
By: **Chairman, Judiciary Committee (By Request - Departmental - Public
Safety and Correctional Services)**

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 21, 2005

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure - Sex Offender Registration - Terms and Procedures**

3 FOR the purpose of altering the definition of "release"; establishing a definition of
4 "transient" to apply to certain nonresident registrants who enter a county
5 within a certain time frame; establishing certain registration requirements for
6 certain "transient" registrants; requiring registration of certain information by
7 certain registrants on work release; adding certain registration duties to
8 supervising authorities and certain local law enforcement units for certain
9 "transient" registrants; and generally relating to the registration of sex
10 offenders.

11 BY repealing and reenacting, with amendments,
12 Article - Criminal Procedure
13 Section 11-701, 11-704, 11-705, 11-706, 11-707, 11-708, and 11-709
14 Annotated Code of Maryland
15 (2001 Volume and 2004 Supplement)

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

18 **Article - Criminal Procedure**

19 11-701.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) "Child sexual offender" means a person who:

1 (1) has been convicted of violating § 3-602 of the Criminal Law Article;

2 (2) has been convicted of violating any of the provisions of the rape or
3 sexual offense statutes under §§ 3-303 through 3-307 of the Criminal Law Article for
4 a crime involving a child under the age of 15 years;

5 (3) has been convicted of violating the fourth degree sexual offense
6 statute under § 3-308 of the Criminal Law Article for a crime involving a child under
7 the age of 15 years and has been ordered by the court to register under this subtitle;
8 or

9 (4) has been convicted in another state or in a federal, military, or Native
10 American tribal court of a crime that, if committed in this State, would constitute one
11 of the crimes listed in items (1) and (2) of this subsection.

12 (b-1) "Employment" means an occupation, job, or vocation that is full time or
13 part time for a period exceeding 14 days or for an aggregate period exceeding 30 days
14 during a calendar year, whether financially compensated, volunteered, or for the
15 purpose of government or educational benefit.

16 (c) "Local law enforcement unit" means the law enforcement unit in a county
17 that has been designated by resolution of the county governing body as the primary
18 law enforcement unit in the county.

19 (d) "Offender" means a person who is ordered by a court to register under this
20 subtitle and who:

21 (1) has been convicted of violating § 3-503 of the Criminal Law Article;

22 (2) has been convicted of violating § 3-502 of the Criminal Law Article or
23 the fourth degree sexual offense statute under § 3-308 of the Criminal Law Article, if
24 the victim is under the age of 18 years;

25 (3) has been convicted of the common law crime of false imprisonment, if
26 the victim is under the age of 18 years and the person is not the victim's parent;

27 (4) has been convicted of a crime that involves soliciting a person under
28 the age of 18 years to engage in sexual conduct;

29 (5) has been convicted of violating the child pornography statute under §
30 11-207 of the Criminal Law Article;

31 (6) has been convicted of violating any of the prostitution and related
32 crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended
33 prostitute or victim is under the age of 18 years;

34 (7) has been convicted of a crime that involves conduct that by its nature
35 is a sexual offense against a person under the age of 18 years;

1 (8) has been convicted of an attempt to commit a crime listed in items (1)
2 through (7) of this subsection; or

3 (9) has been convicted in another state or in a federal, military, or Native
4 American tribal court of a crime that, if committed in this State, would constitute one
5 of the crimes listed in items (1) through (8) of this subsection.

6 (e) (1) Except as otherwise provided in this subsection, "release" means any
7 type of release from the custody of a supervising authority.

8 (2) "Release" [includes] MEANS:

9 (i) release on parole[, mandatory supervision, and work release;
10 and

11 (ii) except for leave that is granted on an emergency basis, any type
12 of temporary leave.];

13 (II) MANDATORY SUPERVISION RELEASE;

14 (III) RELEASE FROM A CORRECTIONAL FACILITY WITH NO
15 REQUIRED PERIOD OF SUPERVISION;

16 (IV) WORK RELEASE;

17 (V) PLACEMENT ON HOME DETENTION; AND

18 (VI) THE FIRST INSTANCE OF ENTRY INTO THE COMMUNITY THAT
19 IS PART OF A SUPERVISING AUTHORITY'S GRADUATED RELEASE PROGRAM.

