

HB 2871

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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2871

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]



Passed March 13, 1999

In Effect Ninety Days from Passage

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SENATE

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COMMITTEE SUBSTITUTE

FOR

H. B. 2871

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)

[BY REQUEST OF THE EXECUTIVE]

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to repeal article eight-f, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend chapter fifteen of said code by adding thereto a new article, designated article eleven; to amend and reenact section seven, article five, chapter forty-eight; and to amend and reenact section two, article twelve, chapter sixty-two of said code, all relating to the registration of sex offenders; stating the intent and findings; applying the act retroactively and prospectively; requiring persons to register; requiring notification; providing a central registry; providing definitions; establishing a judicial process; providing information to the state police; establishing advisory board; requiring registration within ten days of change in address; providing duration of registration; distributing registration information; exempting freedom of information act disclosure; providing governmental immunity; providing duties of officials; establishing procedure for registrants moving out of state; establishing offense and penalties for failing to provide information and register; registering out-of-state offenders;

establishing a verification process; providing eligibility for probation; and prohibiting name change.

Be it enacted by the Legislature of West Virginia:

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article eight-f, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that chapter fifteen of said code be amended by adding thereto a new article, designated article eleven; that section seven, article five, chapter forty-eight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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 11. SEX OFFENDER REGISTRATION ACT.

§15-11-1. Short title.

1 This article may be cited as the "Sex Offender Registration
2 Act."

§15-11-1a. Intent and findings.

1 (a) It is the intent of this article to assist law-enforcement
2 agencies' efforts to protect the public from sex offenders by
3 requiring sex offenders to register with the state police detach-
4 ment in the county where he or she shall reside, and by making
5 certain information about sex offenders available to the public
6 as provided in this article. It is not the intent of the Legislature
7 that the information be used to inflict retribution or additional
8 punishment on any person convicted of any offense requiring
9 registration under this article. This article is intended to be
10 regulatory in nature, and not penal.

11 (b) The Legislature finds and declares that there is a
12 compelling and necessary public interest that the public have
13 information concerning persons convicted of sexual offenses
14 pursuant to this chapter to allow members of the public to
15 adequately protect themselves and their children from these
16 persons;

§15-11-2. Registration.

1 (a) The provisions of this act apply both retroactively and
2 prospectively.

3 (b) Any person who has been convicted of a violation of the
4 following provisions of chapter sixty-one of this code shall
5 register as set forth in subsections (c) and (d) of this article, and
6 according to the internal management rules and regulations
7 promulgated by the superintendent under authority of section
8 twenty-five, article two, chapter fifteen of this code:

9 (1) article eight-b;

10 (2) article eight-c;

11 (3) sections five and six, article eight-d;

12 (4) section fourteen, article two;

13 (5) sections six, seven, twelve and thirteen, article eight;

14 (6) a similar provision in another state, federal or military
15 jurisdiction for offenses listed above.

16 (i) Any person who has been convicted of an attempt to
17 commit any of the offenses set forth in this section shall also
18 register as set forth in this article.

19 (ii) Any person who has been convicted of a criminal
20 offense, which at the time of sentencing, was found by the
21 sentencing judge to have been sexually motivated, shall also
22 register as set forth in this article.

23 (c) Persons required to register under the provisions of this
24 act shall provide or cooperate in providing, at a minimum, the
25 following information when registering:

26 (1) The full name of the registrant;

27 (2) The address where the registrant shall reside;

28 (3) The registrant's social security number;

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

31 (5) A brief description of the crime(s) for which the
32 registrant was convicted; and

33 (6) Fingerprints.

34 (d) On the date that any person convicted of any of the
35 crimes listed herein, including those persons continuing under
36 some post conviction supervisory status for crimes committed
37 prior to the date of this law, is released, is granted probation, is
38 granted a suspended sentence, is released on parole, probation,
39 home detention, work release or any other release from incar-
40 ceration, the commissioner of corrections, regional jail adminis-
41 trator or city or sheriff operating a jail which releases such
42 person, and any parole or probation officer who releases such
43 person or supervises such person following the release, shall
44 obtain all information required by this subsection prior to the
45 release of the person, inform the person of his or her duty to
46 register, and shall send written notice of the release of the
47 person to the state police within three days of receiving the
48 information. The notice shall include:

49 (1) The full name of the person;

50 (2) The address where the person shall reside;

51 (3) The person's social security number;

52 (4) A recent photograph of the person;

53 (5) A brief description of the crime for which the person
54 was convicted;

55 (6) Fingerprints; and

56 (7) For any person determined to be a sexually violent
57 predator, the notice shall also include:

58 (i) Identifying factors, including physical characteristics;

59 (ii) History of the offense; and

60 (iii) Documentation of any treatment received for the
61 mental abnormality or personality disorder.

