

SENATE BILL 354

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3lr1810
CF HB 54

By: **Senators Pugh, Forehand, Jones–Rodwell, Madaleno, and Montgomery**

Introduced and read first time: January 24, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – State Vulnerable–Adult Abuser Registry**

3 FOR the purpose of requiring individuals convicted of vulnerable–adult abuse to
4 register with a certain supervising authority by a certain time; providing that
5 an individual is no longer subject to registration on a certain registry under
6 certain conditions; requiring a certain registrant to provide notice of a change in
7 residence or a change of name in a certain time period; establishing when an
8 individual is considered to be convicted for certain purposes; requiring a certain
9 registration statement to include certain information; requiring individuals
10 convicted of vulnerable–adult abuse to register with a local law enforcement
11 unit every year for a certain term; requiring a registration to include a certain
12 digital image that is required to be updated at least once each year; requiring a
13 supervising authority to provide a registrant with certain information and
14 obtain a certain statement and digital image; requiring the Department of
15 Public Safety and Correctional Services to establish a certain State
16 vulnerable–adult abuser registry; requiring the Department to provide certain
17 information on the Internet; requiring the Department to reimburse local law
18 enforcement units for certain costs; prohibiting an individual from knowingly
19 failing to register or knowingly providing certain false information; providing
20 for certain immunity for certain individuals in certain circumstances;
21 establishing certain penalties for a violation of this Act; defining certain terms;
22 and generally relating to a State vulnerable–adult abuser registry.

23 BY adding to

24 Article – Criminal Procedure

25 Section 11–7A–01 through 11–7A–11 to be under the new subtitle “Subtitle 7A.

26 Registration of Vulnerable–Adult Abusers”

27 Annotated Code of Maryland

28 (2008 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

4 **SUBTITLE 7A. REGISTRATION OF VULNERABLE-ADULT ABUSERS.**

5 **11-7A-01.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “IMPRISONMENT” MEANS INCARCERATION PURSUANT TO A
9 CONVICTION, REGARDLESS OF THE NATURE OF THE INSTITUTION IN WHICH THE
10 OFFENDER SERVES THE SENTENCE.

11 (C) “LOCAL LAW ENFORCEMENT UNIT” MEANS THE LAW ENFORCEMENT
12 UNIT IN A COUNTY THAT HAS BEEN DESIGNATED BY THE COUNTY GOVERNING
13 BODY AS THE PRIMARY LAW ENFORCEMENT UNIT IN THE COUNTY.

14 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
15 “RELEASE” MEANS ANY TYPE OF RELEASE FROM THE CUSTODY OF A
16 SUPERVISING AUTHORITY.

17 (2) “RELEASE” INCLUDES:

18 (I) RELEASE ON PAROLE;

19 (II) MANDATORY SUPERVISION RELEASE;

20 (III) RELEASE FROM A CORRECTIONAL FACILITY WITH NO
21 REQUIRED PERIOD OF SUPERVISION;

22 (IV) WORK RELEASE;

23 (V) PLACEMENT ON HOME DETENTION; AND

24 (VI) THE FIRST INSTANCE OF ENTRY INTO THE COMMUNITY
25 THAT IS PART OF A SUPERVISING AUTHORITY’S GRADUATED RELEASE
26 PROGRAM.

27 (3) “RELEASE” DOES NOT INCLUDE:

28 (I) AN ESCAPE; OR

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

2 **(E) “SUPERVISING AUTHORITY” MEANS AN AGENCY OR PERSON THAT IS**
3 **RESPONSIBLE FOR COLLECTING THE INFORMATION FOR THE INITIAL**
4 **REGISTRATION AND IS:**

5 **(1) THE SECRETARY, IF THE REGISTRANT IS IN THE CUSTODY OF**
6 **A CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT;**

7 **(2) THE ADMINISTRATOR OF A LOCAL CORRECTIONAL FACILITY,**
8 **IF THE REGISTRANT, INCLUDING A PARTICIPANT IN A HOME DETENTION**
9 **PROGRAM, IS IN THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY;**

10 **(3) THE COURT THAT GRANTED THE PROBATION OR SUSPENDED**
11 **SENTENCE, EXCEPT AS PROVIDED IN ITEM (7) OF THIS SUBSECTION, IF THE**
12 **REGISTRANT IS GRANTED PROBATION BEFORE JUDGMENT, PROBATION AFTER**
13 **JUDGMENT, OR A SUSPENDED SENTENCE;**

14 **(4) THE DIRECTOR OF THE PATUXENT INSTITUTION, IF THE**
15 **REGISTRANT IS IN THE CUSTODY OF THE PATUXENT INSTITUTION;**

16 **(5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, IF THE**
17 **REGISTRANT IS IN THE CUSTODY OF A FACILITY OPERATED BY THE**
18 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

