

By: **Senator Green**

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 21, 2000

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Sexual Offender - Registration**

3 FOR the purpose of altering the term of registration for certain sexual offenders; and
4 generally relating to registration of sexual offenders.

5 BY repealing and reenacting, with amendments,
6 Article 27 - Crimes and Punishments
7 Section 792
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 1999 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland 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 an individual who:

16 (i) Has been convicted of violating § 35C of this article for an
17 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, or in a federal, military, or
8 Native American tribal court, of an offense that, if committed in this State, would
9 constitute one of the offenses listed in items (i) and (ii) 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 an individual who is ordered by the court to
21 register 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, or in a federal, military, or
6 Native American tribal court, of an offense that, if committed in this State, would
7 constitute one of the offenses listed in items (i) through (ix) of this paragraph.

8 (7) "Registrant" means an individual 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 or by a federal, military, or Native American
15 tribal court for an offense occurring before October 1, 1995;

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 or by a federal, military, or Native American tribal court for an offense occurring
19 before July 1, 1997; or

20 (vii) A child sexual offender, offender, sexually violent offender, or
21 sexually violent predator who is required to register in another state, who is not a
22 resident of this State, and who enters this State for the purpose of:

23 1. Employment, or to carry on a vocation, that is full time or
24 part time for a period of the time exceeding 14 days or for an aggregate period of time
25 exceeding 30 days during any calendar year, whether financially compensated,
26 volunteered, or for the purpose of government or educational benefit; or

27 2. Attending any public or private educational institution,
28 including any secondary school, trade, or professional institution, or institution of
29 higher education, as a student on a full-time or part-time basis.

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

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

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

1 (9) "Resident" means an individual who lives in this State at the time the
2 individual:

3 (i) Is released;

4 (ii) Is granted probation before judgment;

5 (iii) Is granted probation after judgment;

6 (iv) Is granted a suspended sentence; or

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

9 (10) "Sexually violent offender" means an individual who:

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

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

13 (iii) Has been convicted in another state, or in a federal, military, or
14 Native American tribal court, of an offense that, if committed in this State, would
15 constitute a sexually violent offense.

16 (11) "Sexually violent offense" means:

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

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

22 (12) "Sexually violent predator" means an individual who:

23 (i) Is convicted of a second or subsequent sexually violent offense;
24 and

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

27 (13) "Supervising authority" means:

28 (i) If the registrant is in the custody of a facility operated by the
29 Department of Public Safety and Correctional Services, the Secretary of Public Safety
30 and Correctional Services;

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

1 (iii) Except as provided in item (xi) of this paragraph, if the
2 registrant is granted probation before judgment, probation after judgment, or a
3 suspended sentence, the court that granted the probation or suspended sentence;

4 (iv) If the registrant is in the custody of the Patuxent Institution,
5 the Director of the Patuxent Institution;

6 (v) If the registrant is in the custody of a facility operated by the
7 Department of Health and Mental Hygiene, the Secretary of Health and Mental
8 Hygiene;

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

11 (vii) If the registrant is in the State under the terms and conditions
12 of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title 6, Subtitle
13 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth
14 in Title 8, Subtitle 6 of the Correctional Services Article, the Secretary of Public
15 Safety and Correctional Services;

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

19 (ix) If the registrant moves to this State from another state where
20 the individual was required to register, the Secretary of Public Safety and
21 Correctional Services;

22 (x) If the registrant is not a resident of this State, the Secretary of
23 Public Safety and Correctional Services; or

24 (xi) 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 an individual 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 individual 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 individual
32 is a 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 individual 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 an
5 individual is a sexually violent predator under this subsection unless the State's
6 Attorney serves written notice of intent to make the request on the defendant or the
7 defendant's lawyer at least 30 days before trial.

8 (c) (1) A registrant shall register with the registrant's supervising
9 authority:

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

- 12 1. Is released;
- 13 2. Is granted probation before judgment;
- 14 3. Is granted probation after judgment;
- 15 4. Is granted a suspended sentence; or
- 16 5. Receives a sentence that does not include a term of
17 imprisonment; or

18 (ii) If the registrant moves into this State, within 7 days after the
19 earlier of the date that the registrant:

- 20 1. Establishes a temporary or permanent residence in this
21 State; or
- 22 2. Applies for a driver's license in this State; or

23 (iii) If the registrant is not a resident of this State, within 14 days of
24 the date that the registrant:

- 25 1. Begins employment in this State; or
- 26 2. Registers as a student in this State.

27 (2) (i) A child sexual offender shall also register in person with the
28 local law enforcement agency of the county where the child sexual offender will
29 reside:

30 1. Within 7 days of release, if the child sexual offender is a
31 resident of this State; or

32 2. Within 7 days of registering with the supervising
33 authority, if the registrant is moving into this State.

1 (ii) Within 7 days of registering with the supervising authority, a
2 child sexual offender who is not a resident of this State and who works or attends
3 school in this State shall also register in person with the local law enforcement agency
4 of the county where the child sexual offender will work or attend school.

