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HOUSE BILL NO. 1579

Offered January 12, 2011

Prefiled January 5, 2011

A BILL to amend and reenact §§ 9.1-903, 9.1-904, 9.1-905, and 9.1-913 of the Code of Virginia, relating to sex offender registration requirements; penalties.

Patron—Dance

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-903, 9.1-904, 9.1-905, and 9.1-913 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-903. Registration procedures.

A. Every person convicted, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as an adult or juvenile, of an offense for which registration is required and every juvenile found delinquent of an offense for which registration is required under subsection G of § 9.1-902 shall be required upon conviction to register and reregister with the Department of State Police. The court shall order the person to provide to the local law-enforcement agency of the county or city where he physically resides all information required by the State Police for inclusion in the Registry. The court shall immediately remand the person to the custody of the local law-enforcement agency for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the State Police for inclusion in the Registry. Upon conviction, the local law-enforcement agency shall forthwith forward to the State Police all the necessary registration information.

B. Every person required to register shall register in person within three days of his release from confinement in a state, local or juvenile correctional facility, in a state civil commitment program for sexually violent predators or, if a sentence of confinement is not imposed, within three days of suspension of the sentence or in the case of a juvenile of disposition. A person required to register shall register, and as part of the registration shall submit to be photographed, submit to have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis and submission to the DNA databank to determine identification characteristics specific to the person, provide electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, submit to have his fingerprints and palm prints taken, provide information regarding his place of employment, and provide motor vehicle, watercraft and aircraft registration information for all motor vehicles, watercraft and aircraft owned by him, and provide physical and mailing addresses for any real property owned by him. For purposes of this chapter, a person shall be deemed to own real property if the property is located in the Commonwealth and (i) he owns real property individually, (ii) he owns real property jointly with one or more other persons, (iii) he has a 50 percent or greater ownership interest in a corporation that owns real property, or (iv) he is either a managing member of a limited liability corporation or a general partner of a partnership that owns real property. The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration one set of fingerprints, electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, one set of palm prints, place of employment information, motor vehicle, watercraft and aircraft registration information for all motor vehicles, watercraft and aircraft owned by the registrant, physical and mailing addresses for any real property owned by the registrant, proof of residency and a photograph 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 local law-enforcement agency shall obtain from the person who presents himself for registration a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person, as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration information.

C. To establish proof of residence in Virginia, a person who has a permanent physical address 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 physical address. The local law-enforcement agency shall forthwith forward to the State Police a copy of the identification presented by the person required to register.

D. Any person required to register shall also reregister in person with the local law-enforcement

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59 agency following any change of name or any change of residence, whether within or without the
60 Commonwealth. If his new residence is within the Commonwealth, the person shall register in person
61 with the local law-enforcement agency where his new residence is located within three days following
62 his change in residence. If the new residence is located outside of the Commonwealth, the person shall
63 register in person with the local law-enforcement agency where he previously registered within 10 days
64 prior to his change of residence. If a probation or parole officer becomes aware of a change of name or
65 residence for any of his probationers or parolees required to register, the probation or parole officer shall
66 notify the State Police forthwith of learning of the change. Whenever a person subject to registration
67 changes residence to another state, the State Police shall notify the designated law-enforcement agency
68 of that state.

69 E. Any person required to register shall reregister in person with the local law-enforcement agency
70 where his residence is located within three days following any change of the place of employment,
71 whether within or without the Commonwealth. If a probation or parole officer becomes aware of a
72 change of the place of employment for any of his probationers or parolees required to register, the
73 probation or parole officer shall notify the State Police forthwith upon learning of the change of the
74 person's place of employment. Whenever a person subject to registration changes his place of
75 employment to another state, the State Police shall notify the designated law-enforcement agency of that
76 state.

77 F. Any person required to register shall reregister in person with the local law-enforcement agency
78 where his residence is located within three days following any change of owned motor vehicle,
79 watercraft and aircraft registration information, whether within or without the Commonwealth. If a
80 probation or parole officer becomes aware of a change of owned motor vehicle, watercraft and aircraft
81 registration information for any of his probationers or parolees required to register, the probation or
82 parole officer shall notify the State Police forthwith upon learning of the change of the person's owned
83 motor vehicle, watercraft and aircraft registration information. Whenever a person required to register
84 changes his owned motor vehicle, watercraft and aircraft registration information to another state, the
85 State Police shall notify the designated law-enforcement agency of that state.

86 G. *Any person required to register shall reregister in person with the local law-enforcement agency
87 where his residence is located within three days following any change in ownership of real property. If
88 a probation or parole officer becomes aware of a change in ownership of real property by any of his
89 probationers or parolees required to register, the probation or parole officer shall notify the State
90 Police forthwith upon learning of the change in ownership of real property.*

91 H. Any person required to register shall reregister either in person or electronically with the local
92 law-enforcement agency where his residence is located within 30 minutes following any change of the
93 electronic mail address information, any instant message, chat or other Internet communication name or
94 identity information that the person uses or intends to use, whether within or without the
95 Commonwealth. If a probation or parole officer becomes aware of a change of the electronic mail
96 address information, any instant message, chat or other Internet communication name or identity
97 information for any of his probationers or parolees required to register, the probation or parole officer
98 shall notify the State Police forthwith upon learning of the change.

