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By: **Senators Collins and Della**  
Introduced and read first time: February 5, 1999  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Sex Offender Registration - Notification**

3 FOR the purpose of requiring certain law enforcement agencies to notify certain  
4 community associations when certain sex offenders register in an area;  
5 authorizing certain community associations to publish, disseminate, or circulate  
6 certain information; providing immunity from liability for certain members of a  
7 community association; and generally relating to the registration of sex  
8 offenders.

9 BY repealing and reenacting, without amendments,  
10 Article 27 - Crimes and Punishments  
11 Section 792(a) and (e)  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 1998 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article 27 - Crimes and Punishments  
16 Section 792(f) and (l)  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1998 Supplement)

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

21 **Article 27 - Crimes and Punishments**

22 792.

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

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

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

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

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

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

10 (3) "Convicted" includes:

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

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

15 (4) "Department" means the Department of Public Safety and  
16 Correctional Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (i) A child sexual offender;

10 (ii) An offender;

11 (iii) A sexually violent offender;

12 (iv) A sexually violent predator;

13 (v) A child sexual offender who, before moving into this State, was  
14 required to register in another state for an offense occurring before October 1, 1995;  
15 or

16 (vi) An offender, a sexually violent offender, or a sexually violent  
17 predator who, before moving into this State, was required to register in another state  
18 for an offense occurring before July 1, 1997.

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

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

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

25 (9) "Sexually violent offense" means:

26 (i) A violation of any of the provisions of § 462, § 463, § 464, § 464A,  
27 § 464B, or § 464F of this article; or

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

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

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

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

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

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

6 (i) Is convicted of a second or subsequent sexually violent offense;  
7 and

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

10 (12) "Supervising authority" means:

11 (i) If the registrant is in the custody of a facility operated by the  
12 Department of Public Safety and Correctional Services, the Secretary of Public Safety  
13 and Correctional Services;

14 (ii) If the registrant is in the custody of a local or regional detention  
15 center, including a registrant who is participating in a home detention program, the  
16 administrator of the facility;

17 (iii) Except as provided in item (x) of this paragraph, if the  
18 registrant is granted probation before judgment, probation after judgment, or a  
19 suspended sentence, the court that granted the probation or suspended sentence;

20 (iv) If the registrant is in the custody of the Patuxent Institution,  
21 the Director of the Patuxent Institution;

22 (v) If the registrant is in the custody of a facility operated by the  
23 Department of Health and Mental Hygiene, the Secretary of Health and Mental  
24 Hygiene;

25 (vi) If the registrant's sentence does not include a term of  
26 imprisonment, the court in which the registrant was convicted;

27 (vii) If the registrant is in the State under the terms and conditions  
28 of the interstate compact agreements under Article 41, §§ 4-801 and 4-1201 through  
29 4-1211 of the Code, the Secretary of Public Safety and Correctional Services;

30 (viii) If the registrant moves to this State and was convicted in  
31 another state of an offense that would require the individual to register if the offense  
32 was committed in this State, the Secretary of Public Safety and Correctional Services;

33 (ix) If the registrant moves to this State from another state where  
34 the individual was required to register, the Secretary of Public Safety and  
35 Correctional Services; or

1 (x) If the registrant is under the supervision of the Division of  
2 Parole and Probation, the Director of Parole and Probation.

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 enforcement agency  
6 in the county where the 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)     (I)     AS SOON AS POSSIBLE AND IN NO EVENT LATER THAN 5  
37 WORKING DAYS AFTER RECEIVING A REGISTRATION STATEMENT OF A CHILD  
38 SEXUAL OFFENDER OR A SEXUALLY VIOLENT PREDATOR, A LOCAL LAW  
39 ENFORCEMENT AGENCY SHALL SEND WRITTEN NOTICE OF THE REGISTRATION  
40 STATEMENT TO THE COMMUNITY ASSOCIATIONS IN THE COUNTY WHERE THE CHILD  
41 SEXUAL OFFENDER OR SEXUALLY VIOLENT PREDATOR WILL RESIDE.

1 (II) A COMMUNITY ASSOCIATION OR ITS MEMBERS, ACTING IN  
2 GOOD FAITH MAY PUBLISH, DISSEMINATE, OR CIRCULATE THE INFORMATION  
3 CONTAINED IN THE REGISTRATION STATEMENT IN AN MANNER.

4 [(5)] (6) A disclosure under this subsection may not be construed to limit  
5 or prohibit any other disclosure permitted or required under law.

6 [(6)] (7) A registration statement provided to a person or organization  
7 under this section shall include a copy of the completed registration form and a copy  
8 of a photograph of the registrant, but need not include the registrant's fingerprints.

9 (1) (1) An elected public official, public employee, or public agency shall  
10 have the immunity described in §§ 5-522 and 5-302 of the Courts Article regarding  
11 civil liability for damages arising out of any action relating to the provisions of this  
12 section, unless it is shown that the official, employee, or agency acted with gross  
13 negligence or in bad faith.

14 (2) A COMMUNITY ASSOCIATION AND ITS MEMBERS ACTING IN GOOD  
15 FAITH AND WITHIN THE SCOPE OF THEIR DUTIES OR AUTHORITY ARE IMMUNE FROM  
16 CIVIL LIABILITY FOR DAMAGES ARISING OUT OF ANY ACTION RELATING TO THE  
17 PROVISIONS OF THIS SECTION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 1999.