

# HOUSE BILL 1267

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By: **Delegates Kramer, Arora, Barkley, Carr, Frick, George, Luedtke,  
McDonough, Mizeur, Stocksdales, and Wood**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Homes and Assisted Living Facilities – Sex Offenders**

3 FOR the purpose of requiring a certain registrant who applies for admission to a  
4 nursing home or an assisted living program to provide certain notification to the  
5 nursing home or assisted living program during the admission process; adding  
6 to the information that must be included in a registration statement; requiring  
7 a certain supervising authority to send a copy of a registration statement to a  
8 certain nursing home or assisted living program within a certain time period  
9 under certain circumstances; prohibiting a facility from knowingly employing an  
10 identified registrant; requiring a facility to check the Sex Offender Registry on a  
11 certain Web site to make a certain determination; authorizing a facility to  
12 decline admission to an identified registrant; requiring and authorizing a  
13 facility to take certain action if an identified registrant is a resident of the  
14 facility; requiring the Maryland Medical Assistance Program to pay for certain  
15 accommodations under certain circumstances; requiring a facility to provide  
16 certain written notice to each prospective and current resident or guardian of  
17 the resident; defining certain terms; providing that a facility is not liable for  
18 certain actions; and generally relating to sex offenders and nursing homes and  
19 assisted living programs.

20 BY adding to

21 Article – Criminal Procedure  
22 Section 11–705(k)  
23 Annotated Code of Maryland  
24 (2008 Replacement Volume and 2012 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Criminal Procedure  
27 Section 11–706(a) and 11–708  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2008 Replacement Volume and 2012 Supplement)

2 BY adding to

3 Article – Health – General

4 Section 19–2401 through 19–2405 to be under the new subtitle “Subtitle 24.

5 Employment and Admission of Registered Sex Offenders in Assisted

6 Living Programs and Nursing Homes”

7 Annotated Code of Maryland

8 (2009 Replacement Volume and 2012 Supplement)

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

11 **Article – Criminal Procedure**

12 11–705.

13 **(K) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**  
14 **REGISTRANT WHO APPLIES FOR ADMISSION TO A NURSING HOME OR AN**  
15 **ASSISTED LIVING PROGRAM SHALL NOTIFY THE NURSING HOME OR ASSISTED**  
16 **LIVING PROGRAM DURING THE ADMISSION PROCESS THAT THE REGISTRANT IS**  
17 **A REGISTERED SEX OFFENDER IN THE STATE OR IN ANY OTHER STATE.**

18 **(2) IF FEASIBLE, THE NOTIFICATION REQUIRED UNDER**  
19 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PROVIDED BEFORE THE**  
20 **ADMISSION OF THE REGISTRANT TO THE NURSING HOME OR ASSISTED LIVING**  
21 **PROGRAM.**

22 11–706.

23 (a) For all sex offenders in the State, a registration statement shall include:

24 (1) the registrant’s full name, including any suffix, and all addresses  
25 and places where the registrant resides or habitually lives;

26 (2) the name and address of each of the registrant’s employers and a  
27 description of each location where the registrant performs employment duties, if that  
28 location differs from the address of the employer;

29 (3) the name of the registrant’s educational institution or place of  
30 school enrollment and the registrant’s educational institution or school address;

31 **(4) IF THE REGISTRANT RESIDES OR HABITUALLY LIVES IN A**  
32 **NURSING HOME OR AN ASSISTED LIVING PROGRAM, THE NAME OF THE NURSING**  
33 **HOME OR ASSISTED LIVING PROGRAM;**

- 1            **[(4)] (5)**     a description of the crime for which the registrant was  
2 convicted;
- 3            **[(5)] (6)**     the date that the registrant was convicted;
- 4            **[(6)] (7)**     the jurisdiction and the name of the court in which the  
5 registrant was convicted;
- 6            **[(7)] (8)**     a list of any aliases, former names, names by which the  
7 registrant legally has been known, traditional names given by family or clan under  
8 ethnic or tribal tradition, electronic mail addresses, computer log-in or screen names  
9 or identities, instant-messaging identities, and electronic chat room identities that the  
10 registrant has used;
- 11           **[(8)] (9)**     the registrant's Social Security number and any purported  
12 Social Security numbers, the registrant's date of birth, purported dates of birth, and  
13 place of birth;
- 14           **[(9)] (10)**    all identifying factors, including a physical description;
- 15           **[(10)] (11)**   a copy of the registrant's passport or immigration papers;
- 16           **[(11)] (12)**   information regarding any professional licenses the  
17 registrant holds;
- 18           **[(12)] (13)**   the license plate number, registration number, and  
19 description of any vehicle, including all motor vehicles, boats, and aircraft, owned or  
20 regularly operated by the registrant;
- 21           **[(13)] (14)**   the permanent or frequent addresses or locations where all  
22 vehicles are kept;
- 23           **[(14)] (15)**   all landline and cellular telephone numbers and any other  
24 designations used by the sex offender for the purposes of routing or self-identification  
25 in telephonic communications;
- 26           **[(15)] (16)**   a copy of the registrant's valid driver's license or  
27 identification card;
- 28           **[(16)] (17)**   the registrant's fingerprints and palm prints;
- 29           **[(17)] (18)**   the criminal history of the sex offender, including the dates  
30 of all arrests and convictions, the status of parole, probation, or supervised release,  
31 and the existence of any outstanding arrest warrants; and
- 32           **[(18)] (19)**   the registrant's signature and date signed.

