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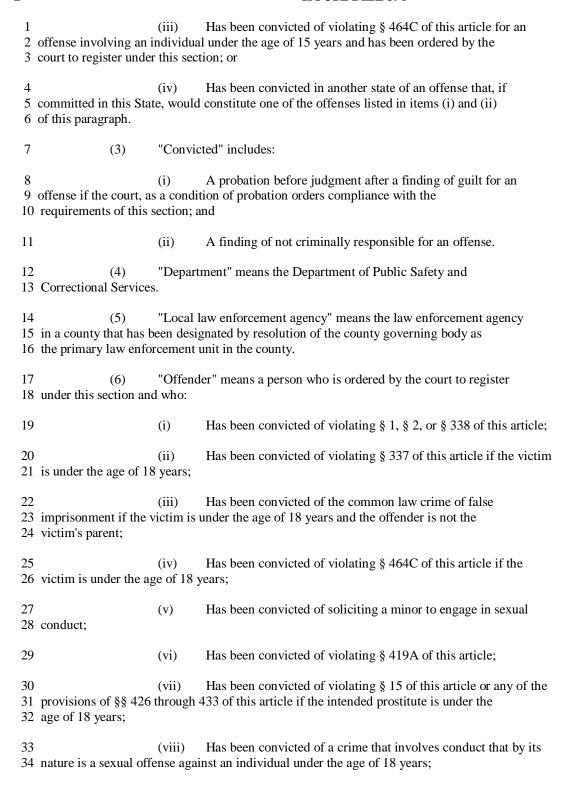
1998 Regular Session 8lr6051

By: Chairman, Judiciary Committee (Departmental - Public Safety and

Correctional Services)
Introduced and read first time: February 2, 1998

Assigned to: Judiciary

	A BILL ENTITLED					
1	AN ACT concerning					
2 3	Convictions for Certain Crimes Against Children, Sexually Violent Offenses, or Other Sexual Offenses - Registration Procedures					
4 5 6 7 8 9	against children, sexually violent offenses, or other sexual offenses; clarifying the related duties assigned to supervising authorities, designated local law enforcement agencies, and the Department of Public Safety and Correctional Services; and providing certain immunity for elected public officials, public					
11 12 13 14 15	Section 792 Annotated Code of Maryland					
16 17	6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 7 MARYLAND, That the Laws of Maryland read as follows:					
18	Article 27 - Crimes and Punishments					
19	792.					
20	(a) (1) In this section the following words have the meanings indicated.					
21	(2) "Child sexual offender" means a person who:					
22 23	(i) Has been convicted of violating § 35C of this article for an offense involving sexual abuse;					
	(ii) Has been convicted of violating any of the provisions of §§ 462 through 464B of this article for an offense involving an individual under the age of 15 years;					



1 2	items (i) through (viii)		Has been convicted of an attempt to commit a crime listed in aragraph; or
	committed in this Stat through (ix) of this pa	e, would	Has been convicted in another state of an offense that, if constitute one of the offenses listed in items (i)
6	(7)	"Registra	ant" means a person who is:
7		(i)	A child sexual offender;
8		(ii)	An offender;
9		(iii)	A sexually violent offender; or
10		(iv)	A sexually violent predator.
11 12	(8) supervising authority.	(i)	"Release" means any type of release from the custody of a
	work release, and any emergency basis.	(ii) v type of t	"Release" includes release on parole, mandatory supervision, emporary leave other than leave that is granted on an
16		(iii)	"Release" does not include an escape.
17	(9)	"Sexuall	y violent offense" means:
18 19	§ 464B, or § 464F of		A violation of any of the provisions of § 462, § 463, § 464, § 464. le; or
	or a sexual offense in § 12 of this article.	(ii) the first	Assault with intent to commit rape in the first or second degree or second degree as previously proscribed under former
23	(10)	"Sexuall	y violent offender" means a person who:
24		(i)	Has been convicted of a sexually violent offense;
25 26	offense; or	(ii)	Has been convicted of an attempt to commit a sexually violent
27 28	committed in this Sta	(iii) te, would	Has been convicted in another state of an offense that, if constitute a sexually violent offense.
29	(11)	"Sexuall	y violent predator" means a person who:
30 31	and	(i)	Is convicted of a second or subsequent sexually violent offense;