62 (e) At the time the person is convicted of the crimes set
63 forth in subsection (a) of this section, the person shall sign in
64 open court, a statement acknowledging that he or she under-
65 stands the requirements imposed by this article. The court shall
66 inform the person so convicted of the requirements to register

67 imposed by this article and shall further satisfy itself by
68 interrogation of the defendant or his or her counsel that the
69 defendant has received notice of the provisions of this article
70 and that the defendant understands such provisions. Such
71 statement, when signed and witnessed, shall constitute prima
72 facie evidence that the person had knowledge of the require-
73 ments of this article.

74 (f) When a person required to register under this article is
75 released following incarceration, the commissioner of correc-
76 tions, the regional jail supervisor or the city or sheriff or any
77 other person supervising the operation of the place of confine-
78 ment shall, within three days, inform the state police of such
79 release and provide such further information as is required by
80 this article.

81 (g) The state police shall maintain a central registry of all
82 persons who register under this article and shall release
83 information only as provided in this article. The information
84 required to be made public by the state police by subdivision
85 (2), subsection (b), section five of this article shall be accessible
86 through the Internet.

87 (h) For the purpose of this article, "sexually violent
88 offense" means:

89 (1) Sexual assault in the first degree as set forth in section
90 three, article eight-b, chapter sixty-one of this code, or of a
91 similar provision in another state, federal or military jurisdic-
92 tion;

93 (2) Sexual assault in the second degree as set forth in
94 section four, article eight-b, chapter sixty-one of this code, or of
95 a similar provision in another state, federal or military jurisdic-
96 tion;

97 (3) Sexual assault of a spouse as set forth in section six,
98 article eight-b, chapter sixty-one of this code, or of a similar
99 provision in another state, federal or military jurisdiction;

100 (4) Sexual abuse in the first degree as set forth in section
101 seven, article eight-b, chapter sixty-one of this code, or of a

102 similar provision in another state, federal or military jurisdic-
103 tion.

104 ~~(i)~~ The term “sexually motivated” means that one of the
105 purposes for which a person committed the crime was for the
106 purpose of any person’s sexual gratification.

107 (j) The term “sexually violent predator” means a person
108 who has been convicted of a sexually violent offense and who
109 suffers from a mental abnormality or personality disorder that
110 makes the person likely to engage in predatory sexually violent
111 offenses.

112 (k) The term “mental abnormality” means a congenital or
113 acquired condition of a person that affects the emotional or
114 volitional capacity of the person in a manner that predisposes
115 that person to the commission of criminal sexual acts to a
116 degree that makes the person a menace to the health and safety
117 of other persons.

118 (l) The term “predatory act” means an act directed at a
119 stranger or at a person with whom a relationship has been
120 established or promoted for the primary purpose of victimiza-
121 tion.

§15-11-2a. Court determination of sexually violent predator.

1 (a) The circuit court that has sentenced a person for having
2 committed a sexually violent offense shall make a determina-
3 tion whether:

4 (1) A person is a sexually violent predator; or

5 (2) A person is no longer a sexually violent predator.

6 (b) A hearing to make a determination as provided for in
7 subsection (a) of this section is a summary proceeding, triable
8 before the court without a jury.

9 (c) A proceeding seeking to establish that a person is a
10 sexually violent predator is initiated by the filing of a written
11 information by the prosecuting attorney. The information shall
12 describe the record of the judgment of the court on the person’s
13 conviction of a sexually violent offense, and shall set forth a

14 short and plain statement of the prosecutor's claim that the
15 person suffers from a mental abnormality or personality
16 disorder that makes the person likely to engage in predatory
17 sexually violent offenses.

18 (d) A proceeding seeking to establish that a person is no
19 longer a sexually violent predator is initiated by the filing of a
20 petition by the person who has been determined to be a sexually
21 violent predator.

