
By: **Chairman, Judiciary Committee (Departmental - Public Safety and
Correctional Services)**

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Assigned to: Judiciary

Committee Report: Favorable with amendments

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Read second time: March 10, 1998

CHAPTER _____

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; eliminating a requirement that the Department
11 provide certain information to certain municipal law enforcement agencies;
12 prohibiting a certain person from knowingly providing certain false information;
13 and generally relating to registration for certain crimes against children,
14 sexually violent offenses, and other sexual offenses.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 792
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

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

Article 27 - Crimes and Punishments

1
2 792.

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

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

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

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

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

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

16 (3) "Convicted" includes:

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

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

21 (4) "Department" means the Department of Public Safety and
22 Correctional Services.

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

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

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

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

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

- 1 (iv) Has been convicted of violating § 464C of this article if the
2 victim is under the age of 18 years;
- 3 (v) Has been convicted of soliciting a minor to engage in sexual
4 conduct;
- 5 (vi) Has been convicted of violating § 419A of this article;
- 6 (vii) Has been convicted of violating § 15 of this article or any of the
7 provisions of §§ 426 through 433 of this article if the intended prostitute is under the
8 age of 18 years;
- 9 (viii) Has been convicted of a crime that involves conduct that by its
10 nature is a sexual offense against an individual under the age of 18 years;

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

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

16 (7) "Registrant" means a person who is:

17 (i) A child sexual offender;

18 (ii) An offender;

19 (iii) A sexually violent offender; or

20 (iv) A sexually violent predator.

21 (8) (i) "Release" means any type of release from the custody of a
22 supervising authority.

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

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

27 (9) "Sexually violent offense" means:

28 (i) A violation of any of the provisions of § 462, § 463, § 464, § 464A,
29 § 464B, or § 464F of this article; or

30 (ii) Assault with intent to commit rape in the first or second degree
31 or a sexual offense in the first or second degree as previously proscribed under former
32 § 12 of this article.

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

- 1 (i) Has been convicted of a sexually violent offense;
- 2 (ii) Has been convicted of an attempt to commit a sexually violent
3 offense; or
- 4 (iii) Has been convicted in another state of an offense that, if
5 committed in this State, would constitute a sexually violent offense.
- 6 (11) "Sexually violent predator" means a person who:
- 7 (i) Is convicted of a second or subsequent sexually violent offense;
8 and
- 9 (ii) Has been determined in accordance with this section to be at
10 risk of committing a subsequent sexually violent offense.
- 11 (12) "Supervising authority" means:
- 12 (i) If the registrant is in the custody of a facility operated by the
13 Department of Public Safety and Correctional Services, the Secretary of Public Safety
14 and Correctional Services;
- 15 (ii) If the registrant is in the custody of a local or regional detention
16 center, including [an offender] A REGISTRANT who is participating in a home
17 detention program, the administrator of the facility;
- 18 (iii) Except as provided in item (viii) of this paragraph, if the
19 registrant is granted probation before judgment, probation after judgment, or a
20 suspended sentence, the court that granted the probation or suspended sentence;
- 21 (iv) If the registrant is in the custody of the Patuxent Institution,
22 the Director of the Patuxent Institution;
- 23 (v) If the registrant is in the custody of a facility operated by the
24 Department of Health and Mental Hygiene, the Secretary of Health and Mental
25 Hygiene;
- 26 (vi) If the registrant's sentence does not include a term of
27 imprisonment, the court in which the [offender] REGISTRANT was convicted;
- 28 (vii) If the [offender] REGISTRANT is in the State under the terms
29 and conditions of the interstate compact agreements under Article 41, §§ 4-801 and
30 4-1201 through 4-1211 of the Code, the Secretary of Public Safety and Correctional
31 Services; or
- 32 (viii) If the registrant is under the supervision of the Division of
33 Parole and Probation, the Director of Parole and Probation.
- 34 (b) (1) Subject to paragraphs (3) and (4) of this subsection, if a person is
35 convicted of a second or subsequent sexually violent offense, the State's Attorney may

1 request the court to determine before sentencing whether the person is a sexually
2 violent predator.