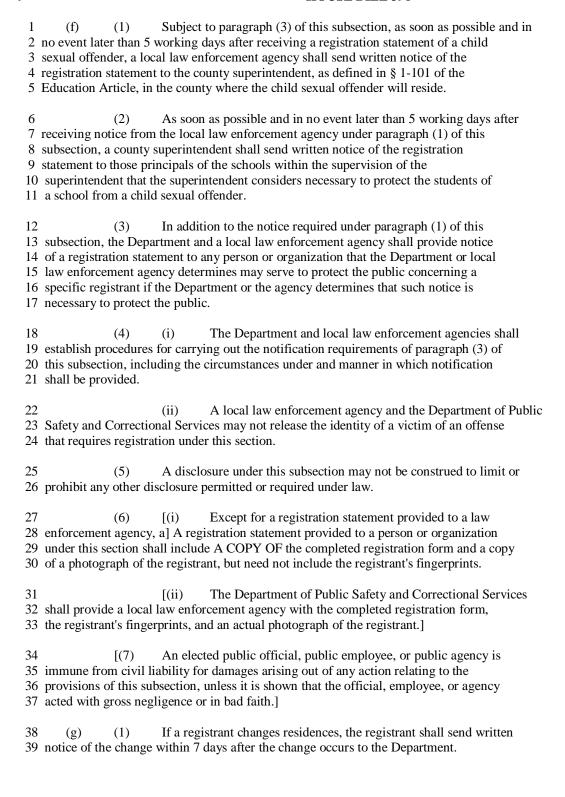
1 2	risk of committing a so		Has been determined in accordance with this section to be at t sexually violent offense.
3	(12)	"Supervi	sing authority" means:
	Department of Public and Correctional Servi	Safety an	If the registrant is in the custody of a facility operated by the ad Correctional Services, the Secretary of Public Safety
	center, including [an odetention program, the	offender]	If the registrant is in the custody of a local or regional detention A REGISTRANT who is participating in a home trator of the facility;
	registrant is granted p	robation	Except as provided in item (viii) of this paragraph, if the before judgment, probation after judgment, or a that granted the probation or suspended sentence;
13 14	the Director of the Pa		If the registrant is in the custody of the Patuxent Institution, stitution;
	Department of Health Hygiene;		If the registrant is in the custody of a facility operated by the ntal Hygiene, the Secretary of Health and Mental
18 19	imprisonment, the cou		If the registrant's sentence does not include a term of ich the [offender] REGISTRANT was convicted;
22	and conditions of the	interstate	If the [offender] REGISTRANT is in the State under the terms e compact agreements under Article 41, §§ 4-801 and Code, the Secretary of Public Safety and Correctional
24 25			If the registrant is under the supervision of the Division of ctor of Parole and Probation.
28	convicted of a second	or subse	to paragraphs (3) and (4) of this subsection, if a person is quent sexually violent offense, the State's Attorney may before sentencing whether the person is a sexually
	()	shall dete	ate's Attorney makes a request under paragraph (1) of this ermine before or at sentencing whether the person is a
33 34	(3) the court shall consider		ng a determination under paragraph (1) of this subsection,
			Any evidence that the court considers appropriate to the ndividual is a sexually violent predator, including the d sexually violent offender's inmate record;

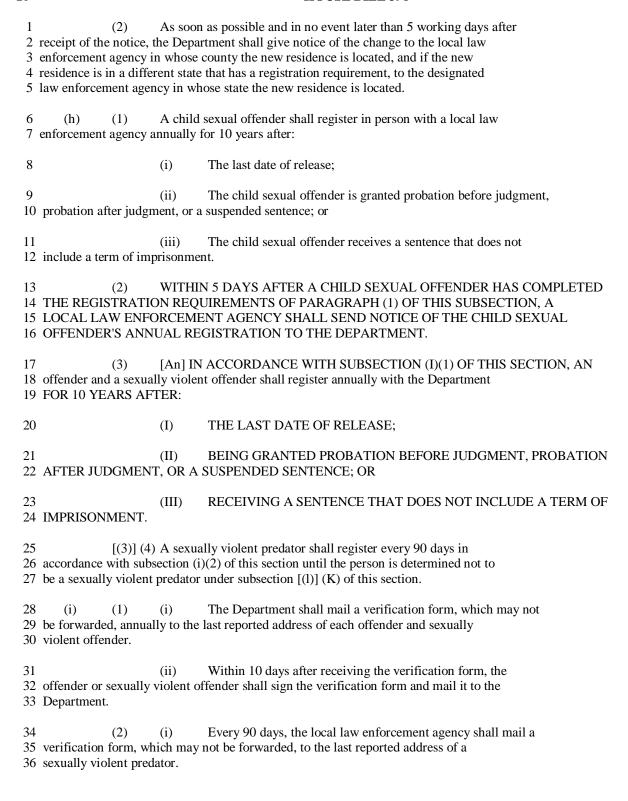
1		(11)	Any evic	dence introduced by the person convicted; and
2 3	by a victim of the sex	(iii) ually viol		equest of the State's Attorney, any evidence presented se.
6	(4) The State's Attorney may not request a court to determine if a person is a sexually violent predator under this subsection unless the State's Attorney serves written notice of intent to make the request on the defendant or the defendant's lawyer at least 30 days before trial.			
8 9	(c) (1) at the time the person		ubsection	, "resident" means a person who lives in this State
10		(i)	Is releas	ed;
11		(ii)	Is grante	ed probation before judgment;
12		(iii)	Is grante	ed probation after judgment;
13		(iv)	Is grante	ed a suspended sentence; or
14 15	imprisonment.	(v)	Receives	s a sentence that does not include a term of
16	(2)	A regist	rant shall	register with the supervising authority:
17 18	registrant:	(i)	If the reg	gistrant is a resident, on or before the date that the
19			1.	Is released;
20			2.	Is granted probation before judgment;
21			3.	Is granted probation after judgment;
22			4.	Is granted a suspended sentence; or
23 24	imprisonment; or		5.	Receives a sentence that does not include a term of
25 26	of the date that the re	(ii) gistrant:	If the reg	gistrant is not a resident, within 7 days after the earlier
27 28	State; or		1.	Establishes a temporary or permanent residence in thi
29			2.	Applies for a driver's license in this State.
	(3) register in person wit CHILD SEXUAL of		al law ent	days after release, a child sexual offender shall also forcement agency of the county where the

