

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL NO. 577

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “eliminating” in line 6 down through “changes” in line 17 and substitute “altering the definition of “sexually violent predator” to include certain offenders and certain persons who are or were required to register for certain time periods under the laws of certain jurisdictions; establishing certain conditions for the termination of registration in a certain program for registration of sex offenders and certain other offenders; requiring a certain sex offender registrant who commences or terminates a certain enrollment or employment at an institution of higher education in the State to provide a certain notice within a certain time period; requiring a certain registration statement to include the name and address of a certain institution of higher education if a certain registrant is enrolled or carrying on employment or expecting to enroll or carry on employment in a certain manner; altering the period of time for which certain offenders are required to register with a supervising authority; clarifying the calculation of a certain term of registration; requiring the supervising authority to explain certain requirements to a certain registrant; requiring that certain notifications be mailed to certain campus police agencies or law enforcement agencies having a certain jurisdiction within a certain time period under certain circumstances; requiring certain institutions to provide certain advice to a campus community; providing that an institution of higher education is not prohibited from disclosing certain information; providing that it is a misdemeanor subject to a certain penalty knowingly to fail to provide certain notices; altering certain definitions; defining certain terms; making certain conforming changes; providing for the effective date of this Act”; in line 21, strike “11-701(a)” and substitute “11-701(a), (b), and (d)”; and after line 23, insert:

“BY adding to

Article - Criminal Procedure

Section 11-701(b-1) and 11-705(e)

Annotated Code of Maryland

(2001 Volume)”.

(Over)

On page 2, strike in its entirety line 2 and substitute “Section 11-701(f), (g), (h), and (i), 11-703(a), 11-704, 11-706, 11-707, 11-708(a) and (c), 11-710, and 11-721”; and strike in their entirety lines 5 through 9, inclusive.

AMENDMENT NO. 2

On pages 2 through 6, strike in their entirety the lines beginning with line 13 on page 2 through line 22 on page 6 and substitute:

“11-701.

(a) In this subtitle the following words have the meanings indicated.

(b) “Child sexual offender” means a person who:

(1) has been convicted of violating the abuse of children statute under Article 27, § 35C of the Code for a crime involving sexual abuse of a child under the age of 18 years;

(2) has been convicted of violating any of the provisions of the rape or sexual offense statutes under Article 27, §§ 462 through 464B of the Code for a crime involving a child under the age of 15 years;

(3) has been convicted of violating the fourth degree sexual offense statute under Article 27, § 464C of the Code for a crime involving a child under the age of 15 years and has been ordered by the court to register under this subtitle; or

(4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) and (2) of this subsection.

(B-1) “EMPLOYMENT” MEANS AN OCCUPATION, JOB, OR VOCATION THAT IS FULL-TIME OR PART-TIME FOR A PERIOD EXCEEDING 14 DAYS OR FOR AN AGGREGATE PERIOD EXCEEDING 30 DAYS DURING A CALENDAR YEAR, WHETHER FINANCIALLY COMPENSATED, VOLUNTEERED, OR FOR THE PURPOSE OF GOVERNMENT OR EDUCATIONAL BENEFIT.

(d) “Offender” means a person who is ordered by a court to register under this subtitle and who:

(1) has been convicted of violating child abduction or kidnapping statutes under Article 27, § 2 or § 338 of the Code;

(2) has been convicted of violating the kidnapping statute under Article 27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, § 464C of the Code, if the victim is under the age of 18 years;

(3) has been convicted of the common law crime of false imprisonment, if the victim is under the age of 18 years and the person is not the victim's parent;

(4) has been convicted of a crime that involves soliciting a person under the age of 18 years to engage in sexual conduct;

(5) has been convicted of violating the child pornography statute under Article 27, § 419A of the Code;

(6) has been convicted of violating any of the prostitution and related crimes statutes under Article 27, §§ 426 through 431 of the Code if the intended prostitute or victim is under the age of 18 years;

(7) has been convicted of a crime that involves conduct that by its nature is a sexual offense against a person under the age of 18 years;

(8) has been convicted of an attempt to commit a crime listed in items (1) through (7) of this subsection; or

(9) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of the crimes listed in items (1) through (8) of this subsection.

