

CF 7r0643

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**By: Delegates Doory and Dembrow**

Introduced and read first time: January 22, 1997

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Crimes and Punishments - Sexual Offenders - Registration**

3 FOR the purpose of requiring a supervising authority to send notice to specified agencies  
4 and individuals when an individual who was convicted of a specified sexual crime is  
5 released or escapes; requiring a sexual offender to register with a supervising  
6 authority on a specified date; requiring the supervising authority to provide the  
7 sexual offender with specified information when the sexual offender registers;  
8 requiring the supervising authority to send the registration statement to the  
9 Department of Public Safety and Correctional Services; requiring the Department  
10 to maintain a central registry of sexual offenders; requiring the Department to  
11 reimburse supervising authorities for the cost of processing the registration  
12 statement; requiring the Department to transmit the conviction data and  
13 fingerprints of a sexual offender to the Federal Bureau of Investigation; requiring  
14 the Department to send a copy of the registration statement to certain persons;  
15 requiring the Department to send written notice of the registration statement to the  
16 local law enforcement agency and county superintendent of schools in the county  
17 where the sexual offender will reside; authorizing the Department and local law  
18 enforcement agencies to provide notice of the registration statement to specified  
19 organizations; requiring a sexual offender who changes residence to send written  
20 notice of the change to the Department; requiring the Department to give notice of  
21 the change of residence to the local law enforcement agency in the county where the  
22 new residence is located; requiring the Department to send verification forms to  
23 each registered sexual offender for a specified period of time; requiring the  
24 Secretary of Public Safety and Correctional Services to adopt regulations to  
25 implement the Act; requiring the Department to conduct certain public education  
26 and awareness programs; providing for the application of the Act; defining certain  
27 terms; and generally relating to sexual offenders.

28 BY renumbering

29 Article 27 - Crimes and Punishments

30 Section 792(d), (e), (f), and (g), respectively

31 to be Section 792(e), (f), (g), and (d), respectively

32 Annotated Code of Maryland

33 (1996 Replacement Volume)

34 BY repealing and reenacting, with amendments,

2

1 Article 27 - Crimes and Punishments  
2 Section 792  
3 Annotated Code of Maryland  
4 (1996 Replacement Volume)  
5 (As enacted by Section 1 of this Act)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That Section(s) 792(d), (e), (f), and (g), respectively, of Article 27 -  
8 Crimes and Punishments of the Annotated Code of Maryland be renumbered to be  
9 Section(s) 792(e), (f), (g), and (d), respectively.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
11 read as follows:

12 **Article 27 - Crimes and Punishments**

13 792.

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

15 [(2) "Child sexual offender" means a person who:

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

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

21 (iii) Has been granted probation before judgment after being found  
22 guilty of any of the offenses listed in items (i) and (ii) of this paragraph and has been  
23 ordered by the court, as a condition of probation, to comply with the requirements of this  
24 section;

25 (iv) Has been convicted of, or granted probation before judgment after  
26 being found guilty of, violating § 464C of this article and has been ordered by the court,  
27 as a part of a sentence or condition of probation, to comply with the requirements of this  
28 section;

29 (v) Has been found not criminally responsible for any of the offenses  
30 listed in items (i) and (ii) of this section; or

31 (vi) Has been convicted in another state of an offense that, if  
32 committed in this State, would constitute one of the offenses listed in items (i) and (ii) of  
33 this paragraph.]

34 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND  
35 CORRECTIONAL SERVICES.

36 (3) "Local law enforcement agency" means the law enforcement agency in a  
37 county that has been designated by resolution of the county governing body as the  
38 primary law enforcement unit in the county.

3

1 (4) (i) "Release" means any type of release from the custody of a  
2 supervising authority.

3 (ii) "Release" includes release on parole, mandatory supervision, work  
4 release, and any type of temporary leave other than leave that is granted on an emergency  
5 basis.

6 (iii) "Release" does not include an escape.