22 (e) Prior to making a determination pursuant to the provi-
23 sions of this section, the sentencing court may order a psychiat-
24 ric or other clinical examination and, after such examination,
25 may further order a period of observation in an appropriate
26 facility within this state designated by the court after consulta-
27 tion with the director of the division of health.

28 (f) Prior to making a determination pursuant to the provi-
29 sions of this section, the sentencing court shall request and
30 receive a report by the board established pursuant to section
31 two-b of this article. The report shall set forth the findings and
32 recommendation of the board on the issue of whether the person
33 is a sexually violent predator.

34 (g) At a hearing to determine whether a person is a sexually
35 violent predator, the person shall be present and shall have the
36 right to be represented by counsel and introduce evidence and
37 cross-examine witnesses. The offender shall have access to a
38 summary of the medical evidence to be presented by the state.
39 The offender shall have the right to an examination by an
40 independent expert of his choice and testimony from such
41 expert as a medical witness on his behalf. At the termination of
42 such hearing the court shall make a finding of fact upon a
43 preponderance of the evidence as to whether the person is a
44 sexually violent predator.

45 (h) If a person is determined by the circuit court to be a
46 sexually violent predator, the clerk of the court shall forward a
47 copy of the order to the state police in the manner promulgated
48 in accordance with the provision in accordance with the
49 provisions of article three, chapter twenty-nine-a of this code.

§15-11-2b. Creation of sex offender registration advisory board.

1 (a) There is hereby created within the department of
2 military affairs and public safety a sex offender registration
3 advisory board consisting of a minimum of five members
4 appointed by the secretary of the department of military affairs
5 and public safety. At least two of the members shall be experts
6 in the field of the behavior and treatment of sexual offenders,
7 and each shall be a physician, psychologist or social worker in
8 the employ of this state appointed by the secretary in consulta-
9 tion with the director of the division of health. The remaining
10 members shall be victims rights advocates and representatives
11 of law-enforcement agencies. Members of the board shall be
12 reimbursed their reasonable expenses pursuant to the rules
13 promulgated by the department of administration for the
14 reimbursement of expenses of state officials and employees and
15 shall receive no other compensation for their services. The
16 board shall utilize the staff of the division or office within the
17 department of military affairs and public safety designated by
18 the secretary thereof in carrying out its duties and responsibili-
19 ties as set forth in this article.

20 (b) The board shall assist the circuit courts of this state in
21 determining whether persons convicted of sexually violent
22 offenses are sexually violent predators.

§15-11-3. Change of address.

1 When any person required to register under this article
2 changes his or her residence or address, he or she shall, within
3 ten days, inform the West Virginia state police of his or her new
4 address in the manner prescribed by the superintendent of state
5 police in procedural rules promulgated in accordance with the
6 provisions of article three, chapter twenty-nine-a of this code.

§15-11-4. Duration.

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

4 (1) Ten years have elapsed since the person was released
5 from prison or jail, or ten years have elapsed since the person

6 was placed on probation, parole or supervised release. The ten
7 year registration period shall not be reduced by the sex of-
8 fender's release from probation, parole or supervised release; or

9 (2) For the life of that person if that person: (A) Has one or
10 more prior convictions for any qualifying offense referred to in
11 this article; or (B) has been convicted of a qualifying offense as
12 referred to in this article, and upon motion of the prosecuting
13 attorney, the court finds by clear and convincing evidence, that
14 the qualifying offense involved multiple victims or multiple
15 violations of the qualifying offense; or (C) has been convicted
16 of a sexually violent offense; or (D) has been determined to be
17 a sexually violent predator as defined above; or (E) has been
18 convicted of a qualifying offense as referred to in this article,
19 involving a minor.

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

**§15-11-5. Distribution and disclosure of information; community
information programs by prosecuting attorney and
state police; petition to circuit court.**

1 (a) Within five working days after receiving any notifica-
2 tion as described in this article, the state police shall distribute
3 a copy of the notification statement to:

4 (1) The supervisor of each county and municipal law-
5 enforcement office in the city and county where the person will
6 reside;

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

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

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

15 (5) Individuals and organizations which provide day care
16 services for youths or day care, residential or respite care, or
17 other supportive services for incapacitated infirm or mentally
18 incapacitated or infirm persons in the county where the regis-
19 tered person will reside; and

20 (6) The federal bureau of investigation (FBI).