(f) “Sexually violent offender” means a person who:

(Over)

(1) has been convicted of a sexually violent offense; OR

(2) has been convicted of an attempt to commit a sexually violent offense]; or

(3) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute a sexually violent offense].

(g) “Sexually violent offense” means:

(1) a violation of Article 27, § 462, § 463, § 464, § 464A, § 464B, or § 464F of the Code; [or]

(2) assault with intent to commit rape in the first or second degree or a sexual offense in the first or second degree as prohibited on or before September 30, 1996, under former Article 27, § 12 of the Code; OR

(3) A CRIME COMMITTED IN ANOTHER STATE OR IN A FEDERAL, MILITARY, OR NATIVE AMERICAN TRIBAL JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN ITEM (1) OR (2) OF THIS SUBSECTION.

(h) “Sexually violent predator” means:

(1) a person who:

[(1)] (I) is convicted of a [subsequent] sexually violent offense; and

[(2)] (II) has been determined in accordance with this subtitle to be at risk of committing another sexually violent offense; OR

(2) A PERSON WHO IS OR WAS REQUIRED TO REGISTER EVERY 90 DAYS FOR LIFE UNDER THE LAWS OF ANOTHER STATE OR A FEDERAL, MILITARY, OR NATIVE AMERICAN TRIBAL JURISDICTION.

- (i) “Supervising authority” means:
- (1) the Secretary, if the registrant is in the custody of a correctional facility operated by the Department;
 - (2) the administrator of a local correctional facility, if the registrant, including a participant in a home detention program, is in the custody of the local correctional facility;
 - (3) the court that granted the probation or suspended sentence, except as provided in item (11) of this subsection, if the registrant is granted probation before judgment, probation after judgment, or a suspended sentence;
 - (4) the Director of the Patuxent Institution, if the registrant is in the custody of the Patuxent Institution;
 - (5) the Secretary of Health and Mental Hygiene, if the registrant is in the custody of a facility operated by the Department of Health and Mental Hygiene;
 - (6) the court in which the registrant was convicted, if the registrant's sentence does not include a term of imprisonment;
 - (7) the Secretary, if the registrant is in the State under terms and conditions of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;
 - (8) the Secretary, if the registrant moves to this State and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State;
 - (9) the Secretary, if the registrant moves to this State from another state where the registrant was required to register;

(10) THE SECRETARY, IF THE REGISTRANT IS CONVICTED IN A FEDERAL, MILITARY, OR NATIVE AMERICAN TRIBAL COURT AND IS NOT UNDER SUPERVISION BY ANOTHER SUPERVISING AUTHORITY;

[(10)] (11) the Secretary, if the registrant is not a resident of this State AND HAS BEEN CONVICTED IN ANOTHER STATE OR BY A FEDERAL, MILITARY, OR NATIVE AMERICAN TRIBAL COURT; or

[(11)] (12) The Director of Parole and Probation, if the registrant is under the supervision of the Division of Parole and Probation.

11-703.

(a) (1) Subject to subsections (b) and (c) of this section, if a person is convicted of a [subsequent] sexually violent offense, the State's Attorney before sentencing may ask the court to determine whether the person is a sexually violent predator.

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

11-704.

A person shall register with the person's supervising authority if the person is:

(1) a child sexual offender;

(2) an offender;

(3) a sexually violent offender;

(4) a sexually violent predator;

(5) a child sexual offender who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before October 1, 1995;

(6) an offender, sexually violent offender, or sexually violent predator who, before moving into this State, was required to register in another state or by a federal, military, or Native American tribal court for a crime that occurred before July 1, 1997; or

(7) a child sexual offender, offender, sexually violent offender, or sexually violent predator who is required to register in another state, who is not a resident of this State, and who enters this State:

(i) to carry on employment [or a vocation that is full-time or part-time for a period exceeding 14 days or for an aggregate period exceeding 30 days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit]; or

(ii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full-time or part-time student.

11-705.

(E) (1) A REGISTRANT WHO COMMENCES OR TERMINATES ENROLLMENT AS A FULL-TIME OR PART-TIME STUDENT AT AN INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL SEND WRITTEN NOTICE TO THE DEPARTMENT WITHIN 7 DAYS AFTER THE COMMENCEMENT OR TERMINATION OF ENROLLMENT.

