

HOUSE BILL 77

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E2

2002 Regular Session
(21r0843)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Dembrow**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure - ~~Sexual~~ Sexually Violent Offenders - Registration**

3 FOR the purpose of altering the definition of "~~sexually violent offense~~" a sexually
4 violent offense to include certain crimes committed against a person under a
5 certain age and to include certain crimes committed in certain jurisdictions that,
6 if committed in this State, would constitute certain offenses; ~~altering the~~
7 ~~definition of "sexually violent predator" to include certain offenders; altering the~~
8 ~~period of time for which certain offenders are required to register with a~~
9 ~~supervising authority; providing for the effective date of this Act; making certain~~
10 ~~conforming changes~~ altering the definition of "sexually violent predator" to
11 include certain offenders and certain persons who are or were required to register
12 for certain time periods under the laws of certain jurisdictions; establishing
13 certain conditions for the termination of registration in a certain program for
14 registration of sex offenders and certain other offenders; requiring a certain sex
15 offender registrant who commences or terminates a certain enrollment or
16 employment at an institution of higher education in the State to provide a certain
17 notice within a certain time period; requiring a certain registration statement to

1 include the name and address of a certain institution of higher education if a
 2 certain registrant is enrolled or carrying on employment or expecting to enroll or
 3 carry on employment in a certain manner; altering the period of time for which
 4 certain offenders are required to register with a supervising authority; clarifying
 5 the calculation of a certain term of registration; requiring the supervising
 6 authority to explain certain requirements to a certain registrant; requiring that
 7 certain notifications be mailed to certain campus police agencies or law
 8 enforcement agencies having a certain jurisdiction within a certain time period
 9 under certain circumstances; requiring certain institutions to provide certain
 10 advice to a campus community; providing that an institution of higher education
 11 is not prohibited from disclosing certain information; providing that it is a
 12 misdemeanor subject to a certain penalty to knowingly fail to provide certain
 13 notices; altering certain definitions; defining certain terms; making certain
 14 conforming changes; providing for the effective date of this Act; and generally
 15 relating to sexual offender registration.

16 BY repealing and reenacting, without amendments,
 17 Article - Criminal Procedure
 18 Section 11-701(a), (b), and (d)
 19 Annotated Code of Maryland
 20 (2001 Volume)

21 BY adding to
 22 Article - Criminal Procedure
 23 Section 11-701(b-1) and 11-705(e)
 24 Annotated Code of Maryland
 25 (2001 Volume)

26 BY repealing and reenacting, with amendments,
 27 Article - Criminal Procedure
 28 Section 11-701(f), (g), ~~and (h), and (i)~~, 11-703(a), ~~and 11-707(a)~~ 11-704, 11-706,
 29 11-707, 11-708(a) and (c), 11-710, and 11-721
 30 Annotated Code of Maryland
 31 (2001 Volume)

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

34 **Article - Criminal Procedure**

35 ~~11-701.~~

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

37 (b) ~~"Child sexual offender" means a person who:~~

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

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

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

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

13 (d) "Offender" means a person who is ordered by a court to register under this
14 subtitle and who:

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

17 (2) has been convicted of violating the kidnapping statute under Article
18 27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, §
19 464C of the Code, if the victim is under the age of 18 years;

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

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

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

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

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

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

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

36 (f) "Sexually violent offender" means a person who:

- 1 (1) has been convicted of a sexually violent offense; OR
- 2 (2) has been convicted of an attempt to commit a sexually violent
3 offense; or
- 4 (3) has been convicted in another state or in a federal, military, or Native
5 American tribal court of a crime that, if committed in this State, would constitute a
6 sexually violent offense.

7 (g) "Sexually violent offense" means:

- 8 (1) a violation of Article 27, § 462, § 463, § 464, § 464A, § 464B, or § 464F
9 of the Code; [or]
- 10 (2) assault with intent to commit rape in the first or second degree or a
11 sexual offense in the first or second degree as prohibited on or before September 30,
12 1996, under former Article 27, § 12 of the Code; OR

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

17 (h) "Sexually violent predator" means a person who:

- 18 (1) is convicted of a [subsequent] sexually violent offense; and
- 19 (2) has been determined in accordance with this subtitle to be at risk of
20 committing another sexually violent offense.