20 (3) "Release" does not include:

21 (I) an escape; OR

22 (II) LEAVE THAT IS GRANTED ON AN EMERGENCY BASIS.

23 (f) "Sexually violent offender" means a person who:

24 (1) has been convicted of a sexually violent offense; or

25 (2) has been convicted of an attempt to commit a sexually violent offense.

26 (g) "Sexually violent offense" means:

27 (1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of
28 the Criminal Law Article;

29 (2) assault with intent to commit rape in the first or second degree or a
30 sexual offense in the first or second degree as prohibited on or before September 30,
31 1996, under former Article 27, § 12 of the Code; or

1 (3) a crime committed in another state or in a federal, military, or Native
2 American tribal jurisdiction that, if committed in this State, would constitute one of
3 the crimes listed in item (1) or (2) of this subsection.

4 (h) "Sexually violent predator" means:

5 (1) a person who:

6 (i) is convicted of a sexually violent offense; and

7 (ii) has been determined in accordance with this subtitle to be at
8 risk of committing another sexually violent offense; or

9 (2) a person who is or was required to register every 90 days for life
10 under the laws of another state or a federal, military, or Native American tribal
11 jurisdiction.

12 (i) "Supervising authority" means:

13 (1) the Secretary, if the registrant is in the custody of a correctional
14 facility operated by the Department;

15 (2) the administrator of a local correctional facility, if the registrant,
16 including a participant in a home detention program, is in the custody of the local
17 correctional facility;

18 (3) the court that granted the probation or suspended sentence, except as
19 provided in item (12) of this subsection, if the registrant is granted probation before
20 judgment, probation after judgment, or a suspended sentence;

21 (4) the Director of the Patuxent Institution, if the registrant is in the
22 custody of the Patuxent Institution;

23 (5) the Secretary of Health and Mental Hygiene, if the registrant is in
24 the custody of a facility operated by the Department of Health and Mental Hygiene;

25 (6) the court in which the registrant was convicted, if the registrant's
26 sentence does not include a term of imprisonment;

27 (7) the Secretary, if the registrant is in the State under terms and
28 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
29 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
30 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

31 (8) the Secretary, if the registrant moves to this State and was convicted
32 in another state of a crime that would require the registrant to register if the crime
33 was committed in this State;

34 (9) the Secretary, if the registrant moves to this State from another state
35 where the registrant was required to register;

1 (10) the Secretary, if the registrant is convicted in a federal, military, or
2 Native American tribal court and is not under supervision by another supervising
3 authority;

4 (11) the Secretary, if the registrant is not a resident of this State and has
5 been convicted in another state or by a federal, military, or Native American tribal
6 court; or

7 (12) the Director of Parole and Probation, if the registrant is under the
8 supervision of the Division of Parole and Probation.

9 (J) "TRANSIENT" MEANS A NONRESIDENT REGISTRANT WHO ENTERS A
10 COUNTY OF THIS STATE FOR A PERIOD EXCEEDING 14 DAYS OR FOR AN AGGREGATE
11 PERIOD EXCEEDING 30 DAYS DURING A CALENDAR YEAR FOR A PURPOSE OTHER
12 THAN EMPLOYMENT OR TO ATTEND AN EDUCATIONAL INSTITUTION.

13 11-704.

