

(PRE-FILED)

By: **Delegate Dembrow**

Requested: November 6, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sexual Offenders - Registration**

3 FOR the purpose of altering the definition of "sexually violent offense" to include
4 certain crimes committed in certain jurisdictions that, if committed in this
5 State, would constitute certain offenses; altering the definition of "sexually
6 violent predator" to include certain offenders; altering the period of time for
7 which certain offenders are required to register with a supervising authority;
8 making certain conforming changes; and generally relating to sexual offender
9 registration.

10 BY repealing and reenacting, without amendments,

11 Article - Criminal Procedure
12 Section 11-701(a), (b), and (d)
13 Annotated Code of Maryland
14 (2001 Volume)

15 BY repealing and reenacting, with amendments,

16 Article - Criminal Procedure
17 Section 11-701(f), (g), and (h), 11-703(a), and 11-707(a)
18 Annotated Code of Maryland
19 (2001 Volume)

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

22 **Article - Criminal Procedure**

23 11-701.

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

25 (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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2002.