(2) A REGISTRANT WHO COMMENCES OR TERMINATES CARRYING ON EMPLOYMENT AT AN INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL SEND WRITTEN NOTICE TO THE DEPARTMENT WITHIN 7 DAYS AFTER THE COMMENCEMENT OR TERMINATION OF EMPLOYMENT.

11-706.

(a) A registration statement shall include:

(Over)

(1) the registrant's name and address;

(2) (i) for a registrant under § 11-704(7)(i) of this subtitle, the registrant's place of employment; or

(ii) for a registrant under § 11-704(7)(ii) of this subtitle, the registrant's place of educational institution or school enrollment;

(3) (I) FOR A REGISTRANT ENROLLED, OR EXPECTING TO ENROLL, IN AN INSTITUTION OF HIGHER EDUCATION IN THE STATE AS A FULL-TIME OR PART-TIME STUDENT, THE NAME AND ADDRESS OF THE INSTITUTION OF HIGHER EDUCATION; OR

(II) FOR A REGISTRANT WHO CARRIES ON EMPLOYMENT, OR EXPECTS TO CARRY ON EMPLOYMENT, AT AN INSTITUTION OF HIGHER EDUCATION IN THE STATE, THE NAME AND ADDRESS OF THE INSTITUTION OF HIGHER EDUCATION;

~~[(3)]~~ (4) a description of the crime for which the registrant was convicted;

~~[(4)]~~ (5) the date that the registrant was convicted;

~~[(5)]~~ (6) the jurisdiction in which the registrant was convicted;

~~[(6)]~~ (7) a list of any aliases that the registrant has used;

~~[(7)]~~ (8) the registrant's Social Security number; and

~~[(8)]~~ (9) the registrant's signature and date signed.

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

- (1) identifying factors, including a physical description;
- (2) anticipated future residence, if known at the time of registration;
- (3) offense history; and
- (4) documentation of treatment received for a mental abnormality or personality disorder.

11-707.

(a) (1) A child sexual offender shall register annually in person with a local law enforcement unit for the term provided under paragraph (4) of this subsection.

(2) An offender and a sexually violent offender shall register annually with the Department in accordance with § 11-711(a) of this subtitle and for the term provided under paragraph (4) of this subsection.

(3) A sexually violent predator shall register every 90 days in accordance with § 11-711(b) of this subtitle and for the term provided under paragraph (4)(ii) of this subsection.

(4) The term of registration is:

(i) 10 years; or

(ii) life, if:

1. the registrant [has been determined to be] IS a sexually violent predator [in accordance with the procedures described in § 11-703 of this subtitle];

2. the registrant has been convicted of [any violation of Article 27, §§ 462 through 464B of the Code; or] A SEXUALLY VIOLENT OFFENSE;

(Over)

3. THE REGISTRANT HAS BEEN CONVICTED OF A VIOLATION OF § 3-601 OF THE CRIMINAL LAW ARTICLE FOR COMMISSION OF A SEXUAL ACT INVOLVING PENETRATION OF A CHILD UNDER THE AGE OF 12 YEARS; OR

[3.] 4. the registrant [has been previously required to register and] has been convicted of a [subsequent] PRIOR crime as a child sexual [offender or an offender or has been convicted of a subsequent sexually violent offense] OFFENDER, AN OFFENDER, OR A SEXUALLY VIOLENT OFFENDER.

(5) A registrant who is not a resident of the State shall register for the appropriate time specified in this subsection or until the registrant's employment or student enrollment in the State ends.

(b) A term of registration described in this section shall be computed from:

- (1) the last date of release; [or]
- (2) the date granted [probation] PROBATION; or
- (3) THE DATE GRANTED a suspended sentence.

11-708.

