

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 732

An Act to amend and reenact § 19.2-298.1 of the Code of Virginia, relating to the Sex Offender and Crimes Against Minors Registry.

[S 1164]

Approved March 19, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-298.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-298.1. Registration required of persons convicted of certain offenses; prima facie evidence.

A. "Offense for which registration is required" means:

1. A violation or attempted violation of §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, 18.2-90 with the intent to commit rape, 18.2-374.1 or subsection D of § 18.2-374.1:1; or a third or subsequent conviction of (i) § 18.2-67.4 ~~or a third or subsequent conviction of~~, (ii) subsection C of § 18.2-67.5 ~~or~~ (iii) § 18.2-386.1;

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (i) or (iii) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361 or § 18.2-366; or

3. A "sexually violent offense".

"Sexually violent offense" means a violation or attempted violation of:

1. Clause (ii) of § 18.2-48, §§ 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.3, subsections A and B of § 18.2-67.5, § 18.2-370 or § 18.2-370.1; or

2. §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) or (iii) of § 18.2-48, § 18.2-361, § 18.2-366, or § 18.2-374.1. Conviction of an offense listed under this subdivision 2 shall be deemed a sexually violent offense only if the person has been convicted of any two or more such offenses, provided that person had been at liberty between such convictions.

B. Every person convicted on or after July 1, 1997, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, of an offense for which registration is required shall be required as a part of the sentence imposed upon conviction to register and reregister with the Department of State Police as provided in this section. The court shall remand the person to the custody of the local law-enforcement agency of the county or city for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to § 19.2-390.1. The court shall order the person to provide to the local law-enforcement agency all information required by the State Police for inclusion in the Registry.

It shall be the duty of the local law-enforcement agency to forward to the State Police all the necessary registration information within seven days of the date of sentencing and to promptly provide to the State Police such information as is necessary for any reregistration.

C. Every person serving a sentence of confinement or under community supervision as defined in § 53.1-1 on July 1, 1997, for an offense for which registration is required shall be required to register with the Department of State Police and shall be given notice of the duty to register pursuant to § 53.1-116.1 or § 53.1-160.1 as appropriate. In addition, any person who was convicted under Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code and who resides in or was convicted in Virginia, shall be required to register with the Department of State Police.

D. Every person required to register shall register in person within ~~ten~~ 10 days of his release from confinement in a state, local or juvenile correctional facility or, if a sentence of confinement is not imposed, within ~~ten~~ 10 days of suspension of the sentence or in the case of a juvenile, of disposition. In addition, all persons convicted of violations under the laws of the United States or any other state substantially similar to an offense for which registration is required shall provide in person to the local law-enforcement agency all necessary information for inclusion in the Registry within ~~ten~~ 10 days of establishing a residence within the Commonwealth. The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration, two sets of fingerprints, proof of residency and two photographs of a type and kind specified by the State Police for inclusion in the Registry and advise the person of his duties regarding reregistration. The State Police shall forthwith post offender information on the Internet in accordance with § 19.2-390.1. Any person required to register shall also be required to reregister in person within ~~ten~~ 10 days following any change of residence, with the local law-enforcement agency and provide all necessary information for inclusion in the Registry needed for establishing a new residence, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of residence for any of his probationers or

parolees required to register, the probation or parole officer shall notify the State Police within ~~ten~~ 10 days. Whenever a person subject to registration changes residence to another state, the State Police shall notify the designated law-enforcement agency of that state.

The local law-enforcement agency shall promptly submit to the State Police all necessary information for registrations and reregistrations pursuant to this subsection.

E. The registration shall be maintained in the Registry established pursuant to § 19.2-390.1 and shall include the person's name, all aliases which he has used or under which he may have been known, the date and locality of the conviction for which registration is required, his fingerprints and a photograph of a type and kind specified by the State Police, his date of birth, social security number, current address and a description of the offense or offenses for which he was convicted and shall, if applicable, provide the same information on convictions prior to July 1, 1997, for any of the specified offenses or under a substantially similar law of the United States or any other state.

F. Every person required to register under this section, other than a person convicted of a sexually violent offense but including persons required to register between July 1, 1994, and July 1, 1997, shall reregister with the State Police on an annual basis from the date of the initial registration. Every person convicted of a sexually violent offense, including persons convicted of a sexually violent offense who were required to register between July 1, 1994, and July 1, 1997, shall reregister with the State Police every ~~ninety~~ 90 days from the date of initial registration. For purposes of this section, reregistration means that the person has notified the State Police, confirmed his then current address and provided such other information, including identifying information, which the State Police may, pursuant to this section and by regulation, require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall contain in bold print a statement indicating that failure to comply with the registration required is punishable as a Class 1 misdemeanor or a Class 6 felony as provided in § 18.2-472.1.

G. Nonresident offenders entering the Commonwealth for employment, to carry on a vocation, or as a student attending school who are required to register in their state of residence or who would be required to register under this section if a resident of the Commonwealth shall, within ~~ten~~ 10 days of accepting employment or enrolling in school in the Commonwealth, be required to register and reregister in person with the local law-enforcement agency and provide all necessary information for inclusion in the Registry needed for documenting employment or school attendance. The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration, two sets of fingerprints, proof of residency and two photographs of a type and kind specified by the State Police for inclusion in the Registry pursuant to this section. For purposes of this section, "employment" and "carry on a vocation" include employment that is full-time or part-time for a period of time exceeding ~~fourteen~~ 14 days or for an aggregate period of time exceeding ~~thirty~~ 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. For purposes of this section "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

H. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister, the State Police shall promptly cause a warrant for the arrest of the person to be issued charging a violation of § 18.2-472.1 by the jurisdiction in which the offender last registered or reregistered or, if the offender failed to comply with the duty to register, in the jurisdiction in which the offender was last convicted of an offense for which registration or reregistration is required. The State Police shall forward to the jurisdiction, together with the warrant, an affidavit signed by the custodian of the records that such person failed to comply with the duty to register or reregister. Such affidavit shall be admitted into evidence as prima facie evidence of the failure to comply with the duty to register or reregister in any trial for the violation of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the offender's last known residence as shown in the records of the State Police.

I. To establish proof of residence in Virginia for purposes of this section, a person shall present one photo-identification form issued by a governmental agency of the Commonwealth which contains the person's complete name, gender, date of birth and complete address.

J. Pursuant to the requirements of subsection G, to document employment or school attendance in Virginia a person shall present proof of enrollment as a full-time student, or suitable proof of temporary employment in the Commonwealth and one photo-identification form issued by a governmental agency of the person's state of residence which contains the person's complete name, gender, date of birth and complete address.