

SENATE BILL 834

Unofficial Copy
E4

2000 Regular Session
(01r2861)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Green**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 314

1 AN ACT concerning

2 **Crimes - ~~Sexual Offender~~ Offenders - Registration**

3 FOR the purpose of altering the term of registration for certain ~~sexual~~ offenders;
4 providing for the application of this Act; and generally relating to registration of
5 ~~sexual~~ offenders.

6 BY repealing and reenacting, with amendments,
7 Article 27 - Crimes and Punishments
8 Section 792
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1999 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

Article 27 - Crimes and Punishments

1 792.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Child sexual offender" means an individual who:

4 (i) Has been convicted of violating § 35C of this article for an
5 offense involving sexual abuse;

6 (ii) Has been convicted of violating any of the provisions of §§ 462
7 through 464B of this article for an offense involving an individual under the age of 15
8 years;

9 (iii) Has been convicted of violating § 464C of this article for an
10 offense involving an individual under the age of 15 years and has been ordered by the
11 court to register under this section; or

12 (iv) Has been convicted in another state, or in a federal, military, or
13 Native American tribal court, of an offense that, if committed in this State, would
14 constitute one of the offenses listed in items (i) and (ii) of this paragraph.

15 (3) "Convicted" includes:

16 (i) A probation before judgment after a finding of guilt for an
17 offense if the court, as a condition of probation orders compliance with the
18 requirements of this section; and

19 (ii) A finding of not criminally responsible for an offense.

20 (4) "Department" means the Department of Public Safety and
21 Correctional Services.

22 (5) "Local law enforcement agency" means the law enforcement agency
23 in a county that has been designated by resolution of the county governing body as
24 the primary law enforcement unit in the county.

25 (6) "Offender" means an individual who is ordered by the court to
26 register under this section and who:

27 (i) Has been convicted of violating § 1, § 2, or § 338 of this article;

28 (ii) Has been convicted of violating § 337 of this article if the victim
29 is under the age of 18 years;

30 (iii) Has been convicted of the common law crime of false
31 imprisonment if the victim is under the age of 18 years and the offender is not the
32 victim's parent;

33

- 1 (iv) Has been convicted of violating § 464C of this article if the
2 victim is under the age of 18 years;
- 3 (v) Has been convicted of soliciting a minor to engage in sexual
4 conduct;
- 5 (vi) Has been convicted of violating § 419A of this article;
- 6 (vii) Has been convicted of violating § 15 of this article or any of the
7 provisions of §§ 426 through 433 of this article if the intended prostitute is under the
8 age of 18 years;
- 9 (viii) Has been convicted of a crime that involves conduct that by its
10 nature is a sexual offense against an individual under the age of 18 years;
- 11 (ix) Has been convicted of an attempt to commit a crime listed in
12 items (i) through (viii) of this paragraph; or
- 13 (x) Has been convicted in another state, or in a federal, military, or
14 Native American tribal court, of an offense that, if committed in this State, would
15 constitute one of the offenses listed in items (i) through (ix) of this paragraph.
- 16 (7) "Registrant" means an individual who is:
- 17 (i) A child sexual offender;
- 18 (ii) An offender;
- 19 (iii) A sexually violent offender;
- 20 (iv) A sexually violent predator;
- 21 (v) A child sexual offender who, before moving into this State, was
22 required to register in another state or by a federal, military, or Native American
23 tribal court for an offense occurring before October 1, 1995;
- 24 (vi) An offender, a sexually violent offender, or a sexually violent
25 predator who, before moving into this State, was required to register in another state
26 or by a federal, military, or Native American tribal court for an offense occurring
27 before July 1, 1997; or
- 28 (vii) A child sexual offender, offender, sexually violent offender, or
29 sexually violent predator who is required to register in another state, who is not a
30 resident of this State, and who enters this State for the purpose of:
- 31 1. Employment, or to carry on a vocation, that is full time or
32 part time for a period of the time exceeding 14 days or for an aggregate period of time
33 exceeding 30 days during any calendar year, whether financially compensated,
34 volunteered, or for the purpose of government or educational benefit; or

1 (ii) Has been determined in accordance with this section to be at
2 risk of committing a subsequent sexually violent offense.