21 ~~11-703.~~

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

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

29 ~~11-707.~~

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

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

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

4 (4) The term of registration is:

5 (i) 10 years; or

6 (ii) life, if:

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

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

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

14 4. the registrant [has been previously required to register
15 and] has been convicted of a [subsequent] PRIOR crime as a child sexual offender or
16 an offender [or has been convicted of a subsequent sexually violent offense].

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

20 11-701.

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

22 (b) "Child sexual offender" means a person who:

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

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

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

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

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

6 (d) "Offender" means a person who is ordered by a court to register under this
7 subtitle and who:

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

10 (2) has been convicted of violating the kidnapping statute under Article
11 27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, §
12 464C of the Code, if the victim is under the age of 18 years;

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

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

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

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

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

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

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

29 (f) "Sexually violent offender" means a person who:

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

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

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

36 (g) "Sexually violent offense" means:

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

3 (2) assault with intent to commit rape in the first or second degree or a
4 sexual offense in the first or second degree as prohibited on or before September 30,
5 1996, under former Article 27, § 12 of the Code; OR

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

10 (h) "Sexually violent predator" means:

11 (1) a person who:

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

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

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

18 (i) "Supervising authority" means:

19 (1) the Secretary, if the registrant is in the custody of a correctional
20 facility operated by the Department;

21 (2) the administrator of a local correctional facility, if the registrant,
22 including a participant in a home detention program, is in the custody of the local
23 correctional facility;

24 (3) the court that granted the probation or suspended sentence, except as
25 provided in item (11) of this subsection, if the registrant is granted probation before
26 judgment, probation after judgment, or a suspended sentence;

27 (4) the Director of the Patuxent Institution, if the registrant is in the
28 custody of the Patuxent Institution;

29 (5) the Secretary of Health and Mental Hygiene, if the registrant is in the
30 custody of a facility operated by the Department of Health and Mental Hygiene;

31 (6) the court in which the registrant was convicted, if the registrant's
32 sentence does not include a term of imprisonment;

33 (7) the Secretary, if the registrant is in the State under terms and
34 conditions of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title
35 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections Compact,
36 set forth in Title 8, Subtitle 6 of the Correctional Services Article;

1 (8) the Secretary, if the registrant moves to this State and was convicted
 2 in another state of a crime that would require the registrant to register if the crime was
 3 committed in this State;

4 (9) the Secretary, if the registrant moves to this State from another state
 5 where the registrant was required to register;

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

9 ~~[(10)]~~ (11) the Secretary, if the registrant is not a resident of this State AND
 10 HAS BEEN CONVICTED IN ANOTHER STATE OR BY A FEDERAL, MILITARY, OR NATIVE
 11 AMERICAN TRIBAL COURT; or

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

14 11-703.

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

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

22 11-704.

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

24 (1) a child sexual offender;

25 (2) an offender;

26 (3) a sexually violent offender;

27 (4) a sexually violent predator;

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

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

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

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

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

11 11-705.

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

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

20 11-706.

21 (a) A registration statement shall include:

22 (1) the registrant's name and address;

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

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

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

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

35 [(3)] (4) a description of the crime for which the registrant was convicted;

36 [(4)] (5) the date that the registrant was convicted;

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

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

13 11-710.

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

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

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

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

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

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

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

36 (3) AN INSTITUTION OF HIGHER EDUCATION IS NOT PROHIBITED FROM
37 DISCLOSING INFORMATION PROVIDED TO THE INSTITUTION UNDER THIS SUBTITLE
38 CONCERNING REGISTERED SEX OFFENDERS.

1 11-721.

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

6 (b) A person who violates this section is guilty of a misdemeanor and on
7 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
8 \$5,000 or both.

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect ~~October 1~~ September 30, 2002.