
By: **Delegates Hecht, Rudolph, Grosfeld, Dembrow, Snodgrass, Bartlett,
Elliott, Kagan, Goldwater, Gladden, Bronrott, Patterson, Howard,
Barkley, Pitkin, R. Baker, and McIntosh**

Introduced and read first time: February 14, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offender - Registration - Psychological Evaluation**

3 FOR the purpose of requiring that certain offenders on being released on probation,
4 parole, or mandatory supervision undergo a psychological evaluation; providing
5 that failure to undergo the evaluation or comply with the treatment ordered
6 violates a condition of probation, parole, or mandatory supervision; altering the
7 deadline for registration under certain conditions for certain persons who are
8 required to register with the sexual offender registry; and generally relating to
9 the registration and conditions of probation, parole, and mandatory supervision
10 for certain offenders required to register with the sexual offender registry.

11 BY repealing and reenacting, with amendments,
12 Article - Correctional Services
13 Section 7-308 and 7-502
14 Annotated Code of Maryland
15 (1999 Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Criminal Procedure
18 Section 6-221 and 11-705
19 Annotated Code of Maryland
20 (2001 Volume)

21 BY repealing and reenacting, without amendments,
22 Article - Criminal Procedure
23 Section 11-701 and 11-704
24 Annotated Code of Maryland
25 (2001 Volume)

26 BY adding to
27 Article - Criminal Procedure

1 Section 11-704.1
2 Annotated Code of Maryland
3 (2001 Volume)

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

6 **Article - Correctional Services**

7 7-308.

8 (a) A parole shall be evidenced by a written order.

9 (b) Parole entitles the recipient:

10 (1) to leave the correctional facility in which the recipient was confined;
11 and

12 (2) if the recipient satisfactorily complies with all the terms and
13 conditions provided in the parole order, to serve the remainder of the recipient's term
14 of confinement outside the confines of the correctional facility.

15 (c) A RECIPIENT OF PAROLE WHO HAS BEEN CONVICTED OF A CRIME LISTED
16 IN § 11-701(B), (D), OR (G) OF THE CRIMINAL PROCEDURE ARTICLE IS REQUIRED TO
17 UNDERGO A PSYCHOLOGICAL EVALUATION AND COMPLETE ANY TREATMENT
18 PROGRAM ORDERED AS A RESULT OF THE EVALUATION AS A CONDITION OF PAROLE.

19 (D) A parolee remains in legal custody until the expiration of the parolee's full,
20 undiminished term.

21 [(d)] (E) The chairperson of the Commission shall file a copy of the parole
22 order with the clerk of the court in which the parolee was sentenced.

23 7-502.

24 (a) An individual on mandatory supervision remains in legal custody until the
25 expiration of the individual's full term.

26 (b) An individual on mandatory supervision is subject to:

27 (1) all laws, rules, regulations, and conditions that apply to parolees; and

28 (2) any special conditions established by a commissioner.

29 (C) AN INDIVIDUAL ON MANDATORY SUPERVISION WHO HAS BEEN
30 CONVICTED OF A CRIME LISTED IN § 11-701(B), (D), OR (G) OF THE CRIMINAL
31 PROCEDURE ARTICLE IS REQUIRED TO UNDERGO A PSYCHOLOGICAL EVALUATION
32 AND COMPLETE ANY TREATMENT PROGRAM ORDERED AS A RESULT OF THE
33 EVALUATION AS A CONDITION OF MANDATORY SUPERVISION.

Article - Criminal Procedure

1 6-221.

2 (A) [On] SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON entering a
3 judgment of conviction, the court may suspend the imposition or execution of sentence
4 and place the defendant on probation on the conditions that the court considers
5 proper.
6

7 (B) AS A CONDITION OF PROBATION, THE COURT SHALL REQUIRE A
8 DEFENDANT WHO HAS BEEN CONVICTED OF A CRIME LISTED IN § 11-701(B), (D), OR
9 (G) OF THIS ARTICLE TO UNDERGO A PSYCHOLOGICAL EVALUATION AND COMPLETE
10 ANY TREATMENT PROGRAM ORDERED AS A RESULT OF THE EVALUATION.

11 11-701.

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

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

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

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

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

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

26 (c) "Local law enforcement unit" means the law enforcement unit in a county
27 that has been designated by resolution of the county governing body as the primary
28 law enforcement unit in the county.