3 (13) "Supervising authority" means:

4 (i) If the registrant is in the custody of a facility operated by the
5 Department of Public Safety and Correctional Services, the Secretary of Public Safety
6 and Correctional Services;

7 (ii) If the registrant is in the custody of a local or regional detention
8 center, including a registrant who is participating in a home detention program, the
9 administrator of the facility;

10 (iii) Except as provided in item (xi) of this paragraph, if the
11 registrant is granted probation before judgment, probation after judgment, or a
12 suspended sentence, the court that granted the probation or suspended sentence;

13 (iv) If the registrant is in the custody of the Patuxent Institution,
14 the Director of the Patuxent Institution;

15 (v) If the registrant is in the custody of a facility operated by the
16 Department of Health and Mental Hygiene, the Secretary of Health and Mental
17 Hygiene;

18 (vi) If the registrant's sentence does not include a term of
19 imprisonment, the court in which the registrant was convicted;

20 (vii) If the registrant is in the State under the terms and conditions
21 of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title 6, Subtitle
22 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth
23 in Title 8, Subtitle 6 of the Correctional Services Article, the Secretary of Public
24 Safety and Correctional Services;

25 (viii) If the registrant moves to this State and was convicted in
26 another state of an offense that would require the individual to register if the offense
27 was committed in this State, the Secretary of Public Safety and Correctional Services;

28 (ix) If the registrant moves to this State from another state where
29 the individual was required to register, the Secretary of Public Safety and
30 Correctional Services;

31 (x) If the registrant is not a resident of this State, the Secretary of
32 Public Safety and Correctional Services; or

33 (xi) If the registrant is under the supervision of the Division of
34 Parole and Probation, the Director of Parole and Probation.

35 (b) (1) Subject to paragraphs (3) and (4) of this subsection, if an individual is
36 convicted of a second or subsequent sexually violent offense, the State's Attorney may

1 request the court to determine before sentencing whether the individual is a sexually
2 violent predator.

3 (2) If the State's Attorney makes a request under paragraph (1) of this
4 subsection, the court shall determine before or at sentencing whether the individual
5 is a sexually violent predator.

6 (3) In making a determination under paragraph (1) of this subsection,
7 the court shall consider:

8 (i) Any evidence that the court considers appropriate to the
9 determination of whether the individual is a sexually violent predator, including the
10 presentencing investigation and sexually violent offender's inmate record;

11 (ii) Any evidence introduced by the individual convicted; and

12 (iii) At the request of the State's Attorney, any evidence presented
13 by a victim of the sexually violent offense.

14 (4) The State's Attorney may not request a court to determine if an
15 individual is a sexually violent predator under this subsection unless the State's
16 Attorney serves written notice of intent to make the request on the defendant or the
17 defendant's lawyer at least 30 days before trial.

18 (c) (1) A registrant shall register with the registrant's supervising
19 authority:

20 (i) If the registrant is a resident, on or before the date that the
21 registrant:

22 1. Is released;

23 2. Is granted probation before judgment;

24 3. Is granted probation after judgment;

25 4. Is granted a suspended sentence; or

26 5. Receives a sentence that does not include a term of
27 imprisonment; or

28 (ii) If the registrant moves into this State, within 7 days after the
29 earlier of the date that the registrant:

30 1. Establishes a temporary or permanent residence in this
31 State; or

32 2. Applies for a driver's license in this State; or

33 (iii) If the registrant is not a resident of this State, within 14 days of
34 the date that the registrant:

1. Begins employment in this State; or
 2. Registers as a student in this State.
- (2) (i) A child sexual offender shall also register in person with the local law enforcement agency of the county where the child sexual offender will reside:
1. Within 7 days of release, if the child sexual offender is a resident of this State; or
 2. Within 7 days of registering with the supervising authority, if the registrant is moving into this State.
- (ii) Within 7 days of registering with the supervising authority, a child sexual offender who is not a resident of this State and who works or attends school in this State shall also register in person with the local law enforcement agency of the county where the child sexual offender will work or attend school.
- (iii) A child sexual offender may be required to provide information to the local law enforcement agency besides the information required under subsection (e) of this section.
- (3) If a registrant changes residences, the registrant shall send written notice of the change to the Department within 7 days after the change occurs.
- (d) (1) A term of registration described in this subsection shall be calculated from:
- (i) The last date of release;
 - (ii) The date granted probation before judgment, probation after judgment, or a suspended sentence; or
 - (iii) The date of receiving a sentence that does not include a term of imprisonment.
- (2) A child sexual offender shall register annually in person with a local law enforcement agency FOR THE TERM PROVIDED UNDER PARAGRAPH (5) OF THIS SUBSECTION [:
- (i) For 10 years; or
 - (ii) For life, if convicted of:
 1. A violation of any of the provisions of §§ 462 through 464B of this article; or
 2. A second violation as a child sexual offender].