99 HI. The registration shall be maintained in the Registry and shall include the person's name, all
100 aliases that he has used or under which he may have been known, the date and locality of the
101 conviction for which registration is required, his fingerprints and a photograph of a type and kind
102 specified by the State Police, his date of birth, social security number, current physical and mailing
103 address, *physical and mailing addresses for any real property owned by him*, and a description of the
104 offense or offenses for which he was convicted. The registration shall also include the locality of the
105 conviction and a description of the offense or offenses for previous convictions for the offenses set forth
106 in § 9.1-902.

107 IJ. The local law-enforcement agency shall forthwith forward to the State Police all necessary
108 registration or reregistration information received by it. Upon receipt of registration or reregistration
109 information the State Police shall forthwith notify the chief law-enforcement officer of the locality listed
110 as the person's address on the registration and reregistration.

111 JK. If a person required to register does not have a legal residence, such person shall designate a
112 location that can be located with reasonable specificity where he resides or habitually locates himself.
113 For the purposes of this section, "residence" shall include such a designated location. If the person
114 wishes to change such designated location, he shall do it pursuant to the terms of this section.

115 § 9.1-904. Reregistration.

116 A. Every person required to register, other than a person convicted of a sexually violent offense or
117 murder, shall reregister with the State Police on an annual basis from the date of the initial registration.
118 Every person convicted of a sexually violent offense or murder shall reregister with the State Police
119 every 90 days from the date of initial registration. Reregistration means that the person has notified the
120 State Police; confirmed his current physical and mailing address and electronic mail address

information, any instant message, chat or other Internet communication name or identity information that he uses or intends to use, *and ownership in real property*; and provided such other information, including identifying information, which the State Police may 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 provided in § 18.2-472.1. Upon registration and as may be necessary thereafter, the person shall likewise be required to execute a consent form consistent with applicable law that authorizes a business or organization that offers electronic communications or remote computer services to provide to the Department of State Police any information pertaining to that person necessary to determine the veracity of his electronic identity information in the registry.

B. Any person convicted of a violation of § 18.2-472.1, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police every 180 days from the date of such conviction. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a sexually violent offense or murder, shall reregister with the State Police every 30 days from the date of conviction. Reregistration means the person has notified the State Police; confirmed his current physical and mailing address and electronic mail address information, any instant message, chat or other Internet communication name or identity information that he uses or intends to use, *and ownership in real property*; and provided such other information, including identifying information, which the State Police may 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 state the registration requirements and contain in bold print a statement indicating that failure to comply with the registration requirements is punishable as provided in § 18.2-472.1.

C. Every person required to register pursuant to this chapter shall submit to be photographed by a local law-enforcement agency every two years commencing with the date of initial registration. Photographs shall be in color, be taken with the registrant facing the camera, and clearly show the registrant's face and shoulders only. No person other than the registrant may appear in the photograph submitted. The photograph shall indicate the registrant's full name, date of birth and the date the photograph was taken. The local law-enforcement agency shall forthwith forward the photograph and the registration form to the State Police. Where practical, the local law-enforcement agency may electronically transfer a digital photograph containing the required information to the Sex Offender and Crimes Against Minors Registry within the State Police.

§ 9.1-905. New residents and nonresident offenders; registration required.

A. All persons required to register shall register within three days of establishing a residence in the Commonwealth.

B. Nonresident offenders entering the Commonwealth for an extended visit, for employment, to carry on a vocation, ~~or~~ as a student attending school, *or who own real property* who are required to register in their state of residence or who would be required to register if a resident of the Commonwealth shall, within three days of entering the Commonwealth for an extended visit, accepting employment ~~or~~, enrolling in school in the Commonwealth, *or acquiring ownership in real property* be required to register and reregister in person with the local law-enforcement agency.

C. To document employment or school attendance in Virginia a person shall present proof of enrollment as a 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.

D. 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 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

"Extended visit" means a period of visitation for any purpose in the Commonwealth of 30 days or more.

"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.

§ 9.1-913. Public dissemination by means of the Internet.

The State Police shall develop and maintain a system for making certain Registry information on persons convicted of an offense for which registration is required publicly available by means of the Internet. The information to be made available shall include the offender's name; all aliases that he has used or under which he may have been known; the date and locality of the conviction and a brief description of the offense; his age, current address and photograph; *the physical and mailing addresses*

182 *of any real property owned by the offender;* and such other information as the State Police may from
183 time to time determine is necessary to preserve public safety including but not limited to the fact that an
184 individual is wanted for failing to register or reregister. *Any search of the system by county, city,*
185 *address, zip code or similar property characteristic shall include all real property owned by the offender*
186 *and such properties shall be retrieved and displayed as part of the results of the search.* The system
187 shall be secure and not capable of being altered except by the State Police. The system shall be updated
188 each business day with newly received registrations and reregistrations. The State Police shall remove all
189 information that it knows to be inaccurate from the Internet system.

190 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
191 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
192 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
193 **874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to**
194 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
195 **necessary appropriation is \$0 for periods of commitment to the custody of the Department of**
196 **Juvenile Justice.**