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

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

33 (2) has been convicted of violating the kidnapping statute under Article
34 27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, §
35 464C of the Code, if the victim is under the age of 18 years;

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

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

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

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

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

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

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

17 (e) (1) Except as otherwise provided in this subsection, "release" means any
18 type of release from the custody of a supervising authority.

19 (2) "Release" includes:

20 (i) release on parole, mandatory supervision, and work release;
21 and

22 (ii) except for leave that is granted on an emergency basis, any type
23 of temporary leave.

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

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

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

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

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

32 (g) "Sexually violent offense" means:

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

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

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

5 (1) is convicted of a subsequent sexually violent offense; and

6 (2) has been determined in accordance with this subtitle to be at risk of
7 committing another sexually violent offense.

8 (i) "Supervising authority" means:

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

11 (2) the administrator of a local correctional facility, if the registrant,
12 including a participant in a home detention program, is in the custody of the local
13 correctional facility;

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

17 (4) the Director of the Patuxent Institution, if the registrant is in the
18 custody of the Patuxent Institution;

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

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

23 (7) the Secretary, if the registrant is in the State under terms and
24 conditions of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title
25 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
26 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

32 (10) the Secretary, if the registrant is not a resident of this State; or

33 (11) the Director of Parole and Probation, if the registrant is under the
34 supervision of the Division of Parole and Probation.

1 11-704.

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

3 (1) a child sexual offender;

4 (2) an offender;

5 (3) a sexually violent offender;

6 (4) a sexually violent predator;

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

10 (6) an offender, sexually violent offender, or sexually violent predator
11 who, before moving into this State, was required to register in another state or by a
12 federal, military, or Native American tribal court for a crime that occurred before July
13 1, 1997; or

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

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

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

24 11-704.1.

25 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON REQUIRED
26 TO REGISTER UNDER § 11-704 OF THIS SUBTITLE SHALL UNDERGO, AS A CONDITION
27 OF THE PERSON'S PAROLE OR MANDATORY SUPERVISION, A PSYCHOLOGICAL
28 EVALUATION AND COMPLETE ANY TREATMENT PROGRAM ORDERED AS A RESULT OF
29 THE EVALUATION.

30 (B) A PERSON WHO DOES NOT UNDERGO THE PSYCHOLOGICAL EVALUATION
31 OR COMPLETE THE TREATMENT PROGRAM IS IN VIOLATION OF THE CONDITIONS OF
32 THE PERSON'S PAROLE OR MANDATORY SUPERVISION.

33 11-705.

34 (a) In this section, "resident" means a person who lives in this State when the
35 person:

- 1 (1) is released;
- 2 (2) is granted probation;
- 3 (3) is granted a suspended sentence; or
- 4 (4) receives a sentence that does not include a term of imprisonment.

5 (b) A registrant shall register with the supervising authority:

6 (1) if the registrant is a resident, on or before the date that the
7 registrant:

- 8 (i) is released;
- 9 (ii) is granted probation before judgment;
- 10 (iii) is granted probation after judgment;
- 11 (iv) is granted a suspended sentence; or
- 12 (v) receives a sentence that does not include a term of
13 imprisonment;

14 (2) if the registrant moves into the State, within [7 days] 48 HOURS
15 after the earlier of the date that the registrant:

- 16 (i) establishes a temporary or permanent residence in the State; or
- 17 (ii) applies for a driver's license in the State; or

18 (3) if the registrant is not a resident, within [14 days] 48 HOURS after
19 the registrant:

- 20 (i) begins employment in the State; or
- 21 (ii) registers as a student in the State.

22 (c) (1) A child sexual offender shall also register in person with the local law
23 enforcement unit of the county where the child sexual offender will reside:

24 (i) within [7 days] 48 HOURS after release, if the child sexual
25 offender is a resident; or

26 (ii) within [7 days] 48 HOURS after registering with the
27 supervising authority, if the registrant is moving into this State.

28 (2) Within [7 days] 48 HOURS after registering with the supervising
29 authority, a child sexual offender who is not a resident and who works or attends
30 school in this State shall also register in person with the local law enforcement unit of
31 the county where the child sexual offender will work or attend school.

1 (3) A child sexual offender may be required to give to the local law
2 enforcement unit more information than required under § 11-706 of this subtitle.

3 (d) A registrant who changes residences shall send written notice of the
4 change to the Department within [7 days] 48 HOURS after the change occurs.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2002.