5 (iii) A child sexual offender may be required to provide information
6 to the local law enforcement agency besides the information required under
7 subsection (e) of this section.

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

10 (d) (1) A term of registration described in this subsection shall be calculated
11 from:

12 (i) The last date of release;

13 (ii) The date granted probation before judgment, probation after
14 judgment, or a suspended sentence; or

15 (iii) The date of receiving a sentence that does not include a term of
16 imprisonment.

17 (2) A child sexual offender shall register annually in person with a local
18 law enforcement agency FOR THE TERM PROVIDED UNDER PARAGRAPH (5) OF THIS
19 SUBSECTION [:

20 (i) For 10 years; or

21 (ii) For life, if convicted of:

22 1. A violation of any of the provisions of §§ 462 through 464B
23 of this article; or

24 2. A second violation as a child sexual offender].

25 (3) An offender AND A SEXUALLY VIOLENT OFFENDER shall register
26 annually with the Department in accordance with the procedures described in
27 subsection (h)(3) of this section [for 10 years] AND FOR THE TERM PROVIDED UNDER
28 PARAGRAPH (5) OF THIS SUBSECTION.

29 (4) [A sexually violent offender shall register annually with the
30 Department in accordance with the procedures described in subsection (h)(3) of this
31 section:

32 (i) For 10 years; or

33 (ii) For life, if convicted of:

34 1. A violation of any of the provisions of §§ 462 through 464B
35 of this article; or

1 2. A second violation as a sexually violent offender.

2 (5) A sexually violent predator shall register every 90 days [throughout
3 the individual's life,] in accordance with the procedures described in subsection (g)(3)
4 of this section AND FOR THE TERM PROVIDED UNDER PARAGRAPH (5)(II) OF THIS
5 SUBSECTION.

6 (5) THE TERM OF REGISTRATION IS:

7 (I) 10 YEARS; OR

8 (II) LIFE IF:

9 1. THE REGISTRANT HAS BEEN DETERMINED TO BE A
10 SEXUALLY VIOLENT PREDATOR IN ACCORDANCE WITH THE PROCEDURES
11 DESCRIBED IN SUBSECTION (B) OF THIS SECTION;

12 2. THE REGISTRANT HAS BEEN CONVICTED OF A VIOLATION
13 OF ANY OF THE PROVISIONS OF §§ 462 THROUGH 464B OF THIS ARTICLE; OR

14 3. THE REGISTRANT HAS BEEN PREVIOUSLY REQUIRED TO
15 REGISTER AND HAS BEEN CONVICTED OF A SUBSEQUENT VIOLATION OF ANY
16 OFFENSE LISTED IN SUBSECTION (A)(2), (6), OR (11) OF THIS SECTION.

17 (6) A registrant who is not a resident of this State shall register for the
18 period of time specified in this subsection or until the registrant's employment or
19 student enrollment in this State ceases.

20 (e) (1) Subject to paragraph (2) of this subsection, registration shall consist
21 of a statement signed and dated by a registrant which includes:

22 (i) The registrant's name, address, and:

23 1. For an individual who qualifies as a registrant under
24 subsection (a)(7)(vii)1 of this section, place of employment; or

25 2. For an individual who qualifies as a registrant under
26 subsection (a)(7)(vii)2 of this section, place of educational institution or school
27 enrollment;

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

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

32 (iv) The jurisdiction in which the registrant was convicted, granted
33 probation before judgment, or found not criminally responsible;

34 (v) A list of any aliases that have been used by the registrant; and

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

2 (2) If the registrant is a sexually violent predator, the registration
3 statement shall also include:

4 (i) Identifying factors, including physical description;

5 (ii) Anticipated future residence, if known at the time of
6 registration;

7 (iii) Offense history; and

8 (iv) Documentation of treatment received for a mental abnormality
9 or personality disorder.

10 (f) (1) When a registrant registers, the supervising authority shall:

11 (i) Explain the requirements of this section to the registrant,
12 including:

13 1. The duties of a registrant when the registrant changes
14 residence address in this State;

15 2. The requirement for a child sexual offender to register, in
16 person with the local law enforcement agency of the county where the child sexual
17 offender will reside or where the child sexual offender who is not a resident of this
18 State will work or attend school; and

19 3. The requirement that if the registrant changes residence
20 address, employment, or school enrollment to another state that has a registration
21 requirement, the registrant shall register with the designated law enforcement
22 agency of that state within 7 days of the change;

23 (ii) Give written notice to the registrant of the requirements of this
24 section; and

25 (iii) Obtain a statement signed by the registrant acknowledging that
26 the supervising authority explained the requirements of this section and provided
27 written notice to the registrant.

28 (2) The supervising authority shall obtain a photograph and fingerprints
29 of the registrant and attach the photograph and fingerprints to the registration
30 statement.

31 (3) Within 5 days of obtaining a registration statement, the supervising
32 authority shall send a copy of the registration statement, the registrant's
33 fingerprints, and a photograph of the registrant to the local law enforcement agency
34 in the county where the registrant will reside, or where a registrant who is not a
35 resident will work or attend school.