7 (5) "SEXUAL OFFENDER" MEANS A PERSON WHO:

8 (I) HAS BEEN CONVICTED OF VIOLATING § 1, § 2, OR § 338 OF THIS  
9 ARTICLE;

10 (II) HAS BEEN CONVICTED OF VIOLATING § 337 OF THIS ARTICLE IF  
11 THE VICTIM IS UNDER THE AGE OF 18 YEARS;

12 (III) HAS BEEN CONVICTED OF THE COMMON LAW CRIME OF FALSE  
13 IMPRISONMENT IF THE VICTIM IS UNDER THE AGE OF 18 YEARS AND THE OFFENDER  
14 IS NOT THE VICTIM'S PARENT;

15 (IV) HAS BEEN CONVICTED OF VIOLATING § 35C OF THIS ARTICLE  
16 FOR AN OFFENSE INVOLVING SEXUAL ABUSE;

17 (V) HAS BEEN CONVICTED OF VIOLATING ANY OF THE  
18 PROVISIONS OF §§ 462 THROUGH 464B OF THIS ARTICLE;

19 (VI) HAS BEEN CONVICTED OF VIOLATING § 464C OF THIS ARTICLE  
20 IF THE VICTIM IS UNDER THE AGE OF 18 YEARS;

21 (VII) HAS BEEN CONVICTED OF SOLICITING A MINOR TO ENGAGE IN  
22 SEXUAL CONDUCT;

23 (VIII) HAS BEEN CONVICTED OF VIOLATING § 419A OF THIS ARTICLE;

24 (IX) HAS BEEN CONVICTED OF VIOLATING § 15 OF THIS ARTICLE OR  
25 ANY OF THE PROVISIONS OF §§ 426 THROUGH 433 OF THIS ARTICLE IF THE INTENDED  
26 PROSTITUTE IS UNDER THE AGE OF 18 YEARS;

27 (X) HAS BEEN CONVICTED OF A CRIME THAT INVOLVES CONDUCT  
28 THAT BY ITS NATURE IS A SEXUAL OFFENSE AGAINST AN INDIVIDUAL UNDER THE  
29 AGE OF 18 YEARS;

30 (XI) HAS BEEN CONVICTED OF AN ATTEMPT TO COMMIT A CRIME  
31 LISTED IN ITEMS (I) THROUGH (X) OF THIS PARAGRAPH;

32 (XII) HAS BEEN GRANTED PROBATION BEFORE JUDGMENT AFTER  
33 BEING FOUND GUILTY OF ANY OF THE OFFENSES LISTED IN ITEMS (I) THROUGH (XI)  
34 OF THIS PARAGRAPH AND HAS BEEN ORDERED BY THE COURT, AS A CONDITION OF  
35 PROBATION, TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION;

36 (XIII) HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE FOR ANY OF  
37 THE OFFENSES LISTED IN ITEMS (I) THROUGH (XI) OF THIS PARAGRAPH; OR

4

1 (XIV) HAS BEEN CONVICTED IN ANOTHER STATE OF AN OFFENSE  
 2 THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE ONE OF THE OFFENSES  
 3 LISTED IN ITEMS (I) THROUGH (XI) OF THIS PARAGRAPH.

4 [(5)] (6) "Supervising authority" means:

5 (i) If the [child] sexual offender is in the custody of a facility  
 6 operated by the Department of Public Safety and Correctional Services, the Secretary of  
 7 Public Safety and Correctional Services;

8 (ii) If the [child] sexual offender is in the custody of a local or  
 9 regional detention center, including an offender who is participating in a home detention  
 10 program, the administrator of the facility;

11 (iii) If the [child] sexual offender is granted probation before  
 12 judgment, probation after judgment, or a suspended sentence, the court that granted the  
 13 probation or suspended sentence;

14 (iv) If the [child] sexual offender is in the custody of the Patuxent  
 15 Institution, the Director of the Patuxent Institution;

16 (v) If the [child] sexual offender is in the custody of a facility  
 17 operated by the Department of Health and Mental Hygiene, the Secretary of Health and  
 18 Mental Hygiene; or

19 (vi) If the [child] sexual offender's sentence does not include a term  
 20 of imprisonment, the court in which the offender was convicted.

21 (b) (1) Subject to paragraph (2) of this subsection, on the earlier of the date  
 22 that the [child] sexual offender is released, is granted probation before judgment, is  
 23 granted probation after judgment, is granted a suspended sentence, or receives a sentence  
 24 that does not include a term of imprisonment the supervising authority shall send written  
 25 notice of the release of the [child] sexual offender to the local law enforcement agency  
 26 in the county where the SEXUAL offender will reside.

27 (2) A written notice required under paragraph (1) of this subsection shall  
 28 include:

29 (i) The full name of the [child] sexual offender;

30 (ii) The [child] sexual offender's address, if available;

31 (iii) The [child] sexual offender's Social Security number;

32 (iv) A recent photograph of the [child] sexual offender; and

33 (v) A brief description of the crime for which the [child] sexual  
 34 offender was convicted, granted probation before judgment, or found not criminally  
 35 responsible.

