
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 **Convictions for Certain Crimes Against Children, Sexually Violent Offenses,**
3 **or Other Sexual Offenses - Registration Procedures**

4 FOR the purpose of correcting certain errors, omissions, and inconsistencies in the
5 registration procedures for certain individuals convicted of certain crimes
6 against children, sexually violent offenses, or other sexual offenses; clarifying
7 the related duties assigned to supervising authorities, designated local law
8 enforcement agencies, and the Department of Public Safety and Correctional
9 Services; and providing certain immunity for elected public officials, public
10 employees, and public agencies.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 792
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 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 (i) Has been convicted of violating § 35C of this article for an
23 offense involving sexual abuse;

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

1 (iii) Has been convicted of violating § 464C of this article for an
2 offense involving an individual under the age of 15 years and has been ordered by the
3 court to register under this section; or

4 (iv) Has been convicted in another state of an offense that, if
5 committed in this State, would constitute one of the offenses listed in items (i) and (ii)
6 of this paragraph.

7 (3) "Convicted" includes:

8 (i) A probation before judgment after a finding of guilt for an
9 offense if the court, as a condition of probation orders compliance with the
10 requirements of this section; and

11 (ii) A finding of not criminally responsible for an offense.

12 (4) "Department" means the Department of Public Safety and
13 Correctional Services.

14 (5) "Local law enforcement agency" means the law enforcement agency
15 in a county that has been designated by resolution of the county governing body as
16 the primary law enforcement unit in the county.

17 (6) "Offender" means a person who is ordered by the court to register
18 under this section and who:

19 (i) Has been convicted of violating § 1, § 2, or § 338 of this article;

20 (ii) Has been convicted of violating § 337 of this article if the victim
21 is under the age of 18 years;

22 (iii) Has been convicted of the common law crime of false
23 imprisonment if the victim is under the age of 18 years and the offender is not the
24 victim's parent;

25 (iv) Has been convicted of violating § 464C of this article if the
26 victim is under the age of 18 years;

27 (v) Has been convicted of soliciting a minor to engage in sexual
28 conduct;

29 (vi) Has been convicted of violating § 419A of this article;

30 (vii) Has been convicted of violating § 15 of this article or any of the
31 provisions of §§ 426 through 433 of this article if the intended prostitute is under the
32 age of 18 years;

33 (viii) Has been convicted of a crime that involves conduct that by its
34 nature is a sexual offense against an individual under the age of 18 years;

1 (ix) Has been convicted of an attempt to commit a crime listed in
2 items (i) through (viii) of this paragraph; or

3 (x) Has been convicted in another state of an offense that, if
4 committed in this State, would constitute one of the offenses listed in items (i)
5 through (ix) of this paragraph.

6 (7) "Registrant" 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 (8) (i) "Release" means any type of release from the custody of a
12 supervising authority.

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

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

17 (9) "Sexually violent offense" means:

18 (i) A violation of any of the provisions of § 462, § 463, § 464, § 464A,
19 § 464B, or § 464F of this article; or

20 (ii) Assault with intent to commit rape in the first or second degree
21 or a sexual offense in the first or second degree as previously proscribed under former
22 § 12 of this article.

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

24 (i) Has been convicted of a sexually violent offense;

25 (ii) Has been convicted of an attempt to commit a sexually violent
26 offense; or

27 (iii) Has been convicted in another state of an offense that, if
28 committed in this State, would constitute a sexually violent offense.

29 (11) "Sexually violent predator" means a person who:

30 (i) Is convicted of a second or subsequent sexually violent offense;

31 and

1 (ii) Has been determined in accordance with this section to be at
2 risk of committing a subsequent sexually violent offense.