1 (4) As soon as possible and in no event later than 5 working days after
2 registration is completed, if the supervising authority is not a unit of the Department,
3 the supervising authority shall send the registration statement to the Department.

4 (g) (1) (i) Within 5 days after a child sexual offender has completed the
5 registration requirements of subsection (d)(2) of this section, a local law enforcement
6 agency shall send notice of the child sexual offender's annual registration to the
7 Department.

8 (ii) As soon as possible and in no event later than 5 working days
9 after receiving a registration statement of a child sexual offender, a local law
10 enforcement agency shall send written notice of the registration statement to the
11 county superintendent, as defined in § 1-101 of the Education Article, in the county
12 where the child sexual offender will reside, or where a child sexual offender who is not
13 a resident of this State will work or attend school.

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

20 (3) (i) Every 90 days, the local law enforcement agency shall mail a
21 verification form, which may not be forwarded, to the last reported address of a
22 sexually violent predator.

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

26 (iii) Within 5 days after obtaining a verification form from a
27 sexually violent predator, a local law enforcement agency shall send a copy of the
28 verification form to the Department.

29 (4) If a registrant will reside after release in a municipal corporation
30 that has a police department, or, in the case where a registrant escapes from a facility
31 and the registrant resided, before the registrant was committed to the custody of a
32 supervising authority, in a municipal corporation that has a police department, a local
33 law enforcement agency that receives a notice from a supervising authority under
34 this section shall send a copy of the notice to the police department of the municipal
35 corporation.

36 (h) (1) The Department shall:

37 (i) Maintain a central registry of registrants;

38 (ii) As soon as possible and in no event later than 5 working days
39 after receiving the conviction data and fingerprints of a registrant, transmit the data

1 and fingerprints to the Federal Bureau of Investigation if the Bureau does not have
2 that information; and

3 (iii) Reimburse supervising authorities for the cost of processing the
4 registration statements of registrants, including the taking of fingerprints and
5 photographs.

6 (2) As soon as possible and in no event later than 5 working days after
7 receipt of a registrant's change of address notice, the Department shall give notice of
8 the change to:

9 (i) The local law enforcement agency in whose county the new
10 residence is located;

11 (ii) If the new residence is in a different state that has a
12 registration requirement, the designated law enforcement agency in whose state the
13 new residence is located; and

14 (iii) If the registration is premised on a conviction under federal,
15 military, or Native American tribal law, the designated federal agency.

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

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

22 (i) (1) If a registrant escapes from a facility, the supervising authority of the
23 facility shall immediately notify, by the most reasonable and expedient means
24 available:

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

28 (ii) Any individual who is entitled to receive notice under
29 subsection (j)(3) of this section.

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

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

36 (ii) Any individual who is entitled to receive notice under
37 subsection (j)(3) of this section.

1 (j) (1) A registration statement provided to a person under this section shall
2 include a copy of the completed registration form and a copy of a photograph of the
3 registrant, but need not include the registrant's fingerprints.

4 (2) Information regarding any individual who receives notice under
5 paragraph (3) of this subsection is confidential and may not be disclosed to the
6 registrant or any other person.

7 (3) (i) The supervising authority shall send a copy of a registration
8 statement to the following individuals if such notice has been requested in writing
9 about 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 individual 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 (4) A supervising authority shall send any notice required under
19 paragraph (3) of this subsection and subsection (i)(1)(ii) and (2)(ii) of this section to
20 the last address provided to the supervising authority.

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

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

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

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

31 1. The name and address of the individual submitting the
32 request; and

33 2. The reason for requesting the information.

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

1 (6) The Department shall release registration statements or information
2 concerning registration statements to the public and may post on the Internet a
3 current listing of each registrant's name, offense, and other identifying information,
4 in accordance with regulations established by the Department.

5 (7) (i) In addition to the notice required under subsection (g)(1)(ii) of
6 this section, the Department and a local law enforcement agency shall provide notice
7 of a registration statement to any person that the Department or local law
8 enforcement agency determines may serve to protect the public concerning a specific
9 registrant if the Department or the agency determines that such notice is necessary to
10 protect the public.

11 (ii) The Department and local law enforcement agencies shall
12 establish procedures for carrying out the notification requirements of subparagraph
13 (i) of this paragraph, including the circumstances under and manner in which
14 notification shall be provided.

15 (iii) The Department and a local law enforcement agency may not
16 release the identity of a victim of an offense that requires registration under this
17 section.

18 (8) A disclosure under this subsection may not be construed to limit or
19 prohibit any other disclosure permitted or required under law.

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

25 (l) A registrant who knowingly fails to register or knowingly provides false
26 information of a material fact as required by this section is guilty of a misdemeanor
27 and on conviction is subject to imprisonment in the penitentiary for not more than 3
28 years or a fine of not more than \$5,000 or both.

29 (m) The Secretary of Public Safety and Correctional Services shall adopt
30 regulations to implement the provisions of this section with advice from the Criminal
31 Justice Information Advisory Board established under § 744 of this article.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2000.