36 (3) The same notice as required under paragraph (1) of this subsection shall  
 37 be sent to the following persons if such notice has been requested in writing about a  
 38 specific [child]sexual offender:

5

1 (i) The victim of the crime for which the [child] sexual offender was  
2 convicted or, if the victim is a minor, the parents or legal guardian of the victim;

3 (ii) Any witness who testified against the [child] sexual offender in  
4 any court proceedings involving the offense; and

5 (iii) Any person specified in writing by the State's Attorney.

6 (4) Information regarding any person who receives notice under paragraph  
7 (3) of this subsection is confidential and may not be disclosed to the [child] sexual  
8 offender or any other person, agency, or entity.

9 (5) If a [child] sexual offender escapes from a facility, the supervising  
10 authority of the facility shall immediately notify, by the most reasonable and expedient  
11 means available:

12 (i) The local law enforcement agency in the jurisdiction in which the  
13 SEXUAL offender resided before the SEXUAL offender was committed to the custody of  
14 the supervising authority; and

15 (ii) Any person who is entitled to receive notice under paragraph (3)  
16 of this subsection.

17 (6) If the SEXUAL offender is recaptured, the supervising authority shall  
18 send notice, as soon as possible and in no event later than 2 working days after the  
19 supervising authority learns of the recapture, to:

20 (i) The local law enforcement agency in the jurisdiction in which the  
21 SEXUAL offender resided before the SEXUAL offender was committed to the custody of  
22 the supervising authority; and

23 (ii) Any person who is entitled to receive notice under paragraph (3)  
24 of this subsection.

25 (7) A supervising authority shall send any notice required under paragraphs  
26 (3), (5)(ii), and (6)(ii) of this subsection to the last address provided to the supervising  
27 authority for a person who is entitled to notice under paragraph (3) of this subsection.

28 (8) If a [child] sexual offender will reside after release in a municipal  
29 corporation that has a police department, or, in the case where a [child] sexual offender  
30 escapes from a facility and the SEXUAL offender resided, before the SEXUAL offender  
31 was committed to the custody of a supervising authority, in a municipal corporation that  
32 has a police department, a local law enforcement agency that receives a notice from a  
33 supervising authority under this subsection shall send a copy of the notice to the police  
34 department of the municipal corporation.

35 (c) (1) In this subsection, "resident" means a person who lives in this State at  
36 the time the person:

37 (i) Is released;

38 (ii) Is granted probation before judgment;

39 (iii) Is granted probation after judgment;

6

1 (iv) Is granted a suspended sentence; or

2 (v) Receives a sentence that does not include a term of imprisonment.

3 (2) A [child]sexual offender shall register with the [local law enforcement  
4 agency] SUPERVISING AUTHORITY:

5 (i) If the [child] sexual offender is a resident, [within 7 days after]  
6 ON THE DATE THAT THE SEXUAL OFFENDER:

7 1. [Being] IS released;

8 2. [Being] IS granted probation before judgment;

9 3. [Being] IS granted probation after judgment;

10 4. [Being] IS granted a suspended sentence; or

11 5. [Receiving] RECEIVES a sentence that does not include a  
12 term of imprisonment; or

13 (ii) If the [child] sexual offender is not a resident, within 7 days after  
14 the earlier of THE DATE THAT THE SEXUAL OFFENDER:

15 1. [Establishing] ESTABLISHES a temporary or permanent  
16 residence in this State; or

17 2. [Applying] APPLIES for a driver's license in this State.

18 (3) WHEN A SEXUAL OFFENDER REGISTERS, THE SUPERVISING  
19 AUTHORITY SHALL:

20 (I) INFORM THE SEXUAL OFFENDER THAT IF THE SEXUAL  
21 OFFENDER CHANGES RESIDENCE ADDRESS TO ANOTHER STATE THAT HAS A  
22 REGISTRATION REQUIREMENT, THE SEXUAL OFFENDER SHALL REGISTER THE NEW  
23 ADDRESS WITH THE DESIGNATED LAW ENFORCEMENT AGENCY OF THAT STATE  
24 WITHIN 10 DAYS AFTER ESTABLISHING THE NEW RESIDENCE;

25 (II) EXPLAIN THE REQUIREMENTS OF THIS SECTION TO THE  
26 SEXUAL OFFENDER, INCLUDING THE DUTIES OF A SEXUAL OFFENDER WHEN THE  
27 SEXUAL OFFENDER CHANGES RESIDENCE ADDRESS;

28 (III) GIVE WRITTEN NOTICE TO THE SEXUAL OFFENDER OF THE  
29 REQUIREMENTS OF THIS SECTION; AND

30 (IV) OBTAIN A STATEMENT SIGNED BY THE SEXUAL OFFENDER  
31 ACKNOWLEDGING THAT THE SUPERVISING AUTHORITY EXPLAINED THE  
32 REQUIREMENTS OF THIS SECTION AND PROVIDED WRITTEN NOTICE TO THE  
33 SEXUAL OFFENDER.

