SB 130

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

ENROLLED

COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 130

(By Senator BOWMAN, ET AL **)**

PASSED MARCH 9, **1996**

In Effect NINETY DAYS FROM **Passage**

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 130

(SENATORS BOWMAN, ROSS, BUCKALEW, ANDERSON, DITTMAR, YODER, WHITLOW, HELMICK, SHARPE, BLATNIK, KIMBLE, SCHOONOVER, LOVE, MINEAR AND WALKER, *original sponsors*)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, four, five, six, seven and eight, article eight-f, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section nine; and to amend and reenact section eight, article eleven-a of said chapter, all relating to requiring sex offender registration and notification; expanding crimes for which persons are required to register; expanding information included in registration; designating state police as agency to register such persons; requiring state

police to maintain central register; distributing information provided at registration; permitting state police to furnish information to other law-enforcement and governmental agencies; providing for limited immunity for distribution of information; removing requirement that offense be second offense; listing duties of officials to obtain written acknowledgement of duty to register; release of information when person moves out-of-state; failure to register; penalties for failure to register; registration of out-of-state offenders; and expansion of victim notification.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven and eight, article eight-f, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section nine; and that section eight, article eleven-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 8F. SEX OFFENDER REGISTRATION ACT.

§61-8F-2. Registration.

(a) Any person who has been convicted of a violation of the provisions of article eight-b, eight-c or eight-d of this chapter, or of section fourteen, article two, or of section thirteen, article eight of this chapter, or of a similar provision in another jurisdiction shall be required to be registered as set forth in this article. Any person who has been convicted of an attempt to commit any of the offenses set forth in this section shall also be required to register as set forth in this article.

(b) On the date that any person convicted of the crimes listed herein is released, is granted probation, is granted a suspended sentence, is released on parole or probation, or is ordered to be placed on home detention, the commissioner of corrections, regional jail supervisor or city or sheriff operating a jail which releases such person and any parole or probation officer who releases such person

or supervises such person following the release shall obtain all information required by this subsection prior to the release of the person and shall send written notice of the release of the person to the state police. The notice shall include:

(1) The full name of the person;

(2) The address where the person shall reside;

(3) The person's social security number;

(4) A recent photograph of the person; and

(5) A brief description of the crime for which the person was convicted.

(c) At the time the person is convicted of the crimes set forth in subsection (a) of this section, 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 such provisions. Such statement, when signed and witnessed shall constitute prima facie evidence that the person had knowledge of the requirements of this article.

(d) When a person required to register under this article is released following incarceration, the commissioner of corrections, the regional jail supervisor or the city or sheriff or any other person supervising the operation of the place of confinement shall inform the state police of such release and provide such further information as is required by this article.

(e) 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.

§61-8F-3. Change of address.

When any person required to register under this article changes his or her residence or address, he or she shall inform the West Virginia state police of his or her new address, in writing, within ten days.

§61-8F-4. Duration.

Any person required to register under this article shall be required to do so for a period of ten years after conviction for the offense defined herein if not imprisoned, and if imprisoned, for a period of ten years after release from prison by discharge or parole. A person is no longer required to register at the expiration of ten years from the date of initial registration, when that convicted person is not otherwise required, during such period, to register. A person whose conviction is overturned for the offense which required them to register under this article shall be permitted to petition the court for removal of their name from the registry.

§61-8F-5. Distribution of information.

(a) Within five working 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 in the city and county where the person will reside;

(2) The county superintendent of schools where the person will reside;

(3) The child protective services office charged with investigating allegations of child abuse or neglect in the county where the person will reside; and

(4) All community organizations or religious organizations which regularly provide services to youths in the county where the person will reside.

(b) The information and documentation required in connection with the registration may be provided to any other person upon application to the circuit court in the

county where an applicant seeking the information resides, when that court finds that the information is sufficiently relevant to public safety to outweigh the importance of maintaining confidentiality of this article. When the court orders the release of that information, the court shall further order to what extent the applicant may provide for the release of the information to third parties.

(c) The state police may furnish information and documentation required in connection with the registration to authorized law-enforcement 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.

(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.

§61-8F-6. Duties of institution officials.

In addition to the duties imposed by sections two and four of this article, any person required to register under this article, before parole or release, shall be informed of their duty to register by the official in charge of the place of confinement. Further, the official shall obtain a statement signed by the person acknowledging that the person has been informed of their duty to register.

§61-8F-7. Information shall be released when person moves out of state.

When a person who is required to register pursuant to the provisions of this article notifies any law-enforcement official or corrections official, that he or she is moving to another state, the official shall notify law-enforcement officials where the person indicates he or

she shall reside of the information provided by the person under the provisions of this article.

§61-8F-8. Failure to register; penalty.

Any person required to register under this article who knowingly fails to register or knowingly fails to provide a change of address as required by this section, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty dollars nor more than ten thousand dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned: *Provided,* That each time such person changes residence and fails to register, such failure shall constitute a separate offense.

§61-8F-9. Registration of out-of-state offenders.

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 uniform act for out-of-state parolee supervision established under article six, chapter twenty-eight of this code, such 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.

ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.

§61-11A-8. Victim notification of defendant's release.

(a) At the time a complaint is sworn out and again at the time when any person is convicted for a charge of murder, aggravated robbery, sexual assault in the first degree, kidnapping, arson, sexual offenses against minors or any violent crime against a spouse, former spouse, child or stepchild, the prosecuting attorney shall provide written notice to the victim or victim's family member that he or she may be notified prior to and upon the release of the defendant from confinement in any correctional facility, work release, home confinement, probation, parole, or upon the escape of the defendant

from any correctional facility. The notice shall include instructions on how to request the notification.

(b) The commissioner of corrections, regional jail supervisors, city or sheriff operating a jail which releases any person shall, from which they have received a written request for notification, provide written notice to the last known address or addresses provided by the victim, or in the case of a minor child, to the custodial parent of the child, upon release of the defendant. Additionally, notice provided in the case of escape shall be by telephone.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

The within is approved this the 25th day of March, 1996.

.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/21/96

Time 9:45 am