19 **(6) THE COURT IN WHICH THE REGISTRANT WAS CONVICTED, IF**
20 **THE REGISTRANT’S SENTENCE DOES NOT INCLUDE A TERM OF IMPRISONMENT**
21 **OR IF THE SENTENCE IS MODIFIED TO TIME SERVED; OR**

22 **(7) THE DIRECTOR OF PAROLE AND PROBATION, IF THE**
23 **REGISTRANT IS UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND**
24 **PROBATION.**

25 **(F) “VULNERABLE-ADULT ABUSE CRIME” MEANS VIOLATION OF §**
26 **3-604, § 3-605, OR § 8-801 OF THE CRIMINAL LAW ARTICLE.**

27 **11-7A-02.**

28 **FOR THE PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL IS CONVICTED**
29 **WHEN THE INDIVIDUAL:**

1 (1) IS FOUND GUILTY OF A CRIME BY A JURY OR JUDICIAL
2 OFFICER;

3 (2) ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE;

4 (3) IS GRANTED PROBATION BEFORE JUDGMENT AFTER A
5 FINDING OF GUILT FOR A CRIME IF THE COURT, AS A CONDITION OF PROBATION,
6 ORDERS COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; OR

7 (4) IS FOUND NOT CRIMINALLY RESPONSIBLE FOR A CRIME.

8 **11-7A-03.**

9 (A) AN INDIVIDUAL SHALL REGISTER WITH THE INDIVIDUAL'S
10 SUPERVISING AUTHORITY IF THE INDIVIDUAL IS CONVICTED OF A
11 VULNERABLE-ADULT ABUSE CRIME.

12 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
13 INDIVIDUAL IS NO LONGER SUBJECT TO REGISTRATION UNDER THIS SUBTITLE
14 IF:

15 (1) THE UNDERLYING CONVICTION REQUIRING REGISTRATION IS
16 REVERSED, VACATED, OR SET ASIDE; OR

17 (2) THE REGISTRANT IS PARDONED FOR THE UNDERLYING
18 CONVICTION.

19 **11-7A-04.**

20 (A) A REGISTRANT SHALL REGISTER WITH THE APPROPRIATE
21 SUPERVISING AUTHORITY IN THE STATE:

22 (1) IF THE REGISTRANT WAS SENTENCED TO A TERM OF
23 IMPRISONMENT, BEFORE THE DATE THAT THE REGISTRANT IS RELEASED; OR

24 (2) WITHIN 3 DAYS OF THE DATE THAT THE REGISTRANT:

25 (I) IS GRANTED PROBATION BEFORE JUDGMENT;

26 (II) IS GRANTED PROBATION AFTER JUDGMENT;

27 (III) IS GRANTED A SUSPENDED SENTENCE; OR

1 (IV) RECEIVES A SENTENCE THAT DOES NOT INCLUDE A
2 TERM OF IMPRISONMENT.

3 (B) A REGISTRANT WHO CHANGES RESIDENCES SHALL SEND WRITTEN
4 NOTICE OF THE CHANGE TO THE STATE VULNERABLE-ADULT ABUSER
5 REGISTRY WITHIN 3 DAYS AFTER THE CHANGE OCCURS.

6 (C) A REGISTRANT WHO IS GRANTED A LEGAL CHANGE OF NAME BY A
7 COURT SHALL SEND WRITTEN NOTICE OF THE CHANGE TO THE STATE
8 VULNERABLE-ADULT ABUSER REGISTRY WITHIN 3 DAYS AFTER THE CHANGE IS
9 GRANTED.

10 11-7A-05.

11 A REGISTRATION STATEMENT SHALL INCLUDE:

12 (1) THE REGISTRANT'S LEGAL NAME AND RESIDENTIAL ADDRESS;

13 (2) A DESCRIPTION OF THE CRIME FOR WHICH THE REGISTRANT
14 WAS CONVICTED;

15 (3) THE DATE THAT THE REGISTRANT WAS CONVICTED;

16 (4) THE JURISDICTION AND THE NAME OF THE COURT IN WHICH
17 THE REGISTRANT WAS CONVICTED;

18 (5) A LIST OF ANY ALIASES OR FORMER NAMES THAT THE
19 REGISTRANT HAS USED;

20 (6) THE REGISTRANT'S SOCIAL SECURITY NUMBER AND DATE OF
21 BIRTH;

22 (7) A COPY OF THE REGISTRANT'S VALID DRIVER'S LICENSE OR
23 OTHER IDENTIFICATION CARD;

24 (8) THE CRIMINAL HISTORY OF THE REGISTRANT, INCLUDING
25 THE DATES OF ALL ARRESTS AND CONVICTIONS, THE STATUS OF PAROLE,
26 PROBATION, OR SUPERVISED RELEASE, AND THE EXISTENCE OF ANY
27 OUTSTANDING ARREST WARRANTS; AND

28 (9) THE REGISTRANT'S SIGNATURE AND DATE SIGNED.

29 11-7A-06.