21 (b) Information concerning persons whose names are
22 contained on the list of the sexual offender registry, and are not
23 required to register for life, shall be disseminated only in the
24 following manner, and not be subject to the requirements of the
25 West Virginia freedom of information act of this code:

26 (1) When a person has been determined to be a sexually
27 violent predator under the terms of section two-a of this article,
28 the state police shall notify the prosecuting attorney of the
29 county in which the person intends to reside. The prosecuting
30 attorney shall in cooperation with the state police conduct a
31 community notification program which shall include publica-
32 tion of the offender's name, photograph, and place of residence,
33 and information concerning the legal rights and obligations of
34 both the offender and the community. The prosecuting attorney
35 and state police may conduct a community notification program
36 in the county of residence of any person who is required to
37 register for life under the terms of subdivision (2), subsection
38 (a), section four of this article. Community notification may be
39 repeated when determined appropriate by the prosecuting
40 attorney;

41 (2) The state police shall maintain and make available to
42 the public at least quarterly the list of all persons who are
43 required to register for life according to the terms of subdivi-
44 sion (2), section four of this article. The method of publication
45 and access to this list shall be determined by the superintendent;
46 and

47 (3) A resident of a county may petition the circuit court for
48 an order requiring the state police to release information about
49 persons residing in that county who are required to register
50 under section two of this article. The court shall determine

51 whether information contained on the list and relevant to public
52 safety outweighs the importance of confidentiality, and if the
53 court orders information to be released, it may further order
54 limitations upon secondary dissemination by the resident
55 seeking the information. In no event shall information concern-
56 ing the identity of a victim of an offense requiring registration
57 be released.

58 (c) The state police may furnish information and documen-
59 tation required in connection with the registration to authorized
60 law-enforcement and governmental agencies of the United
61 States and its territories, of foreign countries duly authorized to
62 receive the same, of other states within the United States and of
63 the state of West Virginia upon proper request stating that the
64 records will be used solely for law-enforcement related pur-
65 poses. The state police may disclose information collected
66 under this article to federal, state and local governmental
67 agencies responsible for conducting pre-employment checks.

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

§15-11-6. Duties of institution officials.

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

§15-11-7. Information shall be released when person moves out of state.

1 A person who is required to register pursuant to the
2 provisions of this article, who intends to move to another state
3 or country shall at least ten days prior to such move notify the
4 state police of his or intent to move and of the location to which

5 he or she intends to move, or if that person is incarcerated he or
6 she shall notify correctional officials of his or her intent to
7 reside in some other state or country upon his or her release,
8 and of the location to which he or she intends to move. Upon
9 such notification, the state police shall notify law-enforcement
10 officials of the jurisdiction where the person indicates he or she
11 intends to reside of the information provided by the person
12 under the provisions of this article.

§15-11-8. Failure to register; penalty.

1 (a) Except as outlined below, any person required to
2 register under this article who knowingly provides false identity
3 or address information or who refuses to provide such accurate
4 information when so required by terms of this article, or who
5 knowingly fails to register or knowingly fails to provide a
6 change of address as required by this article, is guilty of a
7 misdemeanor and, upon conviction thereof, shall be fined not
8 less than two hundred fifty dollars nor more than ten thousand
9 dollars, or imprisoned in the county jail not more than one year,
10 or both fined and imprisoned: *Provided*, That each time such
11 person changes residence and fails to register, such failure shall
12 constitute a separate offense.

13 (b) Any person required to register under this article who is
14 convicted of a second or subsequent offense of failing to
15 register or provide a change of address as required, or any
16 person who has one or more prior convictions for any conviction
17 for a sexually violent offense, and who fails to register is
18 guilty of a felony and, upon conviction thereof, shall be
19 imprisoned in a state penal facility for not less than one year
20 nor more than five years.

21 (c) Any person required to register as a sexual predator as
22 defined by section two of this article, who fails to register or
23 provide a change of address as required by this article is guilty
24 of a felony and, upon conviction thereof, shall, for a first
25 offense, be imprisoned in a state correctional facility not less
26 than two years nor more than ten years, and for a second or
27 subsequent offense, be imprisoned in a state correctional
28 facility not less than five years nor more than twenty years.

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

§15-11-9. Registration of out-of-state offenders.

