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HOUSE BILL NO. 2024

Offered January 13, 1997

A BILL to amend and reenact §§ 19.2-298.1 and 19.2-390.1 of the Code of Virginia, relating to Sex Offender Registry; penalty.

Patrons—Deeds, Abbitt, Almand, Armstrong, Barlow, Behm, Bennett, Brickley, Clement, Connally, Cooper, Cranwell, Crittenden, Croshaw, Darner, Davies, Diamonstein, Grayson, Hall, Heilig, Hull, Johnson, Jones, J.C., Lovelace, McEachin, Moran, Moss, Murphy, Phillips, Plum, Shuler, Stump, Tate, Thomas, Van Yahres, Watts and Woodrum

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-298.1 and 19.2-390.1 of the Code of Virginia are amended and reenacted 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 *and provide such information as required by subsection D of this section.* The order shall also impose a duty to keep the registration current in accordance with this section. *The court shall obtain all registration information, on forms provided by the Department of State Police, and the clerk shall forward the information within three days of sentencing to the Department of State Police.*

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.

D. *The Department of State Police shall develop and provide the procedures and forms for collecting and maintaining the registration information.* 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, *and current address and a description of the offense or offenses for which he was convicted and. For all persons convicted and sentenced as adults, the Registry shall also include fingerprints and a photograph, of a type and kind approved by the Department of State Police.* The Registry shall, if applicable, ~~provide~~ include 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.

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

A. The Department of State Police shall keep and maintain a Sex Offender Registry, separate and apart from all other records maintained by it. The purpose of the Sex Offender Registry shall be to assist the efforts of law-enforcement agencies to protect their communities from repeat sex offenders and to protect children from becoming the victims of repeat sex offenders by helping to prevent such individuals from being hired or allowed to volunteer ~~to~~ or work directly with children *in any educational, care-giving, or similar activity.* The Sex Offender Registry shall include conviction data received from the courts pursuant to § 19.2-390 for felony 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 § 18.2-370.1 or, where the victim is a minor or is

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60 physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or
61 subsection B of § 18.2-366, including the disposition records for juveniles tried and convicted in the
62 circuit courts pursuant to § 16.1-269.1, and registrations received from persons required to do so by
63 § 19.2-298.1. Promptly upon receipt of a registration or reregistration pursuant to § 19.2-298.1 the State
64 Police shall notify the chief law-enforcement officer of the county, city or town of the locality listed as
65 the person's address on the registration or reregistration. The State Police shall promulgate regulations
66 governing the giving of notice to the chief local law-enforcement officer, the operation and maintenance
67 of the Sex Offender Registry and the expungement of records on persons who are deceased, whose
68 convictions have been reversed or who have been pardoned, and those for whom an order of
69 expungement has been entered pursuant to § 19.2-298.2 or § 19.2-392.1.

70 B. Except as provided in ~~subsection~~ *subsections A and C*, Sex Offender Registry information shall be
71 disseminated, upon request, only to authorized officers or employees of (i) a criminal justice agency, as
72 defined by § 9-169; (ii) a public school division; (iii) a private, denominational or parochial school; or
73 (iv) a child-welfare agency or a registered or unregistered small family day-care home as defined in
74 § 63.1-195. The Department of State Police shall make Sex Offender Registry information available,
75 upon request, to criminal justice agencies including local law-enforcement agencies through the Virginia
76 Criminal Information Network (VCIN). Sex Offender Registry information provided under this section
77 shall be used only for the purposes of the administration of criminal justice or for the screening of
78 current or prospective employees or volunteers. Further dissemination of such information or use of the
79 information for purposes not authorized by this section is prohibited and a willful violation of this
80 section shall be punished as a Class 1 misdemeanor. The VCIN and any form or document used by the
81 Department of State Police to disseminate information from the Sex Offender Registry shall provide
82 notice that any further or unauthorized dissemination of the information is a crime punishable as a Class
83 1 misdemeanor. The Department of State Police may by regulation establish a fee not to exceed fifteen
84 dollars for responding to requests for information from the Sex Offender Registry. Any fees collected
85 shall be deposited in a special account to be used to offset the costs of administering the Registry.

86 C. *Notwithstanding subsection B, the Department of State Police shall release the name of a specific*
87 *person registered in the Registry in response to a request by (i) a parent or guardian who is*
88 *considering hiring, retaining, or allowing such specific person to work directly with his or her child in*
89 *any child-minding or child-caring capacity or (ii) the authorized employees or representatives of any*
90 *organization that is considering hiring, retaining, or allowing any such individual to work directly with*
91 *children as a part of that organization's services or activities. Any such request shall be submitted on a*
92 *form provided by the Department of State Police. Such form shall require (i) the provision of such*
93 *information as is necessary to specifically identify the person about whom the request is being made and*
94 *(ii) the signature of the person making the request and the signature of the person about whom the*
95 *request is being made. Further dissemination of such information or use of the information for purposes*
96 *not authorized by this section shall be punished as a Class 1 misdemeanor.*

97 **2. The Department of State Police shall develop, prior to July 1, 1997, policies and procedures**
98 **consistent with and necessary to implementing the requirements of this act, including but not**
99 **limited to the creation of the request forms required by this act. Blank forms shall be provided to**
100 **local law enforcement agencies throughout the Commonwealth.**