	offender to provide a required under subsec		A local law enforcement agency may require a child sexual information in the registration besides the information of this section.
4	(4)	When a	registrant registers, the supervising authority shall:
7		ess with t	Inform the registrant that if the registrant changes residence as a registration requirement, the registrant shall he designated law enforcement agency of that state g the new residence;
9 10	including the duties	(ii) of a regist	Explain the requirements of this section to the registrant, trant when the registrant changes residence address;
11 12	section; and	(iii)	Give written notice to the registrant of the requirements of this
	the supervising authorize to the		Obtain a statement signed by the registrant acknowledging that ained the requirements of this section and provided
16 17	(d) (1) shall include:	Registra	ation shall consist of a statement signed by a registrant which
18		(i)	The registrant's name, address, and place of employment;
19 20	convicted, granted pr	(ii) robation b	A description of the crime for which the registrant was before judgment, or found not criminally responsible;
21 22	before judgment, or	(iii) found not	The date that the registrant was convicted, granted probation criminally responsible;
23 24	probation before judg	(iv) gment, or	The jurisdiction in which the registrant was convicted, granted found not criminally responsible;
25		(v)	A list of any aliases that have been used by the registrant; and
26		(vi)	The registrant's Social Security number.
	(2) of the registrant and statement.		ervising authority shall obtain a photograph and fingerprints ne photograph and fingerprints in the registration
			As soon as possible and in no event later than 5 working days, if the supervising authority is not the Department, send the registration statement to the Department.
33 34	registrants.	(ii)	The Department shall maintain a central registry of

1 (iii) 2 cost of processing the region 3 fingerprints and photograph	The Department shall reimburse supervising authorities for the tration statements of registrants, including the taking of as.
5 receiving the conviction d	oon as possible and in no event later than 5 working days after ta and fingerprints of a registrant, the Department shall rprints to the Federal Bureau of Investigation if the nformation.
	Department shall release registration statements or information ements to the public in accordance with regulations nent.
11 (6) (i) 12 request to a local law enfo	Subject to subparagraph (ii) of this paragraph, upon written rement agency, the agency:
1314 copy of the registration st15 violent predator on record	1. Shall send to the person who submitted the request one tement of each child sexual offender and each sexually with the agency; and
1617 copy of the registration st18 subparagraph on record v	2. May send to the person who submitted the request one tement of any registrant not described in item 1 of this th the agency.
19 (ii) 20 contain:	A request under subparagraph (i) of this paragraph shall
21 22 request; and	1. The name and address of the person submitting the
23	2. The reason for requesting the information.
24 (iii) 25 requests received under s	A local law enforcement agency shall keep records of all written bparagraph (i) of this paragraph.
27 immune from civil liabili	elected public official, public employee, or public agency is of for damages arising out of any action relating to the on, unless it is shown that the official, employee, or agency e or in bad faith.]
31 authority shall send a cop 32 FINGERPRINTS, AND	in 5 days of obtaining a registration statement, the supervising of the registration statement, THE REGISTRANT'S PHOTOGRAPH OF THE REGISTRANT to the local law county where the [offender] REGISTRANT will reside.
34 (2) (i) 35 statement to the following 36 a specific registrant:	The supervising authority shall send a copy of a registration persons if such notice has been requested in writing about