3 (12) "Supervising authority" means:

4 (i) If the registrant is in the custody of a facility operated by the
5 Department of Public Safety and Correctional Services, the Secretary of Public Safety
6 and Correctional Services;

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

10 (iii) Except as provided in item (viii) of this paragraph, if the
11 registrant is granted probation before judgment, probation after judgment, or a
12 suspended sentence, the court that granted the probation or suspended sentence;

13 (iv) If the registrant is in the custody of the Patuxent Institution,
14 the Director of the Patuxent Institution;

15 (v) If the registrant is in the custody of a facility operated by the
16 Department of Health and Mental Hygiene, the Secretary of Health and Mental
17 Hygiene;

18 (vi) If the registrant's sentence does not include a term of
19 imprisonment, the court in which the [offender] REGISTRANT was convicted;

20 (vii) If the [offender] REGISTRANT is in the State under the terms
21 and conditions of the interstate compact agreements under Article 41, §§ 4-801 and
22 4-1201 through 4-1211 of the Code, the Secretary of Public Safety and Correctional
23 Services; or

24 (viii) If the registrant is under the supervision of the Division of
25 Parole and Probation, the Director of Parole and Probation.

26 (b) (1) Subject to paragraphs (3) and (4) of this subsection, if a person is
27 convicted of a second or subsequent sexually violent offense, the State's Attorney may
28 request the court to determine before sentencing whether the person is a sexually
29 violent predator.

30 (2) If the State's Attorney makes a request under paragraph (1) of this
31 subsection, the court shall determine before or at sentencing whether the person is a
32 sexually violent predator.

33 (3) In making a determination under paragraph (1) of this subsection,
34 the court shall consider:

35 (i) Any evidence that the court considers appropriate to the
36 determination of whether the individual is a sexually violent predator, including the
37 presentencing investigation and sexually violent offender's inmate record;

1 (ii) Any evidence introduced by the person convicted; and

2 (iii) At the request of the State's Attorney, any evidence presented
3 by a victim of the sexually violent offense.

4 (4) The State's Attorney may not request a court to determine if a person
5 is a sexually violent predator under this subsection unless the State's Attorney serves
6 written notice of intent to make the request on the defendant or the defendant's
7 lawyer at least 30 days before trial.

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

10 (i) Is released;

11 (ii) Is granted probation before judgment;

12 (iii) Is granted probation after judgment;

13 (iv) Is granted a suspended sentence; or

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

16 (2) A registrant shall register with the supervising authority:

17 (i) If the registrant is a resident, on or before the date that the
18 registrant:

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 5. Receives a sentence that does not include a term of
24 imprisonment; or

25 (ii) If the registrant is not a resident, within 7 days after the earlier
26 of the date that the registrant:

27 1. Establishes a temporary or permanent residence in this
28 State; or

29 2. Applies for a driver's license in this State.

30 (3) (i) Within 7 days after release, a child sexual offender shall also
31 register in person with the local law enforcement agency of the county where the
32 CHILD SEXUAL offender will reside.

1 (ii) A local law enforcement agency may require a child sexual
2 offender to provide additional information in the registration besides the information
3 required under subsection (d) of this section.

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

5 (i) Inform the registrant that if the registrant changes residence
6 address to another state that has a registration requirement, the registrant shall
7 register the new address with the designated law enforcement agency of that state
8 within 7 days after establishing the new residence;

9 (ii) Explain the requirements of this section to the registrant,
10 including the duties of a registrant when the registrant changes residence address;

11 (iii) Give written notice to the registrant of the requirements of this
12 section; and

13 (iv) Obtain a statement signed by the registrant acknowledging that
14 the supervising authority explained the requirements of this section and provided
15 written notice to the registrant.

16 (d) (1) Registration shall consist of a statement signed by a registrant which
17 shall include:

18 (i) The registrant's name, address, and place of employment;

19 (ii) A description of the crime for which the registrant was
20 convicted, granted probation before judgment, or found not criminally responsible;

21 (iii) The date that the registrant was convicted, granted probation
22 before judgment, or found not criminally responsible;

23 (iv) The jurisdiction in which the registrant was convicted, granted
24 probation before judgment, or 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.

