

(PRE-FILED)

By: **Chairman, Judicial Proceedings Committee (Departmental - Public
Safety and Correctional Services)**

Requested: November 7, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Convictions for Crimes Against Children, Sexually Violent Offenses, or**
3 **Other Sexual Offenses - Term of Registration**

4 FOR the purpose of establishing certain conditions for the termination of registration
5 in a certain program for registration of sex offenders and certain other offenders;
6 altering the term of registration for certain sex offenders and certain other
7 offenders; making stylistic changes; and generally relating to registration of
8 certain sex offenders and certain other offenders.

9 BY repealing and reenacting, without amendments,
10 Article - Criminal Procedure
11 Section 11-701 and 11-705
12 Annotated Code of Maryland
13 (2001 Volume)

14 BY repealing and reenacting, with amendments,
15 Article - Criminal Procedure
16 Section 11-704 and 11-707
17 Annotated Code of Maryland
18 (2001 Volume)

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

21 **Article - Criminal Procedure**

22 11-701.

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

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

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

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

20 (2) has been convicted of violating the kidnapping statute under Article
21 27, § 337 of the Code or the fourth degree sexual offense statute under Article 27, §
22 464C of the Code, if the victim is under the age of 18 years;

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

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

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

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

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

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

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

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

6 (2) "Release" includes:

7 (i) release on parole, mandatory supervision, and work release;
8 and

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

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

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

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

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

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

19 (g) "Sexually violent offense" means:

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

22 (2) assault with intent to commit rape in the first or second degree or a
23 sexual offense in the first or second degree as prohibited on or before September 30,
24 1996, under former Article 27, § 12 of the Code.

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

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

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

29 (i) "Supervising authority" means:

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

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

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

7 (4) the Director of the Patuxent Institution, if the registrant is in the
8 custody of the Patuxent Institution;

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

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

13 (7) the Secretary, if the registrant is in the State under terms and
14 conditions of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title
15 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
16 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

25 11-704.

26 (A) A person shall register with the person's supervising authority if the
27 person is:

28 (1) a child sexual offender;

29 (2) an offender;

30 (3) a sexually violent offender;

31 (4) a sexually violent predator;

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

1 (6) an offender, sexually violent offender, or sexually violent predator
2 who, before moving into this State, was required to register in another state or by a
3 federal, military, or Native American tribal court for a crime that occurred before July
4 1, 1997; or

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

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

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

15 (B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A
16 PERSON IS NO LONGER SUBJECT TO REGISTRATION UNDER THIS SUBTITLE IF:

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

19 (2) THE REGISTRANT IS PARDONED FOR THE UNDERLYING CONVICTION.
20 11-705.

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

23 (1) is released;

24 (2) is granted probation;

25 (3) is granted a suspended sentence; or

26 (4) receives a sentence that does not include a term of imprisonment.

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

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

30 (i) is released;

31 (ii) is granted probation before judgment;

32 (iii) is granted probation after judgment;

33 (iv) is granted a suspended sentence; or

1 (v) receives a sentence that does not include a term of
2 imprisonment;

3 (2) if the registrant moves into the State, within 7 days after the earlier
4 of the date that the registrant:

5 (i) establishes a temporary or permanent residence in the State; or

6 (ii) applies for a driver's license in the State; or

7 (3) if the registrant is not a resident, within 14 days after the registrant:

8 (i) begins employment in the State; or

9 (ii) registers as a student in the State.

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

12 (i) within 7 days after release, if the child sexual offender is a
13 resident; or

14 (ii) within 7 days after registering with the supervising authority, if
15 the registrant is moving into this State.

16 (2) Within 7 days after registering with the supervising authority, a child
17 sexual offender who is not a resident and who works or attends school in this State
18 shall also register in person with the local law enforcement unit of the county where
19 the child sexual offender will work or attend school.

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

22 (d) A registrant who changes residences shall send written notice of the
23 change to the Department within 7 days after the change occurs.

24 11-707.

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

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

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

33 (4) The term of registration is:

1 (i) 10 years; or

2 (ii) life, if:

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

5 2. the registrant has been convicted of any violation of Article
6 27, §§ 462 through 464B of the Code; or

7 3. the registrant has been previously [required to register
8 and has been] convicted of [a subsequent crime as a child sexual offender or an
9 offender or has been convicted of a subsequent sexually violent] ANY offense
10 REQUIRING REGISTRATION UNDER THIS SUBTITLE.

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

14 (b) A term of registration described in this section shall be computed from:

15 (1) the last date of release; or

16 (2) the date granted probation or a suspended sentence.

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