

SENATE BILL 52

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2002 Regular Session
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(PRE-FILED)

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

Requested: November 15, 2001
Introduced and read first time: January 9, 2002
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 13, 2002

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,~~
15 ~~Article - Criminal Procedure~~
16 ~~Section 11-701(a), (b), and (d)~~
17 ~~Annotated Code of Maryland~~
18 ~~(2001 Volume)~~

19 BY repealing and reenacting, with amendments,
20 Article - Criminal Procedure
21 Section ~~11-701(f), (g), and (h), 11-703(a), 11-704~~ and 11-707(a)

1 Annotated Code of Maryland
2 (2001 Volume)

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

5 **Article - Criminal Procedure**

6 ~~11-701.~~

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

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

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

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

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

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

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

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

25 (2) ~~has been convicted of violating the kidnapping statute under Article~~
26 ~~27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, §~~
27 ~~464C of the Code, if the victim is under the age of 18 years;~~

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

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

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

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

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

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

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

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

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

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

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

18 (g) "Sexually violent offense" means:

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

21 (2) assault with intent to commit rape in the first or second degree or a
22 sexual offense in the first or second degree as prohibited on or before September 30,
23 1996, under former Article 27, § 12 of the Code; OR

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

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

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

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

32 11-703.

33 (a) (1) Subject to subsections (b) and (c) of this section, if a person is
34 convicted of a [subsequent] sexually violent offense, the State's Attorney before

1 sentencing may ask the court to determine whether the person is a sexually violent
2 predator.

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

6 11-704.

7 (A) A person shall register with the person's supervising authority if the
8 person is:

9 (1) a child sexual offender;

10 (2) an offender;

11 (3) a sexually violent offender;

12 (4) a sexually violent predator;

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

16 (6) an offender, sexually violent offender, or sexually violent predator
17 who, before moving into this State, was required to register in another state or by a
18 federal, military, or Native American tribal court for a crime that occurred before July
19 1, 1997; or

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

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

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

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

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

34 (2) THE REGISTRANT IS PARDONED FOR THE UNDERLYING CONVICTION.

1 11-707.

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

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

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

10 (4) The term of registration is:

11 (i) 10 years; or

12 (ii) life, if:

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

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

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

20 4. the registrant ~~{has been previously required to register~~
21 ~~and} has been convicted of a ~~[subsequent] PRIOR~~ crime as a child sexual offender or
22 ~~an offender [or has been convicted of a subsequent sexually violent offense]~~
23 CONVICTED OF ANY OFFENSE REQUIRING REGISTRATION UNDER THIS SUBTITLE.~~

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

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