27 (2) The supervising authority shall obtain a photograph and fingerprints
28 of the registrant and include the photograph and fingerprints in the registration
29 statement.

30 (3) (i) As soon as possible and in no event later than 5 working days
31 after registration is completed, if the supervising authority is not the Department,
32 the supervising authority shall send the registration statement to the Department.

33 (ii) The Department shall maintain a central registry of
34 registrants.

1 (iii) The Department shall reimburse supervising authorities for the
2 cost of processing the registration statements of registrants, including the taking of
3 fingerprints and photographs.

4 (4) As soon as possible and in no event later than 5 working days after
5 receiving the conviction data and fingerprints of a registrant, the Department shall
6 transmit the data and fingerprints to the Federal Bureau of Investigation if the
7 Bureau does not have that information.

8 (5) The Department shall release registration statements or information
9 concerning registration statements to the public in accordance with regulations
10 established by the Department.

11 (6) (i) Subject to subparagraph (ii) of this paragraph, upon written
12 request to a local law enforcement agency, the agency:

13 1. Shall send to the person who submitted the request one
14 copy of the registration statement of each child sexual offender and each sexually
15 violent predator on record with the agency; and

16 2. May send to the person who submitted the request one
17 copy of the registration statement of any registrant not described in item 1 of this
18 subparagraph on record with the agency.

19 (ii) A request under subparagraph (i) of this paragraph shall
20 contain:

21 1. The name and address of the person submitting the
22 request; and

23 2. The reason for requesting the information.

24 (iii) A local law enforcement agency shall keep records of all written
25 requests received under subparagraph (i) of this paragraph.

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

30 (e) (1) Within 5 days of obtaining a registration statement, the supervising
31 authority shall send a copy of the registration statement, THE REGISTRANT'S
32 FINGERPRINTS, AND A PHOTOGRAPH OF THE REGISTRANT to the local law
33 enforcement agency in the county where the [offender] REGISTRANT will reside.

34 (2) (i) The supervising authority shall send a copy of a registration
35 statement to the following persons if such notice has been requested in writing about
36 a specific registrant:

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

1 (f) (1) Subject to paragraph (3) of this subsection, as soon as possible and in
2 no event later than 5 working days after receiving a registration statement of a child
3 sexual offender, a local law enforcement agency shall send written notice of the
4 registration statement to the county superintendent, as defined in § 1-101 of the
5 Education Article, in the county where the child sexual offender will reside.

6 (2) As soon as possible and in no event later than 5 working days after
7 receiving notice from the local law enforcement agency under paragraph (1) of this
8 subsection, a county superintendent shall send written notice of the registration
9 statement to those principals of the schools within the supervision of the
10 superintendent that the superintendent considers necessary to protect the students of
11 a school from a child sexual offender.

12 (3) In addition to the notice required under paragraph (1) of this
13 subsection, the Department and a local law enforcement agency shall provide notice
14 of a registration statement to any person or organization that the Department or local
15 law enforcement agency determines may serve to protect the public concerning a
16 specific registrant if the Department or the agency determines that such notice is
17 necessary to protect the public.

18 (4) (i) The Department and local law enforcement agencies shall
19 establish procedures for carrying out the notification requirements of paragraph (3) of
20 this subsection, including the circumstances under and manner in which notification
21 shall be provided.

22 (ii) A local law enforcement agency and the Department of Public
23 Safety and Correctional Services may not release the identity of a victim of an offense
24 that requires registration under this section.

25 (5) A disclosure under this subsection may not be construed to limit or
26 prohibit any other disclosure permitted or required under law.

27 (6) [(i) Except for a registration statement provided to a law
28 enforcement agency, a] A registration statement provided to a person or organization
29 under this section shall include A COPY OF the completed registration form and a copy
30 of a photograph of the registrant, but need not include the registrant's fingerprints.