1 11-708.

2 (a) When a registrant registers, the supervising authority shall:

3 (1) give written notice to the registrant of the requirements of this  
4 subtitle;

5 (2) explain the requirements of this subtitle to the registrant,  
6 including:

7 (i) the duties of a registrant when the registrant changes  
8 residence address in this State or changes the county in which the registrant  
9 habitually lives;

10 (ii) the duties of a registrant under § 11-705 of this subtitle;

11 (iii) the requirement for a sex offender to register in person with  
12 the local law enforcement unit of each county where the sex offender will reside or  
13 habitually live or where the sex offender who is not a resident of this State is a  
14 transient or will work or attend school; and

15 (iv) the requirement that if the registrant changes residence  
16 address, employment, or school enrollment to another state that has a registration  
17 requirement, the registrant shall register with the designated law enforcement unit or  
18 sex offender registration unit of that state within 3 days after the change; and

19 (3) obtain a statement signed by the registrant acknowledging that  
20 the supervising authority explained the requirements of this subtitle and gave written  
21 notice of the requirements to the registrant.

22 (b) (1) The supervising authority shall obtain an updated digital image,  
23 fingerprints, and palm prints of the registrant and forward the updated digital image,  
24 fingerprints, and palm prints to the Department.

25 (2) For a registrant who has not submitted a DNA sample, as defined  
26 in § 2-501 of the Public Safety Article, for inclusion in the statewide DNA database  
27 system of the Department of State Police Crime Laboratory, the supervising authority  
28 shall:

29 (i) obtain a DNA sample from the registrant at the registrant's  
30 initial registration; and

31 (ii) provide the sample to the statewide DNA database system of  
32 the Department of State Police Crime Laboratory.

1 (c) (1) Within 3 days after obtaining a registration statement, the  
2 supervising authority shall send a copy of the registration statement with the attached  
3 fingerprints, palm prints, and updated digital image of the registrant to the local law  
4 enforcement unit in each county where the registrant will reside or habitually live or  
5 where a registrant who is not a resident is a transient or will work or attend school.

6 (2) (i) If the registrant is enrolled in or carries on employment at,  
7 or is expecting to enroll in or carry on employment at, an institution of higher  
8 education in the State, within 3 days after obtaining a registration statement, the  
9 supervising authority shall send a copy of the registration statement with the attached  
10 fingerprints, palm prints, and updated digital image of the registrant to the campus  
11 police agency of the institution of higher education.

12 (ii) If an institution of higher education does not have a campus  
13 police agency, the copy of the registration statement with the attached fingerprints,  
14 palm prints, and updated digital image of the registrant shall be provided to the local  
15 law enforcement agency having primary jurisdiction for the campus.

16 (d) As soon as possible but not later than 3 working days after the  
17 registration is complete, a supervising authority that is not a unit of the Department  
18 shall send the registration statement to the Department.

19 **(E) WITHIN 3 DAYS AFTER OBTAINING A REGISTRATION STATEMENT**  
20 **INDICATING THAT THE REGISTRANT RESIDES OR HABITUALLY LIVES IN A**  
21 **NURSING HOME OR AN ASSISTED LIVING PROGRAM, THE SUPERVISING**  
22 **AUTHORITY SHALL SEND A COPY OF THE REGISTRATION STATEMENT TO THE**  
23 **NURSING HOME OR ASSISTED LIVING PROGRAM WHERE THE REGISTRANT WILL**  
24 **RESIDE OR LIVE.**

