

LD4801386

HOUSE BILL NO. 2520

Offered January 23, 1995

A BILL to amend and reenact §§ 19.2-298.1, 19.2-298.2 and 19.2-390.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-298.4, relating to sex offender registration; community notification.

Patrons—O'Brien, Albo, Cantor, Cox, Fisher, McDonnell, Mims, Newman, Rollison, Sherwood and Wagner; Senators: Barry, Benedetti and Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-298.1, 19.2-298.2 and 19.2-390.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-298.4 as follows:

§ 19.2-298.1. Registration required of persons convicted of certain offenses.

A. Every person convicted on or after July 1, 1994, for a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269, whether sentenced as adults or juveniles, shall be required as a part of the sentence imposed upon conviction to register with the Department of State Police. The order shall also impose a duty to keep the registration current in accordance with this section.

B. Every person serving a sentence of confinement or under community supervision on July 1, 1994, for a felony covered by this section 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.

C. The person shall register within thirty days of his release from confinement in a state or local correctional facility or, if a sentence of confinement is not imposed, within thirty days of suspension of the sentence. In addition, all persons convicted of felony violations under the laws of the United States or any other state substantially similar to §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366 shall be required to register with the Department of State Police within thirty days of establishing a residence within the Commonwealth. Any person required to register shall also be required to re-register within thirty days following any change of residence *and upon entry of an order changing his name. Upon receipt of any registration or re-registration, the State Police shall promptly notify the local law enforcement agency for the jurisdiction in which the person resides or intends to reside. Within forty-five days of receipt of notification from the Department, the local law-enforcement agency shall provide notification to the community in accordance with § 19.2-298.4.*

D. The registration shall be maintained in the Sex Offender 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 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, 1994, for any of the specified offenses or under a substantially similar law of the United States or any other state.

E. The knowing and intentional failure to register as provided in this section or knowingly providing materially false information to the Registry shall be punishable as a Class 1 misdemeanor.

§ 19.2-298.2. Duration of registration requirement.

Any person required by § 19.2-298.1 to register shall be required to register for a period of fifteen years, *or for such longer period as may be prescribed by the court upon conviction and sentencing*, after sentencing not confined to a state or local correctional facility, hospital or any other institution or facility and, if confined, for a period of fifteen years, *or for such longer period as may be prescribed by the court upon conviction and sentencing*, after parole, discharge or release from any such facility, provided that such person is not convicted of an offense during that period for which registration is required under § 19.2-298.1.

§ 19.2-298.4. Community notification; guidelines.

The Attorney General shall establish guidelines and procedures for local enforcement agencies to use in providing notification to a community regarding the residence of a person registered with the Sex

INTRODUCED

HB2520

60 Offender Registry. The guidelines shall identify factors relevant to risk of re-offense and shall provide
61 for three levels of notification depending upon the degree of risk of re-offense. Factors relevant to risk
62 of re-offense shall include, but not be limited to:

63 1. Conditions of release that minimize risk of re-offense, including, but not limited to, whether the
64 offender is under supervision, receiving counseling, therapy or treatment or residing in a home situation
65 that provides guidance and supervision.

66 2. Physical conditions that minimize risk of re-offense including, but not limited to, advanced age or
67 debilitating illness.

68 3. Criminal history factors indicative of high risk of re-offense, such as whether (i) the offender's
69 conduct was found to be characterized by repetitive and compulsive behavior, (ii) the offender
70 committed the sex offense against a child, (iii) the offender served the maximum term, and other
71 criminal history factors including the relationship between the offender and the victim, whether the
72 offense involved the use of a weapon, violence or infliction of serious bodily injury, and the number,
73 date and nature of prior offenses.

74 4. Whether the psychological or psychiatric profiles indicate a risk of recidivism.

75 5. The offender's response to treatment.

76 6. Recent behavior, including behavior while confined in the community following service of
77 sentence.

78 7. Recent threats against persons or expressions of intent to commit additional crimes.

79 B. The guidelines shall provide for three levels of notification depending upon the risk of re-offense
80 by the offender as follows:

81 1. If risk of re-offense is low, local law-enforcement agencies likely to encounter the offender shall
82 be notified.

83 2. If risk of re-offense is moderate, organizations in the community, including schools and religious
84 and youth organizations, shall be notified in accordance with the guidelines in addition to the notice
85 required by subdivision 1.

86 3. If risk of re-offense is high, the public shall be notified through means in accordance with the
87 guidelines designed to reach members of the public likely to encounter the person registered, in addition
88 to the notice required by subdivisions 1 and 2.

89 C. In order to promote uniform application of the guidelines, the Attorney General shall develop
90 procedures for evaluation of the risk of re-offense and implementation of community notification. Among
91 other things, these procedures shall require that the attorney for the Commonwealth for the county or
92 city where the person was convicted and the attorney for the Commonwealth for the county or city
93 where the person will reside, together with any law-enforcement officials that either deems appropriate,
94 assess the risk of re-offense and that the attorney for the Commonwealth for the county or city in which
95 the person will reside, after consultation with local law-enforcement officials, determine the means of
96 providing notification.

97 § 19.2-390.1. Sex Offender Registry; maintenance; access.

98 A. The Department of State Police shall keep and maintain a Sex Offender Registry, separate and
99 apart from all other records maintained by it. The purpose of the Sex Offender Registry shall be to
100 assist the efforts of law-enforcement agencies to protect their communities from repeat sex offenders and
101 to protect children from becoming the victims of repeat sex offenders by helping to prevent such
102 individuals from being hired or allowed to volunteer to work directly with children. The Sex Offender
103 Registry shall include conviction data received from the courts pursuant to § 19.2-390 for felony
104 violations of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or
105 § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as
106 defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including the
107 disposition records for juveniles tried and convicted in the circuit courts pursuant to § 16.1-269, and
108 registrations received from persons required to do so by § 19.2-298.1. The State Police shall promulgate
109 regulations governing the operation and maintenance of the Sex Offender Registry and the expungement
110 of records on persons who are deceased, whose convictions have been reversed or who have been
111 pardoned, and those for whom an order of expungement has been entered pursuant to § 19.2-298.2 or
112 § 19.2-392.1.

113 B. Sex Offender Registry information shall be disseminated to local law-enforcement agencies as
114 provided in § 19.2-298.2 and, upon request, only to authorized officers or employees of (i) a criminal
115 justice agency, as defined by § 9-169; (ii) a public school division; (iii) a private, denominational or
116 parochial school; or (iv) a child-welfare agency or a registered or unregistered small family day-care
117 home as defined in § 63.1-195. Sex Offender Registry information provided under this section shall be
118 used only for the purposes of the administration of criminal justice or for the screening of current or
119 prospective employees or volunteers. Further dissemination of such information or use of the information
120 for purposes not authorized by this section is prohibited and a willful violation of this section shall be
121 punished as a Class 1 misdemeanor. Any form or document used by the Department of State Police to

122 disseminate information from the Sex Offender Registry shall provide notice that any further or
123 unauthorized dissemination of the information is a crime punishable as a Class 1 misdemeanor.
124 The Department of State Police may by regulation establish a fee not to exceed fifteen dollars for
125 responding to requests for information from the Sex Offender Registry. Any fees collected shall be
126 deposited in a special account to be used to offset the costs of administering the Registry.

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HB2520