1 (a) When any probation or parole officer accepts supervi-
2 sion of and has legal authority over any person required to
3 register under this article from another state under the terms and
4 conditions of the uniform act for out-of-state parolee supervi-
5 sion established under article six, chapter twenty-eight of this
6 code, such officer shall give the person written notice of the
7 registration requirements of this section and obtain a signed
8 statement from the person required to register acknowledging
9 the receipt of the notice. The officer shall obtain and submit to
10 the state police the identical information required of persons
11 convicted in this state under subsection (b), section two of this
12 article.

13 (b) Any person:

14 (1) Who resides in another state;

15 (2) Who is employed, carries on a vocation or is a student
16 in this state; and

17 (3) Who is required by the state in which he or she resides
18 to register in that state under provisions of the law of that state
19 that are similar to the provisions of this article, shall register in
20 this state and otherwise comply with the provisions of this
21 article.

§15-11-10. Address verification.

1 The state police shall verify addresses of those persons
2 registered as sexually violent predators every ninety days and
3 all other registered persons once a year. The state police may

4 require registrants to periodically submit to new fingerprints
5 and photographs as part of the verification process. The method
6 of verification shall be in accordance with internal management
7 rules pertaining thereto promulgated by the superintendent
8 under authority of section twenty-five, article two, chapter
9 fifteen of this code.

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 5. CHANGE OF NAME.

§48-5-7. Unlawful change of name by certain felons and registrants.

1 (a) It is unlawful for any person convicted of first degree
2 murder in violation of section one, article two, chapter sixty-
3 one of this code, and for any person convicted of violating any
4 provision of section fourteen-a, article two, chapter sixty-one of
5 this code, for which a sentence of life imprisonment is imposed,
6 to apply for a change of name for a period of ten years after the
7 person is discharged from imprisonment or is discharged from
8 parole, whichever occurs later.

9 (b) It is unlawful for any person required to register with
10 the state police pursuant to the provisions of article eleven,
11 chapter fifteen of this code to apply for a change of name
12 during the period that the person is required to register.

13 (c) It is unlawful for any person convicted of a felony to
14 apply for a change of name during the period that such person
15 is incarcerated.

16 (d) A person who violates the provisions of subsections (a),
17 (b) or (c) of this section is guilty of a misdemeanor and, upon
18 conviction thereof, shall be fined not less than two hundred fifty
19 dollars nor more than ten thousand dollars or imprisoned in the
20 county or regional jail for not more than one year, or both fined
21 and incarcerated.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-2. Eligibility for probation.

1 (a) All persons who are found guilty of or plead guilty to
2 any felony, the maximum penalty for which is less than life
3 imprisonment, and all persons who are found guilty of or plead
4 guilty to any misdemeanor, shall be eligible for probation,
5 notwithstanding the provisions of sections eighteen and
6 nineteen, article eleven, chapter sixty-one of this code.

7 (b) The provisions of subsection (a) of this section to the
8 contrary notwithstanding, any person who commits or attempts
9 to commit a felony with the use, presentment or brandishing of
10 a firearm shall be ineligible for probation. Nothing in this
11 section shall apply to an accessory before the fact or a principal
12 in the second degree who has been convicted as if he or she
13 were a principal in the first degree if, in the commission of or
14 in the attempted commission of the felony, only the principal in
15 the first degree used, presented or brandished a firearm.

16 (c) (1) The existence of any fact which would make any
17 person ineligible for probation under subsection (b) of this
18 section because of the commission or attempted commission of
19 a felony with the use, presentment or brandishing of a firearm
20 shall not be applicable unless such fact is clearly stated and
21 included in the indictment or presentment by which such person
22 is charged and is either: (i) Found by the court upon a plea of
23 guilty or nolo contendere; or (ii) found by the jury, if the matter
24 be tried before a jury, upon submitting to such jury a special
25 interrogatory for such purpose; or (iii) found by the court, if the
26 matter be tried by the court, without a jury.