25 **Article – Health – General**

26 **SUBTITLE 24. EMPLOYMENT AND ADMISSION OF REGISTERED SEX**  
27 **OFFENDERS IN ASSISTED LIVING PROGRAMS AND NURSING HOMES.**

28 **19–2401.**

29 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
30 **INDICATED.**

31 **(B) “FACILITY” MEANS:**

32 **(1) AN ASSISTED LIVING PROGRAM REGULATED UNDER**  
33 **SUBTITLE 18 OF THIS TITLE; OR**

1           **(2) A NURSING HOME REGULATED UNDER SUBTITLE 14 OF THIS**  
2 **TITLE.**

3           **(C) "IDENTIFIED REGISTRANT" MEANS AN INDIVIDUAL WHO IS**  
4 **REQUIRED TO REGISTER UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL**  
5 **PROCEDURE ARTICLE.**

6 **19-2402.**

7           **A FACILITY MAY NOT KNOWINGLY EMPLOY AN IDENTIFIED REGISTRANT.**

8 **19-2403.**

9           **(A) (1) DURING THE ADMISSION PROCESS, A FACILITY SHALL CHECK**  
10 **THE SEX OFFENDER REGISTRY ON THE WEB SITE OF THE DEPARTMENT OF**  
11 **PUBLIC SAFETY AND CORRECTIONAL SERVICES TO DETERMINE IF THE**  
12 **APPLICANT IS AN IDENTIFIED REGISTRANT.**

13           **(2) A FACILITY MAY DECLINE THE ADMISSION OF AN IDENTIFIED**  
14 **REGISTRANT.**

15           **(B) (1) IF AN IDENTIFIED REGISTRANT IS A RESIDENT OF A FACILITY**  
16 **AND THE FACILITY DETERMINES THAT SPECIAL ACCOMMODATIONS, INCLUDING**  
17 **A PRIVATE ROOM OR PRIVATE DUTY NURSING, ARE NECESSARY TO MONITOR**  
18 **THE RESIDENT, THE COST OF THE ACCOMMODATIONS SHALL BE PAID FOR BY**  
19 **THE IDENTIFIED REGISTRANT.**

20           **(2) IF THE IDENTIFIED REGISTRANT IS AN ENROLLEE IN THE**  
21 **MEDICAL ASSISTANCE PROGRAM, THE SPECIAL ACCOMMODATIONS SHALL BE**  
22 **PAID FOR BY THE MEDICAL ASSISTANCE PROGRAM.**

23           **(C) (1) THE FACILITY SHALL PROVIDE NOTICE TO EMPLOYEES OF**  
24 **THE FACILITY THAT THE IDENTIFIED REGISTRANT IS A RESIDENT OF THE**  
25 **FACILITY.**

26           **(2) WITHIN 90 DAYS AFTER ADMISSION OF AN IDENTIFIED**  
27 **REGISTRANT, THE FACILITY SHALL PROVIDE APPROPRIATE TRAINING TO**  
28 **DIRECT CARE WORKERS ON RECOGNIZING SIGNS OF SEXUAL ABUSE.**

29           **(D) (1) THE FACILITY MAY INITIATE INVOLUNTARY TRANSFER OR**  
30 **DISCHARGE PROCEEDINGS IF THE FACILITY DETERMINES THAT FACILITY IS**  
31 **UNABLE TO MANAGE THE IDENTIFIED REGISTRANT IN A SAFE MANNER.**

1           **(2) THE DEPARTMENT SHALL ASSIST THE FACILITY IN THE**  
2 **TRANSFER OR DISCHARGE, INCLUDING THE IMMEDIATE ADMITTANCE OF THE**  
3 **IDENTIFIED REGISTRANT TO A STATE-OPERATED FACILITY.**

4 **19-2404.**

5           **A FACILITY SHALL PROVIDE TO EACH PROSPECTIVE AND CURRENT**  
6 **RESIDENT OR GUARDIAN OF A RESIDENT A WRITTEN NOTICE CONCERNING THE**  
7 **SEX OFFENDER REGISTRY AND THE AVAILABILITY OF THE REGISTRY ON THE**  
8 **WEB SITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL**  
9 **SERVICES.**

10 **19-2405.**

11           **A FACILITY MAY NOT BE LIABLE FOR ANY ACTION TAKEN BY THE FACILITY**  
12 **THAT IS BASED ON INFORMATION PROVIDED UNDER § 11-705 OR § 11-708 OF**  
13 **THE CRIMINAL PROCEDURE ARTICLE OR BASED ON INFORMATION FROM THE**  
14 **SEX OFFENDER REGISTRY.**

15           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
16 **October 1, 2013.**