34 (d) (1) Registration shall consist of a statement signed by a [child] sexual  
35 offender which shall include:

36 (i) The [child] sexual offender's name, address, and place of  
37 employment;

7

1 (ii) A description of the crime for which the [child] sexual offender  
2 was convicted, granted probation before judgment, or found not criminally responsible;

3 (iii) The date that the [child] sexual offender was convicted, granted  
4 probation before judgment, or found not criminally responsible;

5 (iv) The jurisdiction in which the [child] sexual offender was  
6 convicted, granted probation before judgment, or found not criminally responsible;

7 (v) A list of any aliases that have been used by the [child] sexual  
8 offender; and

9 (vi) The [child] sexual offender's Social Security number.

10 (2) The [local law enforcement agency] SUPERVISING AUTHORITY shall  
11 obtain a photograph and fingerprints of the [child] sexual offender and include copies of  
12 the photograph and fingerprints in the registration statement.

13 (3) (i) As soon as possible and in no event later than 3 working days after  
14 registration is completed, the [local law enforcement agency] SUPERVISING  
15 AUTHORITY shall send [a copy of] the registration statement to the Department [of  
16 Public Safety and Correctional Services].

17 (ii) The Department [of Public Safety and Correctional Services]  
18 shall maintain a central registry of [child] sexual offenders.

19 (iii) The Department [of Public Safety and Correctional Services]  
20 shall reimburse [the local law enforcement agencies] SUPERVISING AUTHORITIES for  
21 the cost of processing the registration statements of [child ] sexual offenders, including  
22 the taking of fingerprints and photographs.

23 (4) AS SOON AS POSSIBLE AND IN NO EVENT LATER THAN 3 WORKING  
24 DAYS AFTER RECEIVING THE CONVICTION DATA AND FINGERPRINTS OF A SEXUAL  
25 OFFENDER, THE DEPARTMENT SHALL TRANSMIT THE DATA AND FINGERPRINTS TO  
26 THE FEDERAL BUREAU OF INVESTIGATION IF THE BUREAU DOES NOT HAVE THAT  
27 INFORMATION.

28 (5) (i) Subject to subparagraph (ii) of this paragraph, upon written  
29 request to [a local law enforcement agency] THE DEPARTMENT, the [ agency]  
30 DEPARTMENT shall send a copy of a registration statement to the person who submitted  
31 the request.

32 (ii) A request for a copy of a registration statement under  
33 subparagraph (i) of this paragraph shall contain:

34 1. The name and address of the person submitting the request;  
35 and

36 2. The reason for requesting the information.

37 (iii) [A local law enforcement agency] THE DEPARTMENT shall keep  
38 records of all written requests received under subparagraph (i) of this paragraph.

8

1                    [(5)] (6) An elected public official, public employee, or public agency is  
 2 immune from civil liability for damages arising out of any action relating to the provisions  
 3 of this subsection, unless it is shown that the official, employee, or agency acted with gross  
 4 negligence or in bad faith.

5                    (e) (1) Subject to paragraph (3) of this subsection, as soon as possible and in no  
 6 event later than 5 working days after receiving a registration statement, [a local law  
 7 enforcement agency] THE DEPARTMENT shall send written notice of the registration  
 8 statement to:

9                    (I) THE LOCAL LAW ENFORCEMENT AGENCY IN THE COUNTY  
 10 WHERE THE SEXUAL OFFENDER WILL RESIDE; AND

11                    (II) [the] THE county superintendent, as defined in § 1-101 of the  
 12 Education Article, in the county where the [child] sexual offender will reside.

13                    (2) As soon as possible and in no event later than 5 working days after  
 14 receiving notice from the [local law enforcement agency] DEPARTMENT under  
 15 paragraph (1) of this subsection, a county superintendent shall send written notice of the  
 16 registration statement to the principals of the schools within the supervision of the  
 17 superintendent.

18                    (3) In addition to the notice required under paragraph (1) of this  
 19 subsection, THE DEPARTMENT OR a local law enforcement agency may provide notice of  
 20 a registration statement to the following organizations if THE DEPARTMENT OR the  
 21 agency determines that such notice is necessary to protect the public interest:

22                    (i) A community organization;

23                    (ii) A religious organization; and

24                    (iii) Any other organization that relates to children or youth.

