

SENATE BILL 52

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2002 Regular Session
(21r0925)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by ~~Senator Stone~~ Senators Stone, DeGrange, Green, Jacobs, Colburn, Forehand, Haines, Jimeno, Mooney, and Sfikas and Chairman, Judicial Proceedings Committee (Departmental - Public Safety and Correctional Services)

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.

President.

CHAPTER _____

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 establishing certain conditions for the termination of registration in~~
10 ~~a certain program for registration of sex offenders and certain other offenders;~~
11 ~~altering the term of registration for certain sex offenders and certain other~~
12 ~~offenders; making stylistic changes; and generally relating to registration of~~
13 ~~certain sex offenders and certain other offenders.~~

14 ~~BY repealing and reenacting, without amendments,~~

1 Article—Criminal Procedure
 2 Section ~~11-701(a), (b), and (d)~~
 3 Annotated Code of Maryland
 4 (2001 Volume)

5 BY repealing and reenacting, with amendments,
 6 Article - Criminal Procedure
 7 Section ~~11-701(f), (g), and (h), 11-703(a), 11-704~~ and 11-707(a)
 8 Annotated Code of Maryland
 9 (2001 Volume)

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

12 **Article - Criminal Procedure**

13 ~~11-701.~~

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

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

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

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

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

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

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

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

32 (2) ~~has been convicted of violating the kidnapping statute under Article~~
 33 ~~27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, §~~
 34 ~~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 (f) "Sexually violent offender" means a person who:

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

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

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

24 (g) "Sexually violent offense" means:

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

27 (2) assault with intent to commit rape in the first or second degree or a
28 sexual offense in the first or second degree as prohibited on or before September 30,
29 1996, under former Article 27, § 12 of the Code; OR

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

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

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

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

3 ~~11-703.~~

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

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

11 11-704.

12 (A) A person shall register with the person's supervising authority if the
13 person is:

14 (1) a child sexual offender;

15 (2) an offender;

16 (3) a sexually violent offender;

17 (4) a sexually violent predator;

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

21 (6) an offender, sexually violent offender, or sexually violent predator
22 who, before moving into this State, was required to register in another state or by a
23 federal, military, or Native American tribal court for a crime that occurred before July
24 1, 1997; or

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

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

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

35 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON IS NO
36 LONGER SUBJECT TO REGISTRATION UNDER THIS SUBTITLE IF:

1 (1) THE UNDERLYING CONVICTION REQUIRING REGISTRATION IS
2 REVERSED, VACATED, OR SET ASIDE; OR

3 (2) THE REGISTRANT IS PARDONED FOR THE UNDERLYING CONVICTION.
4 11-707.

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

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

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

13 (4) The term of registration is:

14 (i) 10 years; or

15 (ii) life, if:

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

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

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

23 4. the registrant ~~[has been previously required to register~~
24 ~~and] has been convicted of a [subsequent] PRIOR crime as a child sexual offender or~~
25 ~~an offender [or has been convicted of a subsequent sexually violent offense]~~
26 CONVICTED OF ANY OFFENSE REQUIRING REGISTRATION UNDER THIS SUBTITLE.
27 HAS BEEN CONVICTED OF A PRIOR CRIME AS A CHILD SEXUAL OFFENDER, AN
28 OFFENDER, OR A SEXUALLY VIOLENT OFFENDER.

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

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