31 [(ii) The Department of Public Safety and Correctional Services
32 shall provide a local law enforcement agency with the completed registration form,
33 the registrant's fingerprints, and an actual photograph of the registrant.]

34 [(7) An elected public official, public employee, or public agency is
35 immune from civil liability for damages arising out of any action relating to the
36 provisions of this subsection, unless it is shown that the official, employee, or agency
37 acted with gross negligence or in bad faith.]

38 (g) (1) If a registrant changes residences, the registrant shall send written
39 notice of the change within 7 days after the change occurs to the Department.

1 (2) As soon as possible and in no event later than 5 working days after
2 receipt of the notice, the Department shall give notice of the change to the local law
3 enforcement agency in whose county the new residence is located, and if the new
4 residence is in a different state that has a registration requirement, to the designated
5 law enforcement agency in whose state the new residence is located.

6 (h) (1) A child sexual offender shall register in person with a local law
7 enforcement agency annually for 10 years after:

8 (i) The last date of release;

9 (ii) The child sexual offender is granted probation before judgment,
10 probation after judgment, or a suspended sentence; or

11 (iii) The child sexual offender receives a sentence that does not
12 include a term of imprisonment.

13 (2) WITHIN 5 DAYS AFTER A CHILD SEXUAL OFFENDER HAS COMPLETED
14 THE REGISTRATION REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, A
15 LOCAL LAW ENFORCEMENT AGENCY SHALL SEND NOTICE OF THE CHILD SEXUAL
16 OFFENDER'S ANNUAL REGISTRATION TO THE DEPARTMENT.

17 (3) [An] IN ACCORDANCE WITH SUBSECTION (1)(1) OF THIS SECTION, AN
18 offender and a sexually violent offender shall register annually with the Department
19 FOR 10 YEARS AFTER:

20 (I) THE LAST DATE OF RELEASE;

21 (II) BEING GRANTED PROBATION BEFORE JUDGMENT, PROBATION
22 AFTER JUDGMENT, OR A SUSPENDED SENTENCE; OR

23 (III) RECEIVING A SENTENCE THAT DOES NOT INCLUDE A TERM OF
24 IMPRISONMENT.

25 [(3)] (4) A sexually violent predator shall register every 90 days in
26 accordance with subsection (i)(2) of this section until the person is determined not to
27 be a sexually violent predator under subsection [(1)] (K) of this section.

28 (i) (1) (i) The Department shall mail a verification form, which may not
29 be forwarded, annually to the last reported address of each offender and sexually
30 violent offender.

31 (ii) Within 10 days after receiving the verification form, the
32 offender or sexually violent offender shall sign the verification form and mail it to the
33 Department.

34 (2) (i) Every 90 days, the local law enforcement agency shall mail a
35 verification form, which may not be forwarded, to the last reported address of a
36 sexually violent predator.

1 (ii) Within 10 days after receiving the verification form, the
2 sexually violent predator shall sign the form and mail it to the local law enforcement
3 agency.

4 (j) Within 5 days after obtaining a verification form from [a child sexual
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 (k) [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.

13 (l) (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 (2) 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 (3) On the filing of a petition under this subsection, the court shall
19 consider any evidence that the court considers appropriate.

20 (4) Within 30 days after the filing of a petition under this subsection, the
21 court shall:

22 (i) Dismiss the petition; or

23 (ii) Issue an order stating that the registrant is no longer
24 considered a sexually violent predator.

25 (5) If a petition is dismissed under paragraph (4)(i) of this subsection, the
26 sexually violent predator may file a subsequent petition subject to the same
27 procedures after each 5-year period after the dismissal.

28 (L) AN ELECTED PUBLIC OFFICIAL, PUBLIC EMPLOYEE, OR PUBLIC AGENCY IS
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 (m) A registrant who knowingly fails to register as required by this section is
34 guilty of a misdemeanor and on conviction is subject to imprisonment in the
35 penitentiary for not more than 3 years or a fine of not more than \$5,000 or both.

36 (n) 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.