25                    (4) [A] THE DEPARTMENT AND local law enforcement [agency]  
 26 AGENCIES shall establish procedures for carrying out the notification requirements of  
 27 paragraph (3) of this subsection, including the circumstances under and manner in which  
 28 notification shall be provided.

29                    (5) An elected public official, public employee, or public agency is immune  
 30 from civil liability for damages arising out of any action relating to the provisions of this  
 31 subsection, unless it is shown that the official, employee, or agency acted with gross  
 32 negligence or in bad faith.

33                    [(f) On the earlier of the date that the child sexual offender is released, is granted  
 34 probation before judgment, is granted probation after judgment, is granted a suspended  
 35 sentence, or receives a sentence that does not include a term of imprisonment, the  
 36 supervising authority shall:

37                    (1) Give written notice to a child sexual offender of the registration  
 38 requirements of this section; and

39                    (2) Obtain a statement signed by the child sexual offender acknowledging  
 40 the receipt of the written notice.]



9

1            [(g) If the supervising authority accepts supervision of and has legal authority over  
2 a child sexual offender from another state under the terms and conditions of the  
3 interstate compact agreement established under Article 41, § 4-801 or §§ 4-1201 through  
4 4-1211 of the Code, the supervising authority shall:

5            (1) Give the child sexual offender written notice of the registration  
6 requirements of this section; and

7            (2) Obtain a statement signed by the child sexual offender acknowledging  
8 the receipt of the written notice.]

9            [(h)] (F) (1) If a [child] sexual offender changes residences, the offender shall  
10 send written notice of the change within 7 days after the change occurs to the [local law  
11 enforcement agency with whom the offender last registered] DEPARTMENT.

12            (2) As soon as possible and in no event later than 3 working days after  
13 receipt of the notice, the [local law enforcement agency] DEPARTMENT shall give notice  
14 of the change to the [Department of Public Safety and Correctional Services] LOCAL  
15 LAW ENFORCEMENT AGENCY IN WHOSE COUNTY THE NEW RESIDENCE IS LOCATED,  
16 and if the new residence is in a different [jurisdiction] STATE THAT HAS A  
17 REGISTRATION REQUIREMENT, to the [local] DESIGNATED law enforcement agency  
18 in whose [jurisdiction] STATE the new residence is located.

19            [(i)] (G) A [child] sexual offender shall register with [a local law enforcement  
20 agency] THE DEPARTMENT annually for 10 years after:

21            (1) The last date of release;

22            (2) The offender is granted probation before judgment, probation after  
23 judgment, or a suspended sentence; or

24            (3) The offender receives a sentence that does not include a term of  
25 imprisonment.

26            (H) (I) THE DEPARTMENT SHALL MAIL A VERIFICATION FORM, WHICH MAY  
27 NOT BE FORWARDED, ANNUALLY TO THE LAST REPORTED ADDRESS OF EACH  
28 REGISTERED SEXUAL OFFENDER.

29            (II) WITHIN 10 DAYS AFTER RECEIVING THE VERIFICATION FORM, THE  
30 SEXUAL OFFENDER SHALL SIGN THE VERIFICATION FORM AND MAIL IT TO THE  
31 DEPARTMENT.

32            [(j)] (I) If a [child] sexual offender will reside after release in a municipal  
33 corporation that has a police department, or, in the case where a [child] sexual offender  
34 escapes from a facility and the offender resided, before the offender was committed to  
35 the custody of a supervising authority, in a municipal corporation that has a police  
36 department, [a local law enforcement agency with which a child sexual offender registers  
37 or sends a change in registration under this section] THE DEPARTMENT shall send a  
38 copy of the registration statement or change in registration to the police department of  
39 the municipal corporation.

10

1 [(k)] (J) A [child] sexual offender who knowingly fails to register as required by  
2 this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the  
3 penitentiary for not more than 3 years or a fine of not more than \$5,000 or both.

4 (K) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
5 SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Public  
7 Safety and Correctional Services shall conduct public education and awareness programs  
8 to inform the public of its ability to obtain information regarding a sexual offender under  
9 this Act.

10 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
11 Section 5 of this Act, this Act shall be construed only prospectively to apply to offenses  
12 that are committed on or after July 1, 1997, and may not be applied or interpreted to have  
13 any effect on or application to any individual who commits an offense before July 1, 1997.

14 SECTION 5. AND BE IT FURTHER ENACTED, That a child sexual offender  
15 who is subject to the requirements of Chapter 142 of the Acts of the General Assembly of  
16 1995 and who committed the sexual offense before the effective date of this Act is subject  
17 to the requirements of this Act.

18 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 July 1, 1997.