14 (a) A person shall register with the person's supervising authority if the
15 person is:

16 (1) a child sexual offender;

17 (2) an offender;

18 (3) a sexually violent offender;

19 (4) a sexually violent predator;

20 (5) a child sexual offender who, before moving into this State, was
21 required to register in another state or by a federal, military, or Native American
22 tribal court for a crime that occurred before October 1, 1995;

23 (6) an offender, sexually violent offender, or sexually violent predator
24 who, before moving into this State, was required to register in another state or by a
25 federal, military, or Native American tribal court for a crime that occurred before July
26 1, 1997; or

27 (7) a child sexual offender, offender, sexually violent offender, or sexually
28 violent predator who is required to register in another state, who is not a resident of
29 this State, and who enters this State:

30 (i) to carry on employment; [or]

31 (ii) to attend a public or private educational institution, including a
32 secondary school, trade or professional institution, or institution of higher education,
33 as a full-time or part-time student; OR

34 (III) AS A TRANSIENT.

1 (b) Notwithstanding any other provision of law, a person is no longer subject
2 to registration under this subtitle if:

3 (1) the underlying conviction requiring registration is reversed, vacated,
4 or set aside; or

5 (2) the registrant is pardoned for the underlying conviction.

6 11-705.

7 (a) In this section, "resident" means a person who lives in this State when the
8 person:

9 (1) is released;

10 (2) is granted probation;

11 (3) is granted a suspended sentence; or

12 (4) receives a sentence that does not include a term of imprisonment.

13 (b) A registrant shall register with the supervising authority:

14 (1) if the registrant is a resident, on or before the date that the
15 registrant:

16 (i) is released;

17 (ii) is granted probation before judgment;

18 (iii) is granted probation after judgment;

19 (iv) is granted a suspended sentence; or

20 (v) receives a sentence that does not include a term of
21 imprisonment;

22 (2) if the registrant moves into the State, within 7 days after the earlier
23 of the date that the registrant:

24 (i) establishes a temporary or permanent residence in the State; or

25 (ii) applies for a driver's license in the State; or

26 (3) if the registrant is not a resident, within 14 days after the registrant:

27 (i) begins employment in the State; [or]

28 (ii) registers as a student in the State; OR

29 (III) ENTERS THE STATE AS A TRANSIENT.

1 (c) (1) A child sexual offender shall also register in person with the local law
2 enforcement unit of the county where the child sexual offender will reside:

3 (i) within 7 days after release, if the child sexual offender is a
4 resident; or

5 (ii) within 7 days after registering with the supervising authority, if
6 the registrant is moving into this State.

7 (2) Within 7 days after registering with the supervising authority, a child
8 sexual offender who is not a resident and [who works or attends school in this State]
9 HAS ENTERED THE STATE UNDER § 11-704(A)(7) OF THIS SUBTITLE shall also register
10 in person with the local law enforcement unit of the county where the child sexual
11 offender IS A TRANSIENT OR will work or attend school.

12 (3) A child sexual offender may be required to give to the local law
13 enforcement unit more information than required under § 11-706 of this subtitle.

14 (d) A registrant who changes residences shall send written notice of the
15 change to the Department within 7 days after the change occurs.

16 (e) (1) A registrant who commences or terminates enrollment as a full-time
17 or part-time student at an institution of higher education in the State shall send
18 written notice to the Department within 7 days after the commencement or
19 termination of enrollment.

20 (2) A registrant who commences or terminates carrying on employment
21 at an institution of higher education in the State shall send written notice to the
22 Department within 7 days after the commencement or termination of employment.

23 (f) A registrant who is granted a legal change of name by a court shall send
24 written notice of the change to the Department within 7 days after the change is
25 granted.

26 11-706.

27 (a) A registration statement shall include:

28 (1) the registrant's full name, including any suffix, and address;

29 (2) (i) for a registrant under § 11-704(a)(7)(i) of this subtitle OR WHO
30 IS ON WORK RELEASE, the registrant's place of employment; or

31 (ii) for a registrant under § 11-704(a)(7)(ii) of this subtitle, the
32 registrant's place of educational institution or school enrollment;

33 (3) (i) for a registrant enrolled, or expecting to enroll, in an institution
34 of higher education in the State as a full-time or part-time student, the name and
35 address of the institution of higher education; or

1 (ii) for a registrant who carries on employment, or expects to carry
2 on employment, at an institution of higher education in the State, the name and
3 address of the institution of higher education;

4 (4) a description of the crime for which the registrant was convicted;

5 (5) the date that the registrant was convicted;

6 (6) the jurisdiction in which the registrant was convicted;

7 (7) a list of any aliases that the registrant has used;

8 (8) the registrant's Social Security number;

9 (9) any other name by which the registrant has been legally known; and

10 (10) the registrant's signature and date signed.