1 (3) An offender AND A SEXUALLY VIOLENT OFFENDER shall register
2 annually with the Department in accordance with the procedures described in
3 subsection (h)(3) of this section [for 10 years] AND FOR THE TERM PROVIDED UNDER
4 PARAGRAPH (5) OF THIS SUBSECTION.

5 (4) [A sexually violent offender shall register annually with the
6 Department in accordance with the procedures described in subsection (h)(3) of this
7 section:

8 (i) For 10 years; or

9 (ii) For life, if convicted of:

10 1. A violation of any of the provisions of §§ 462 through 464B
11 of this article; or

12 2. A second violation as a sexually violent offender.

13 (5) A sexually violent predator shall register every 90 days [throughout
14 the individual's life,] in accordance with the procedures described in subsection (g)(3)
15 of this section AND FOR THE TERM PROVIDED UNDER PARAGRAPH (5)(II) OF THIS
16 SUBSECTION.

17 (5) THE TERM OF REGISTRATION IS:

18 (I) 10 YEARS; OR

19 (II) LIFE IF:

20 1. THE REGISTRANT HAS BEEN DETERMINED TO BE A
21 SEXUALLY VIOLENT PREDATOR IN ACCORDANCE WITH THE PROCEDURES
22 DESCRIBED IN SUBSECTION (B) OF THIS SECTION;

23 2. THE REGISTRANT HAS BEEN CONVICTED OF A VIOLATION
24 OF ANY OF THE PROVISIONS OF §§ 462 THROUGH 464B OF THIS ARTICLE; OR

25 3. THE REGISTRANT HAS BEEN PREVIOUSLY REQUIRED TO
26 REGISTER AND HAS BEEN CONVICTED OF A SUBSEQUENT VIOLATION OF ANY
27 OFFENSE LISTED IN SUBSECTION (A)(2), (6), OR (11) OF THIS SECTION.

28 (6) A registrant who is not a resident of this State shall register for the
29 period of time specified in this subsection or until the registrant's employment or
30 student enrollment in this State ceases.

31 (e) (1) Subject to paragraph (2) of this subsection, registration shall consist
32 of a statement signed and dated by a registrant which includes:

33 (i) The registrant's name, address, and:

34 1. For an individual who qualifies as a registrant under
35 subsection (a)(7)(vii)1 of this section, place of employment; or

1 (iii) Obtain a statement signed by the registrant acknowledging that
2 the supervising authority explained the requirements of this section and provided
3 written notice to the registrant.

4 (2) The supervising authority shall obtain a photograph and fingerprints
5 of the registrant and attach the photograph and fingerprints to the registration
6 statement.

7 (3) Within 5 days of obtaining a registration statement, the supervising
8 authority shall send a copy of the registration statement, the registrant's
9 fingerprints, and a photograph of the registrant to the local law enforcement agency
10 in the county where the registrant will reside, or where a registrant who is not a
11 resident will work or attend school.

12 (4) As soon as possible and in no event later than 5 working days after
13 registration is completed, if the supervising authority is not a unit of the Department,
14 the supervising authority shall send the registration statement to the Department.

15 (g) (1) (i) Within 5 days after a child sexual offender has completed the
16 registration requirements of subsection (d)(2) of this section, a local law enforcement
17 agency shall send notice of the child sexual offender's annual registration to the
18 Department.

19 (ii) As soon as possible and in no event later than 5 working days
20 after receiving a registration statement of a child sexual offender, a local law
21 enforcement agency shall send written notice of the registration statement to the
22 county superintendent, as defined in § 1-101 of the Education Article, in the county
23 where the child sexual offender will reside, or where a child sexual offender who is not
24 a resident of this State will work or attend school.

25 (2) As soon as possible and in no event later than 5 working days after
26 receiving notice from the local law enforcement agency under paragraph (1)(ii) of this
27 subsection, a county superintendent shall send written notice of the registration
28 statement to those principals of the schools within the supervision of the
29 superintendent that the superintendent considers necessary to protect the students of
30 a school from a child sexual offender.

31 (3) (i) Every 90 days, the local law enforcement agency shall mail a
32 verification form, which may not be forwarded, to the last reported address of a
33 sexually violent predator.

