrant.

(5) A brief description of the offense or offenses for which the registrant was convicted; and

(6) A complete set of the registrant's fingerprints.

(f) On the date that any person convicted or found not guilty solely by reason of mental illness, mental retardation or addiction of any of the offenses listed in subsection (b) of this section, 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, Regional Jail Administrator, city 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 inform the person of his or her duty to register and send written notice of the release to the superintendent within three business days of release, and provide any other information as directed by rule of the State Police. The notice must include, at a minimum, the information required by subsection (e) of this section.

(g) 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.

(h) At the time the person is convicted or found not guilty solely by reason of mental illness, mental retardation or addiction in a court of this state of the offenses set forth in subsection (b) of this section, the person shall sign in open court a notification 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

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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.

(i) 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.

(j) The superintendent shall provide forms to law-enforcement agencies, circuit clerks and parole officers to facilitate submission of appropriate information necessary to administer the child abuse and neglect registry established by this article.

(k) For the purposes of this article, the term "business days", means days exclusive of Saturdays, Sundays and legal holidays as defined in section one, article two, chapter two of this code.

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§15-13-3. Change in registry information.

(a) When any person required to register under this article changes his or her residence, address, or when any of the other information required by this article changes, he or she shall, within ten 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 article three, chapter twenty-nine-a of this code.

Upon directive by the State Police, any person required to register under this article may be required to appear at the nearest State Police detachment from his or her residence, to verify or provide additional information or documentation necessary to have complete and accurate registry records.

(b) A person who is required to register pursuant to the provisions of this article, who intends to move to another state or country shall, 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.

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§15-13-4. Duration.

(a) A person required to register pursuant to the provisions of this article shall continue to comply with this section, except during ensuing periods of incarceration or confinement, until ten years have elapsed since the person was released from prison, jail or a mental health facility or ten years have elapsed since the person was placed on probation, parole or supervised or conditional release. The ten-year registration period shall not be reduced by the offender's release from probation, parole or supervised or conditional release.

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

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§15-13-5. Distribution and disclosure of information.

(a) Within five business days after receiving any notification as described in this article, the State Police shall transmit a copy of the notification statement to the Department of Human Services as provided in section two of this article.

(b) Within five business days after receiving any notification statement pursuant to the provisions of subsection (a) of this section, the Secretary of the Department of Human Services 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, is employed or attends school or a training facility;

(2) The county superintendent of schools where the registrant resides, is employed or attends school or a training facility; and

(3) The Child Protective Services office charged with investigating allegations of child abuse or neglect in the county where the registrant resides, is employed or attends school or a training facility.

(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, 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.

(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.

(e) The information contained in the child abuse and neglect registry is confidential, and may not be disclosed except as specifically provided in this article. The information contained in the registry with respect to an individual shall be provided to that individual promptly upon request. Individuals on the registry requesting registry information shall be afforded the opportunity to file statements correcting any misstatements or inaccuracies contained in the registry. The State Police and the Department of Human Services may disclose registry information to authorized law-enforcement and governmental agencies of the United States and its territories, of foreign states and of the State of West Virginia upon proper request stating that the information requested is necessary in the interest of and will be used solely in the administration of official duties and the criminal laws. Agreements with other states providing for the reciprocal sharing of abuse and neglect registry information are specifically authorized. Nothing in this article would preclude disclosure of information

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authorized pursuant to article two-c of this chapter.

(f) An active file on requests for information by requesters shall be maintained by the State Police and the Department of Human Services for a period of one year from the date of a request.

(g) Information on the registry shall be exempt from disclosure under the freedom of information act in article one, chapter twenty-nine-b of this code.

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§15-13-6. Duties of institution officials.

In addition to the duties imposed by sections two and four of this article, the official in charge of the place of confinement of any person required to register under this article shall, before the person is paroled or released, inform that person of his or her duty to register. Further, the official shall obtain the full address of the person and a statement signed by the person acknowledging that the person has been informed of his or her duty to register.

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§15-13-7. Failure to register or provide notice of registration changes; penalty.

(a) Except as provided in this section, any person required to register under this article who knowingly provides false information or who refuses to provide accurate information when so required by this article, or who knowingly fails to register or knowingly fails to provide a change in any 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 imprisoned in jail not more than one year, or both: Provided, That each time the person has a change in any of the registration information as required by this article and fails to register the change or changes, each failure to register each separate item of information changed shall constitute a separate offense.

(b) Any person required to register under this article who is convicted of a second or subsequent offense of failing to register or provide a change in any information as required by this article who knowingly provides false information 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 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.

(c) 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.

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§15-13-8. Registration of out-of-state offenders.

(a) When any probation or parole officer accepts supervision of, and has legal authority over, any person required to register under this article from another state under the terms and conditions of the Interstate Compact for the Supervision of Adult Offenders established under article seven, chapter twenty-eight of this code, the officer shall give the person written notice of the registration requirements of this section and obtain a signed statement from the person required to register acknowledging the receipt of the notice. The officer shall obtain and submit to the State Police the information required in subsection (e), section two of this article.

(b) Any person:

(1) Who resides in another state or federal or military jurisdiction;

(2) Who is employed, carries on a vocation, is a student in this state or is a visitor to this state for a period of more than fifteen continuous days; and

(3) Who is required by the state, federal or military jurisdiction in which he or she resides to register in that state, federal or military jurisdiction for child abuse or neglect, or has been convicted of a violation in that state, federal or military jurisdiction that is similar to a violation in this article shall register in this state and otherwise comply with the provisions of this article.

(c) Any person changing residence to this state from another state or federal or military jurisdiction who is required to register because of a conviction for child abuse or neglect under the laws of that state or federal or military jurisdiction shall register in this state.

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