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

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

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

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

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

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

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

20 (i) Is released;

21 (ii) Is granted probation before judgment;

22 (iii) Is granted probation after judgment;

23 (iv) Is granted a suspended sentence; or

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

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

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

29 1. Is released;

30 2. Is granted probation before judgment;

31 3. Is granted probation after judgment;

32 4. Is granted a suspended sentence; or

- 1
2 imprisonment; or
- 3 (ii) If the registrant is not a resident, within 7 days after the earlier
4 of the date that the registrant:
- 5 1. Establishes a temporary or permanent residence in this
6 State; or
- 7 2. Applies for a driver's license in this State.
- 8 (3) (i) Within 7 days after release, a child sexual offender shall also
9 register in person with the local law enforcement agency of the county where the
10 CHILD SEXUAL offender will reside.
- 11 (ii) A local law enforcement agency may require a child sexual
12 offender to provide additional information in the registration besides the information
13 required under subsection (d) of this section.
- 14 (4) When a registrant registers, the supervising authority shall:
- 15 (i) Inform the registrant that if the registrant changes residence
16 address to another state that has a registration requirement, the registrant shall
17 register the new address with the designated law enforcement agency of that state
18 within 7 days after establishing the new residence;
- 19 (ii) Explain the requirements of this section to the registrant,
20 including the duties of a registrant when the registrant changes residence address;
- 21 (iii) Give written notice to the registrant of the requirements of this
22 section; and
- 23 (iv) Obtain a statement signed by the registrant acknowledging that
24 the supervising authority explained the requirements of this section and provided
25 written notice to the registrant.
- 26 (d) (1) Registration shall consist of a statement signed by a registrant which
27 shall include:
- 28 (i) The registrant's name, address, and place of employment;
- 29 (ii) A description of the crime for which the registrant was
30 convicted, granted probation before judgment, or found not criminally responsible;
- 31 (iii) The date that the registrant was convicted, granted probation
32 before judgment, or found not criminally responsible;
- 33 (iv) The jurisdiction in which the registrant was convicted, granted
34 probation before judgment, or found not criminally responsible;
- 35 (v) A list of any aliases that have been used by the registrant; and

1 (vi) The registrant's Social Security number.

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

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

8 (ii) The Department shall maintain a central registry of
9 registrants.

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

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

17 (5) The Department shall release registration statements or information
18 concerning registration statements to the public in accordance with regulations
19 established by the Department.

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

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

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

28 (ii) A request under subparagraph (i) of this paragraph shall
29 contain:

30 1. The name and address of the person submitting the
31 request; and

32 2. The reason for requesting the information.

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

35 [(7) An elected public official, public employee, or public agency is
36 immune from civil liability for damages arising out of any action relating to the

1 provisions of this subsection, unless it is shown that the official, employee, or agency
2 acted with gross negligence or in bad faith.]

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

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

10 1. The victim of the crime for which the registrant was
11 convicted or, if the victim is a minor, the parents or legal guardian of the victim;

12 2. Any witness who testified against the registrant in any
13 court proceedings involving the offense; and

14 3. Any person specified in writing by the State's Attorney.

15 (ii) The supervising authority shall send a copy of a registration
16 statement to a victim of the crime for which the registrant was convicted, if the victim
17 filed a notification request form under § 770 of this article.

18 (3) Information regarding any person who receives notice under
19 paragraph (2) of this subsection is confidential and may not be disclosed to the
20 registrant or any other person, agency, or entity.

21 (4) If a registrant escapes from a facility, the supervising authority of the
22 facility shall immediately notify, by the most reasonable and expedient means
23 available:

24 (i) The local law enforcement agency in the jurisdiction in which
25 the registrant resided before the registrant was committed to the custody of the
26 supervising authority; and

27 (ii) Any person who is entitled to receive notice under paragraph (2)
28 of this subsection.