34 (ii) Within 10 days after receiving the verification form, the
35 sexually violent predator shall sign the form and mail it to the local law enforcement
36 agency.

37 (iii) Within 5 days after obtaining a verification form from a
38 sexually violent predator, a local law enforcement agency shall send a copy of the
39 verification form to the Department.

1 (4) If a registrant will reside after release in a municipal corporation
2 that has a police department, or, in the case where a registrant escapes from a facility
3 and the registrant resided, before the registrant was committed to the custody of a
4 supervising authority, in a municipal corporation that has a police department, a local
5 law enforcement agency that receives a notice from a supervising authority under
6 this section shall send a copy of the notice to the police department of the municipal
7 corporation.

8 (h) (1) The Department shall:

9 (i) Maintain a central registry of registrants;

10 (ii) As soon as possible and in no event later than 5 working days
11 after receiving the conviction data and fingerprints of a registrant, transmit the data
12 and fingerprints to the Federal Bureau of Investigation if the Bureau does not have
13 that information; and

14 (iii) Reimburse supervising authorities for the cost of processing the
15 registration statements of registrants, including the taking of fingerprints and
16 photographs.

17 (2) As soon as possible and in no event later than 5 working days after
18 receipt of a registrant's change of address notice, the Department shall give notice of
19 the change to:

20 (i) The local law enforcement agency in whose county the new
21 residence is located;

22 (ii) If the new residence is in a different state that has a
23 registration requirement, the designated law enforcement agency in whose state the
24 new residence is located; and

25 (iii) If the registration is premised on a conviction under federal,
26 military, or Native American tribal law, the designated federal agency.

27 (3) (i) The Department shall mail annually a verification form, which
28 may not be forwarded, to the last reported address of each offender and sexually
29 violent offender.

30 (ii) Within 10 days after receiving the verification form, the
31 offender or sexually violent offender shall sign the verification form and mail it to the
32 Department.

33 (i) (1) If a registrant escapes from a facility, the supervising authority of the
34 facility shall immediately notify, by the most reasonable and expedient means
35 available:

36 (i) The local law enforcement agency in the jurisdiction in which
37 the registrant resided before the registrant was committed to the custody of the
38 supervising authority; and

1 (ii) Any individual who is entitled to receive notice under
2 subsection (j)(3) of this section.

3 (2) If the registrant is recaptured, the supervising authority shall send
4 notice, as soon as possible and in no event later than 2 working days after the
5 supervising authority learns of the recapture, to:

6 (i) The local law enforcement agency in the jurisdiction in which
7 the registrant resided before the registrant was committed to the custody of the
8 supervising authority; and

9 (ii) Any individual who is entitled to receive notice under
10 subsection (j)(3) of this section.

11 (j) (1) A registration statement provided to a person under this section shall
12 include a copy of the completed registration form and a copy of a photograph of the
13 registrant, but need not include the registrant's fingerprints.

14 (2) Information regarding any individual who receives notice under
15 paragraph (3) of this subsection is confidential and may not be disclosed to the
16 registrant or any other person.

17 (3) (i) The supervising authority shall send a copy of a registration
18 statement to the following individuals if such notice has been requested in writing
19 about a specific registrant:

20 1. The victim of the crime for which the registrant was
21 convicted or, if the victim is a minor, the parents or legal guardian of the victim;

22 2. Any witness who testified against the registrant in any
23 court proceedings involving the offense; and

24 3. Any individual specified in writing by the State's Attorney.

25 (ii) The supervising authority shall send a copy of a registration
26 statement to a victim of the crime for which the registrant was convicted, if the victim
27 filed a notification request form under § 770 of this article.

28 (4) A supervising authority shall send any notice required under
29 paragraph (3) of this subsection and subsection (i)(1)(ii) and (2)(ii) of this section to
30 the last address provided to the supervising authority.

31 (5) (i) Subject to subparagraph (ii) of this paragraph, upon written
32 request to a local law enforcement agency, the agency:

33 1. Shall send to the individual who submitted the request
34 one copy of the registration statement of each child sexual offender and each sexually
35 violent predator on record with the agency; and

1 (m) The Secretary of Public Safety and Correctional Services shall adopt
2 regulations to implement the provisions of this section with advice from the Criminal
3 Justice Information Advisory Board established under § 744 of this article.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act
5 relating to offenders who have previously been required to register shall apply only to
6 offenses occurring on or after the effective date of this Act.

7 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2000.