1 2	1. The victim of the crime for which the registrant was convicted or, if the victim is a minor, the parents or legal guardian of the victim;
3	2. Any witness who testified against the registrant in any court proceedings involving the offense; and
5	3. Any person specified in writing by the State's Attorney.
	(ii) The supervising authority shall send a copy of a registration statement to a victim of the crime for which the registrant was convicted, if the victim filed a notification request form under § 770 of this article.
	(3) Information regarding any person who receives notice under paragraph (2) of this subsection is confidential and may not be disclosed to the registrant or any other person, agency, or entity.
	(4) If a registrant escapes from a facility, the supervising authority of the facility shall immediately notify, by the most reasonable and expedient means available:
	(i) The local law enforcement agency in the jurisdiction in which the registrant resided before the registrant was committed to the custody of the supervising authority; and
18 19	(ii) Any person who is entitled to receive notice under paragraph (2) of this subsection.
	(5) If the registrant is recaptured, the supervising authority shall send notice, as soon as possible and in no event later than 2 working days after the supervising authority learns of the recapture, to:
	(i) The local law enforcement agency in the jurisdiction in which the registrant resided before the registrant was committed to the custody of the supervising authority; and
26 27	(ii) Any person who is entitled to receive notice under paragraph (2) of this subsection.
30	(6) A supervising authority shall send any notice required under paragraphs (2), (4)(ii), and (5)(ii) of this subsection to the last address provided to the supervising authority for a person who is entitled to notice under paragraph (2) of this subsection.
34 35 36 37	(7) If a registrant will reside after release in a municipal corporation that has a police department, or, in the case where a registrant escapes from a facility and the registrant resided, before the registrant was committed to the custody of a supervising authority, in a municipal corporation that has a police department, a local law enforcement agency that receives a notice from a supervising authority under this subsection shall send a copy of the notice to the police department of the municipal corporation.





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HOUSE BILL 398 1 Within 10 days after receiving the verification form, the (ii) 2 sexually violent predator shall sign the form and mail it to the local law enforcement 3 agency. 4 Within 5 days after obtaining a verification form from [a child sexual (j) 5 offender and] a sexually violent predator, a local law enforcement agency shall send a 6 copy of the verification form to the Department. 7 [If a registrant will reside after release in a municipal corporation that 8 has a police department, or, in the case where a registrant escapes from a facility and 9 the offender resided, before the offender was committed to the custody of a 10 supervising authority, in a municipal corporation that has a police department, the 11 Department shall send a copy of the registration statement or change in registration 12 to the police department of the municipal corporation. (1)] (1) A sexually violent predator who has been registered under this 14 section for at least 10 years may file a petition requesting a court to rule that the 15 person is no longer a sexually violent predator. 16 A petition under this subsection shall be filed in the circuit court for 17 the county where the sexually violent predator was convicted or has a residence. 18 On the filing of a petition under this subsection, the court shall (3)consider any evidence that the court considers appropriate. 20 Within 30 days after the filing of a petition under this subsection, the (4) 21 court shall: 22 (i) Dismiss the petition; or 23 Issue an order stating that the registrant is no longer (ii) 24 considered a sexually violent predator. 25 If a petition is dismissed under paragraph (4)(i) of this subsection, the (5) 26 sexually violent predator may file a subsequent petition subject to the same procedures after each 5-year period after the dismissal. AN ELECTED PUBLIC OFFICIAL, PUBLIC EMPLOYEE, OR PUBLIC AGENCY IS 28 29 IMMUNE FROM CIVIL LIABILITY FOR DAMAGES ARISING OUT OF ANY ACTION 30 RELATING TO THE PROVISIONS OF THIS SECTION, UNLESS IT IS SHOWN THAT THE 31 OFFICIAL, EMPLOYEE, OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN BAD 32 FAITH. 33 A registrant who knowingly fails to register as required by this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the penitentiary for not more than 3 years or a fine of not more than \$5,000 or both. 36 The Secretary of Public Safety and Correctional Services shall adopt

37 regulations to implement the provisions of this section WITH ADVICE FROM THE

- 1 CRIMINAL JUSTICE INFORMATION ADVISORY BOARD ESTABLISHED UNDER § 744 OF
- 2 THIS ARTICLE.
- 3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 4 effect October 1, 1998.