29 (5) If the registrant is recaptured, the supervising authority shall send
30 notice, as soon as possible and in no event later than 2 working days after the
31 supervising authority learns of the recapture, to:

32 (i) The local law enforcement agency in the jurisdiction in which
33 the registrant resided before the registrant was committed to the custody of the
34 supervising authority; and

35 (ii) Any person who is entitled to receive notice under paragraph (2)
36 of this subsection.

1 (6) A supervising authority shall send any notice required under
2 paragraphs (2), (4)(ii), and (5)(ii) of this subsection to the last address provided to the
3 supervising authority for a person who is entitled to notice under paragraph (2) of this
4 subsection.

5 (7) If a registrant will reside after release in a municipal corporation
6 that has a police department, or, in the case where a registrant escapes from a facility
7 and the registrant resided, before the registrant was committed to the custody of a
8 supervising authority, in a municipal corporation that has a police department, a local
9 law enforcement agency that receives a notice from a supervising authority under
10 this subsection shall send a copy of the notice to the police department of the
11 municipal corporation.

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

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

23 (3) In addition to the notice required under paragraph (1) of this
24 subsection, the Department and a local law enforcement agency shall provide notice
25 of a registration statement to any person or organization that the Department or local
26 law enforcement agency determines may serve to protect the public concerning a
27 specific registrant if the Department or the agency determines that such notice is
28 necessary to protect the public.

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

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

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

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

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

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

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

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

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

17 (i) The last date of release;

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

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

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

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

29 (I) THE LAST DATE OF RELEASE;

30 (II) BEING GRANTED PROBATION BEFORE JUDGMENT, PROBATION
31 AFTER JUDGMENT, OR A SUSPENDED SENTENCE; OR

32 (III) RECEIVING A SENTENCE THAT DOES NOT INCLUDE A TERM OF
33 IMPRISONMENT.

34 (3)] (4) A sexually violent predator shall register every 90 days in
35 accordance with subsection (i)(2) of this section until the person is determined not to
36 be a sexually violent predator under subsection [(1)] (K) of this section.

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

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

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

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

13 (j) Within 5 days after obtaining a verification form from [a child sexual
14 offender and] a sexually violent predator, a local law enforcement agency shall send a
15 copy of the verification form to the Department.

16 (k) [If a registrant will reside after release in a municipal corporation that
17 has a police department, or, in the case where a registrant escapes from a facility and
18 the offender resided, before the offender was committed to the custody of a
19 supervising authority, in a municipal corporation that has a police department, the
20 Department shall send a copy of the registration statement or change in registration
21 to the police department of the municipal corporation.

22 (l) (1) A sexually violent predator who has been registered under this
23 section for at least 10 years may file a petition requesting a court to rule that the
24 person is no longer a sexually violent predator.

25 (2) A petition under this subsection shall be filed in the circuit court for
26 the county where the sexually violent predator was convicted or has a residence.

27 (3) On the filing of a petition under this subsection, the court shall
28 consider any evidence that the court considers appropriate.

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

31 (i) Dismiss the petition; or

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

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

1 (L) AN ELECTED PUBLIC OFFICIAL, PUBLIC EMPLOYEE, OR PUBLIC AGENCY IS
2 IMMUNE FROM CIVIL LIABILITY FOR DAMAGES ARISING OUT OF ANY ACTION
3 RELATING TO THE PROVISIONS OF THIS SECTION, UNLESS IT IS SHOWN THAT THE
4 OFFICIAL, EMPLOYEE, OR AGENCY ACTED WITH GROSS NEGLIGENCE OR IN BAD
5 FAITH.

6 (m) A registrant who knowingly fails to register OR KNOWINGLY PROVIDES
7 FALSE INFORMATION OF A MATERIAL FACT as required by this section is guilty of a
8 misdemeanor and on conviction is subject to imprisonment in the penitentiary for not
9 more than 3 years or a fine of not more than \$5,000 or both.

10 (n) The Secretary of Public Safety and Correctional Services shall adopt
11 regulations to implement the provisions of this section WITH ADVICE FROM THE
12 CRIMINAL JUSTICE INFORMATION ADVISORY BOARD ESTABLISHED UNDER § 744 OF
13 THIS ARTICLE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 1998.