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

- (1) give written notice to the registrant of the requirements of this subtitle;
- (2) explain the requirements of this subtitle to the registrant, including:

(i) the duties of a registrant when the registrant changes residence address

in this State;

(ii) THE DUTIES OF A REGISTRANT UNDER § 11-705(E) OF THIS

SUBTITLE:

(III) the requirement for a child sexual offender to register in person with the local law enforcement unit of the county where the child sexual offender will reside or where the child sexual offender who is not a resident of this State will work or attend school; and

[(iii)] (IV) the requirement that if the registrant changes residence address, employment, or school enrollment to another state that has a registration requirement, the registrant shall register with the designated law enforcement unit of that state within 7 days after the change; and

(3) obtain a statement signed by the registrant acknowledging that the supervising authority explained the requirements of this subtitle and gave written notice of the requirements to the registrant.

(c) (1) Within 5 days after obtaining a registration statement, the supervising authority shall send a copy of the registration statement with the attached fingerprints and photograph of the registrant to the local law enforcement unit in the county where the registrant will reside or where a registrant who is not a resident will work or attend school.

(2) (I) IF THE REGISTRANT IS ENROLLED IN OR CARRIES ON EMPLOYMENT AT, OR IS EXPECTING TO ENROLL IN OR CARRY ON EMPLOYMENT AT, AN INSTITUTION OF HIGHER EDUCATION IN THE STATE, WITHIN 5 DAYS AFTER OBTAINING A REGISTRATION STATEMENT, THE SUPERVISING AUTHORITY SHALL SEND A COPY OF THE REGISTRATION STATEMENT WITH THE ATTACHED FINGERPRINTS AND PHOTOGRAPH OF THE REGISTRANT TO THE CAMPUS POLICE AGENCY OF THE INSTITUTION OF HIGHER EDUCATION.

(II) IF AN INSTITUTION OF HIGHER EDUCATION DOES NOT HAVE A CAMPUS POLICE AGENCY, THE COPY OF THE REGISTRATION STATEMENT WITH THE ATTACHED FINGERPRINTS AND PHOTOGRAPH OF THE REGISTRANT SHALL BE PROVIDED TO THE LOCAL LAW ENFORCEMENT AGENCY HAVING PRIMARY JURISDICTION FOR THE CAMPUS.

(Over)

11-710.

(A) As soon as possible but not later than 5 working days after receipt of notice of a registrant's change of address, the Department shall give notice of the change:

(1) if the registration is premised on a conviction under federal, military, or Native American tribal law, to the designated federal unit; and

(2) (i) to the local law enforcement unit in whose county the new residence is located; or

(ii) if the new residence is in a different state that has a registration requirement, to the designated law enforcement unit in that state.

(B) (1) (I) AS SOON AS POSSIBLE BUT NOT LATER THAN 5 WORKING DAYS AFTER RECEIPT OF NOTICE UNDER § 11-705(E) OF THIS SUBTITLE, THE DEPARTMENT SHALL GIVE NOTICE TO THE CAMPUS POLICE AGENCY OF THE INSTITUTION OF HIGHER EDUCATION WHERE THE REGISTRANT IS COMMENCING OR TERMINATING ENROLLMENT OR EMPLOYMENT.

(II) IF AN INSTITUTION OF HIGHER EDUCATION DOES NOT HAVE A CAMPUS POLICE AGENCY, THE NOTICE REQUIRED UNDER THIS SECTION SHALL BE PROVIDED TO THE LOCAL LAW ENFORCEMENT AGENCY HAVING PRIMARY JURISDICTION FOR THE CAMPUS.

(2) INSTITUTIONS OF HIGHER EDUCATION CURRENTLY REQUIRED TO DISCLOSE CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS DATA SHALL ADVISE THE CAMPUS COMMUNITY WHERE LAW ENFORCEMENT AGENCY INFORMATION PROVIDED BY A STATE CONCERNING REGISTERED SEX OFFENDERS MAY BE OBTAINED.

(3) AN INSTITUTION OF HIGHER EDUCATION IS NOT PROHIBITED FROM DISCLOSING INFORMATION PROVIDED TO THE INSTITUTION UNDER THIS

SUBTITLE CONCERNING REGISTERED SEX OFFENDERS.

11-721.

(a) A registrant may not knowingly fail to register, KNOWINGLY FAIL TO PROVIDE THE WRITTEN NOTICE REQUIRED UNDER § 11-705(D) OR § 11-705(E) OF THIS SUBTITLE, or knowingly provide false information of a material fact as required by this subtitle.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.”;

and in line 24, strike “October 1” and substitute “September 30”.