11 (b) If the registrant is a sexually violent predator, the registration statement
12 shall also include:

13 (1) identifying factors, including a physical description;

14 (2) anticipated future residence, if known at the time of registration;

15 (3) offense history; and

16 (4) documentation of treatment received for a mental abnormality or
17 personality disorder.

18 11-707.

19 (a) (1) A child sexual offender shall register annually in person with a local
20 law enforcement unit for the term provided under paragraph (4) of this subsection.

21 (2) An offender and a sexually violent offender shall register annually
22 with the Department in accordance with § 11-711(a) of this subtitle and for the term
23 provided under paragraph (4) of this subsection.

24 (3) A sexually violent predator shall register every 90 days in accordance
25 with § 11-711(b) of this subtitle and for the term provided under paragraph (4)(ii) of
26 this subsection.

27 (4) The term of registration is:

28 (i) 10 years; or

29 (ii) life, if:

30 1. the registrant is a sexually violent predator;

1 (b) The supervising authority shall obtain a photograph and fingerprints of
2 the registrant and attach the photograph and fingerprints to the registration
3 statement.

4 (c) (1) Within 5 days after obtaining a registration statement, the
5 supervising authority shall send a copy of the registration statement with the
6 attached fingerprints and photograph of the registrant to the local law enforcement
7 unit in the county where the registrant will reside or where a registrant who is not a
8 resident IS A TRANSIENT OR will work or attend school.

9 (2) (i) If the registrant is enrolled in or carries on employment at, or is
10 expecting to enroll in or carry on employment at, an institution of higher education in
11 the State, within 5 days after obtaining a registration statement, the supervising
12 authority shall send a copy of the registration statement with the attached
13 fingerprints and photograph of the registrant to the campus police agency of the
14 institution of higher education.

15 (ii) If an institution of higher education does not have a campus
16 police agency, the copy of the registration statement with the attached fingerprints
17 and photograph of the registrant shall be provided to the local law enforcement
18 agency having primary jurisdiction for the campus.

19 (d) As soon as possible but not later than 5 working days after the registration
20 is complete, a supervising authority that is not a unit of the Department shall send
21 the registration statement to the Department.

22 11-709.

23 (a) Each year within 5 days after a child sexual offender completes the
24 registration requirements of § 11-707(a) of this subtitle, a local law enforcement unit
25 shall send notice of the child sexual offender's annual registration to the Department.

26 (b) (1) As soon as possible but not later than 5 working days after receiving
27 a registration statement of a child sexual offender, a local law enforcement unit shall
28 send written notice of the registration statement to the county superintendent, as
29 defined in § 1-101 of the Education Article, in the county where the child sexual
30 offender is to reside or where a child sexual offender who is not a resident of the State
31 IS A TRANSIENT OR will work or attend school.

32 (2) As soon as possible but not later than 5 working days after receiving
33 notice from the local law enforcement unit under paragraph (1) of this subsection, the
34 county superintendent shall send written notice of the registration statement to
35 principals of the schools under the superintendent's supervision that the
36 superintendent considers necessary to protect the students of a school from a child
37 sexual offender.

38 (c) A local law enforcement unit that receives a notice from a supervising
39 authority under this section shall send a copy of the notice to the police department,
40 if any, of a municipal corporation if the registrant:

- 1 (1) is to reside in the municipal corporation after release; or
 - 2 (2) escapes from a facility but resided in the municipal corporation
 - 3 before being committed to the custody of a supervising authority.
- 4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 5 effect October 1, 2005.