1 **(A) (1) AN INDIVIDUAL SHALL REGISTER IN PERSON EVERY YEAR**
2 **WITH A LOCAL LAW ENFORCEMENT UNIT FOR THE TERM PROVIDED UNDER**
3 **SUBSECTION (B) OF THIS SECTION.**

4 **(2) REGISTRATION SHALL INCLUDE A DIGITAL IMAGE OF THE**
5 **REGISTRANT THAT SHALL BE UPDATED AT LEAST ONCE EACH YEAR.**

6 **(B) THE TERM OF REGISTRATION IS:**

7 **(1) 10 YEARS; OR**

8 **(2) LIFE, IF:**

9 **(I) THE REGISTRANT IS SUBJECT TO REGISTRATION DUE TO**
10 **A VIOLATION UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE THAT RESULTED**
11 **IN THE DEATH OF A VULNERABLE ADULT; OR**

12 **(II) THE REGISTRANT HAS BEEN CONVICTED OF A PRIOR**
13 **VIOLATION OF § 3-604, § 3-605, OR § 8-801 OF THE CRIMINAL LAW ARTICLE.**

14 **(C) A TERM OF REGISTRATION DESCRIBED IN THIS SECTION SHALL BE**
15 **COMPUTED FROM:**

16 **(1) THE LAST DATE OF RELEASE;**

17 **(2) THE DATE GRANTED PROBATION; OR**

18 **(3) THE DATE GRANTED A SUSPENDED SENTENCE.**

19 **11-7A-07.**

20 **(A) WHEN A REGISTRANT REGISTERS, THE SUPERVISING AUTHORITY**
21 **SHALL:**

22 **(1) GIVE WRITTEN NOTICE TO THE REGISTRANT OF THE**
23 **REQUIREMENTS OF THIS SUBTITLE;**

24 **(2) EXPLAIN THE REQUIREMENTS OF THIS SUBTITLE TO THE**
25 **REGISTRANT; AND**

26 **(3) OBTAIN A STATEMENT SIGNED BY THE REGISTRANT**
27 **ACKNOWLEDGING THAT THE SUPERVISING AUTHORITY EXPLAINED THE**

1 REQUIREMENTS OF THIS SUBTITLE AND GAVE WRITTEN NOTICE OF THE
2 REQUIREMENTS TO THE REGISTRANT.

3 (B) THE SUPERVISING AUTHORITY SHALL OBTAIN AN UPDATED DIGITAL
4 IMAGE OF THE REGISTRANT AND FORWARD THE UPDATED DIGITAL IMAGE TO
5 THE DEPARTMENT.

6 11-7A-08.

7 THE DEPARTMENT SHALL:

8 (1) ESTABLISH A STATE VULNERABLE-ADULT ABUSER REGISTRY
9 THAT INCLUDES INFORMATION ON INDIVIDUALS SUBJECT TO REGISTRATION
10 UNDER THIS SUBTITLE;

11 (2) POST ON THE INTERNET:

12 (I) A CURRENT LISTING OF EACH REGISTRANT'S NAME,
13 RESIDENTIAL ADDRESS, DATE OF BIRTH, AND MOST RECENT DIGITAL IMAGE;
14 AND

15 (II) THE DESCRIPTION OF THE CRIME OF THE REGISTRANT
16 THAT IS THE BASIS FOR REGISTRATION; AND

17 (3) REIMBURSE LOCAL LAW ENFORCEMENT UNITS FOR THE COST
18 OF PROCESSING THE REGISTRATION STATEMENTS OF REGISTRANTS,
19 INCLUDING THE COST OF TAKING DIGITAL IMAGES.

20 11-7A-09.

21 AN ELECTED PUBLIC OFFICIAL, A PUBLIC EMPLOYEE, OR A PUBLIC UNIT
22 HAS THE IMMUNITY DESCRIBED IN §§ 5-502 AND 5-522 OF THE COURTS
23 ARTICLE REGARDING CIVIL LIABILITY FOR DAMAGES ARISING OUT OF ANY
24 ACTION RELATING TO THE PROVISIONS OF THIS SUBTITLE, UNLESS IT IS
25 PROVEN THAT THE OFFICIAL, EMPLOYEE, OR UNIT ACTED WITH GROSS
26 NEGLIGENCE OR IN BAD FAITH.

27 11-7A-10.

28 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
29 SUBTITLE.

30 11-7A-11.

1 **(A) A REGISTRANT MAY NOT KNOWINGLY FAIL TO REGISTER OR**
2 **KNOWINGLY PROVIDE FALSE INFORMATION OF A MATERIAL FACT AS REQUIRED**
3 **BY THIS SUBTITLE.**

4 **(B) A PERSON WHO VIOLATES THIS SECTION:**

5 **(1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON**
6 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A**
7 **FINE NOT EXCEEDING \$5,000 OR BOTH; AND**

8 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IS GUILTY OF A**
9 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5**
10 **YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2013.