27 (2) The amendments to this subsection adopted in the year
28 one thousand nine hundred eighty-one:

29 (A) Shall apply to all applicable offenses occurring on or
30 after the first day of August of that year;

31 (B) Shall apply with respect to the contents of any indict-
32 ment or presentment returned on or after the first day of August
33 of that year irrespective of when the offense occurred;

34 (C) Shall apply with respect to the submission of a special
35 interrogatory to the jury and the finding to be made thereon in
36 any case submitted to such jury on or after the first day of

37 August of that year or to the requisite findings of the court upon
38 a plea of guilty or in any case tried without a jury: *Provided*,
39 That the state shall give notice in writing of its intent to seek
40 such finding by the jury or court, as the case may be, which
41 notice shall state with particularity the grounds upon which
42 such finding shall be sought as fully as such grounds are
43 otherwise required to be stated in an indictment, unless the
44 grounds therefor are alleged in the indictment or presentment
45 upon which the matter is being tried;

46 (D) Shall not apply with respect to cases not affected by
47 such amendment and in such cases the prior provisions of this
48 section shall apply and be construed without reference to such
49 amendment; and

50 Insofar as such amendments relate to mandatory sentences
51 without probation, all such matters requiring such sentence
52 shall be proved beyond a reasonable doubt in all cases tried by
53 the jury or the court.

54 (d) For the purpose of this section, the term "firearm" shall
55 mean any instrument which will, or is designed to, or may
56 readily be converted to, expel a projectile by the action of an
57 explosive, gunpowder, or any other similar means.

58 (e) In the case of any person who has been found guilty of,
59 or pleaded guilty to, a felony or misdemeanor under the
60 provisions of section twelve or twenty-four, article eight,
61 chapter sixty-one of this code, or under the provisions of article
62 eight-c or eight-b of said chapter, such person shall only be
63 eligible for probation after undergoing a physical, mental and
64 psychiatric study and diagnosis which shall include an on-going
65 treatment plan requiring active participation in sexual abuse
66 counseling at a mental health facility or through some other
67 approved program: *Provided*, That nothing disclosed by the
68 person during such study or diagnosis shall be made available
69 to any law-enforcement agency, or other party without that
70 person's consent, or admissible in any court of this state, unless
71 such information disclosed shall indicate the intention or plans
72 of the probationer to do harm to any person, animal, institution
73 or property, in which case such information may be released

74 only to such persons as might be necessary for protection of the
75 said person, animal, institution or property.

76 (f) Any person who has been convicted of a violation of the
77 provisions of article eight-b, eight-c or sections five and six,
78 article eight-d, chapter sixty-one of this code, or of section
79 fourteen, article two, or of sections twelve and thirteen, article
80 eight, chapter sixty-one of this code, or of a felony violation
81 involving a minor of section six or seven, article eight, chapter
82 sixty-one of this code, or of a similar provision in another
83 jurisdiction shall be required to be registered upon release on
84 probation. Any person who has been convicted of an attempt to
85 commit any of the offenses set forth in this subsection shall also
86 be registered upon release on probation.

87 (g) The probation officer shall within three days of release
88 of the offender, send written notice to the state police of the
89 release of the offender. The notice shall include:

90 (1) The full name of the person;

91 (2) The address where the person shall reside;

92 (3) The person's social security number;

93 (4) A recent photograph of the person;

94 (5) A brief description of the crime for which the person
95 was convicted;

96 (6) Fingerprints; and

97 (7) For any person determined to be a sexually violent
98 predator as defined in section two-a, article eleven, chapter
99 fifteen of this code, the notice shall also include:


100 (i) Identifying factors, including physical characteristics;

101 (ii) History of the offense; and

102 (iii) Documentation of any treatment received for the
103 mental abnormality or personality disorder.

Enr. Com. Sub. for H. B. 2871] 18

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



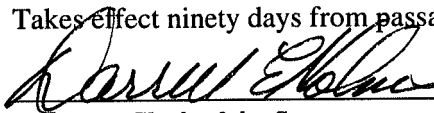
Chairman Senate Committee



Chairman House Committee

Originating in the House.

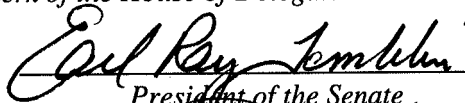
Takes effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

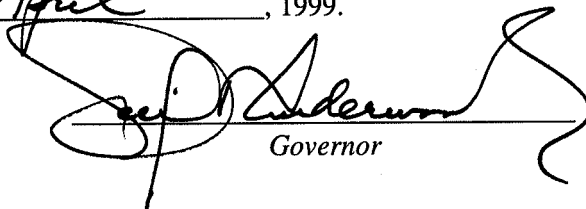


President of the Senate



Speaker of the House of Delegates

The within approved this the 6th
day of April, 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date

4/1/99

Time

2:50 pm