

SENATE BILL 140

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2002 Regular Session
2lr0957

By: **Senator Stone**

Introduced and read first time: January 11, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sexually Violent Offenders - Registration**

3 FOR the purpose of altering the definition of a sexually violent offense to include
4 certain crimes committed against a person under a certain age and to include
5 certain crimes committed in certain jurisdictions that, if committed in this
6 State, would constitute certain offenses; eliminating certain provisions relating
7 to sexually violent predators; requiring that certain information be included in a
8 registration statement for a sexually violent offender; requiring a sexually
9 violent offender to register with a certain entity every 90 days for a term of life;
10 altering the period of time for which certain child sexual offenders and offenders
11 are required to register; requiring a local law enforcement unit to mail a certain
12 verification form to a certain address of a sexually violent offender every 90
13 days; requiring a sexually violent offender to sign a certain form within a certain
14 period of time and mail it to a local law enforcement unit; requiring a local law
15 enforcement unit to send a copy of a certain verification form to the Department
16 of Public Safety and Correctional Services within a certain period of time;
17 making certain conforming changes; and generally relating to sexual offender
18 registration.

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

24 BY repealing and reenacting, with amendments,
25 Article - Criminal Procedure
26 Section 11-701(f), (g), (h), and (i), 11-704, 11-706(b), 11-707, and 11-711
27 Annotated Code of Maryland
28 (2001 Volume)

29 BY repealing
30 Article - Criminal Procedure
31 Section 11-703

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

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

10 (2) has been convicted of an attempt to commit a sexually violent
11 offense[; or

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

15 (g) "Sexually violent offense" means:

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

18 (2) assault with intent to commit rape in the first or second degree or a
19 sexual offense in the first or second degree as prohibited on or before September 30,
20 1996, under former Article 27, § 12 of the Code;

21 (3) A VIOLATION OF § 3-601 OF THE CRIMINAL LAW ARTICLE FOR
22 COMMISSION OF A SEXUAL ACT INVOLVING PENETRATION OF A CHILD UNDER THE
23 AGE OF 12 YEARS; OR

24 (4) 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), (2), OR (3)
27 OF 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 (i)] "Supervising authority" means:

- 1 (1) the Secretary, if the registrant is in the custody of a correctional
2 facility operated by the Department;
- 3 (2) the administrator of a local correctional facility, if the registrant,
4 including a participant in a home detention program, is in the custody of the local
5 correctional facility;
- 6 (3) the court that granted the probation or suspended sentence, except as
7 provided in item (11) of this subsection, if the registrant is granted probation before
8 judgment, probation after judgment, or a suspended sentence;
- 9 (4) the Director of the Patuxent Institution, if the registrant is in the
10 custody of the Patuxent Institution;
- 11 (5) the Secretary of Health and Mental Hygiene, if the registrant is in
12 the custody of a facility operated by the Department of Health and Mental Hygiene;
- 13 (6) the court in which the registrant was convicted, if the registrant's
14 sentence does not include a term of imprisonment;
- 15 (7) the Secretary, if the registrant is in the State under terms and
16 conditions of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title
17 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
18 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;
- 19 (8) the Secretary, if the registrant moves to this State and was convicted
20 in another state of a crime that would require the registrant to register if the crime
21 was committed in this State;
- 22 (9) the Secretary, if the registrant moves to this State from another state
23 where the registrant was required to register;
- 24 (10) the Secretary, if the registrant is not a resident of this State; or
- 25 (11) the Director of Parole and Probation, if the registrant is under the
26 supervision of the Division of Parole and Probation.

27 [11-703.

- 28 (a) (1) Subject to subsections (b) and (c) of this section, if a person is
29 convicted of a subsequent sexually violent offense, the State's Attorney before
30 sentencing may ask the court to determine whether the person is a sexually violent
31 predator.
- 32 (2) If the State's Attorney makes a request under paragraph (1) of this
33 subsection, the court shall determine, before or at sentencing, whether the person is a
34 sexually violent predator.
- 35 (b) In making a determination under subsection (a) of this section, the court
36 shall consider:

1 (1) evidence that the court considers appropriate to the determination of
2 whether the person is a sexually violent predator, including the presentencing
3 investigation and sexually violent offender's inmate record;

4 (2) evidence introduced by the person convicted; and

5 (3) at the request of the State's Attorney, evidence that a victim of the
6 sexually violent offense presents.

7 (c) The State's Attorney may not ask a court to determine whether a person is
8 a sexually violent predator under this section unless the State's Attorney serves
9 written notice of intent to make the request on the defendant or the defendant's
10 counsel at least 30 days before trial.]

11 11-704.

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

13 (1) a child sexual offender;

14 (2) an offender;

15 (3) a sexually violent offender;

16 (4) [a sexually violent predator;

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

20 [(6)] (5) an [offender,] OFFENDER OR sexually violent offender[, or
21 sexually violent predator] who, before moving into this State, was required to register
22 in another state or by a federal, military, or Native American tribal court for a crime
23 that occurred before July 1, 1997; or

24 [(7)] (6) a child sexual offender, offender, OR sexually violent offender[,
25 or sexually violent predator] who is required to register in another state, who is not
26 a resident of this State, and who enters this State:

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

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

1 11-706.

2 (b) If the registrant is a sexually violent [predator] OFFENDER, the
3 registration statement shall also include:

- 4 (1) identifying factors, including a physical description;
- 5 (2) anticipated future residence, if known at the time of registration;
- 6 (3) offense history; and
- 7 (4) documentation of treatment received for a mental abnormality or
8 personality disorder.

9 11-707.

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

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

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

18 (4) The term of registration is:

19 (i) 10 years; or

20 (ii) life, if:

21 1. the registrant [has been determined to be a sexually
22 violent predator in accordance with the procedures described in § 11-703 of this
23 subtitle] IS A SEXUALLY VIOLENT OFFENDER; OR

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

26 3.] the registrant [has been previously required to register
27 and] has been convicted of a [subsequent] PRIOR crime as a child sexual offender or
28 an offender [or has been convicted of a subsequent sexually violent offense].

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

33 (1) the last date of release; or

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

2 11-711.

3 (a) (1) The Department shall mail annually a verification form to the last
4 reported address of each offender [and sexually violent offender].

5 (2) The verification form may not be forwarded.

6 (3) Within 10 days after receiving the verification form, the offender [or
7 sexually violent offender] shall sign the verification form and mail it to the
8 Department.

9 (b) (1) A local law enforcement unit shall mail a verification form every 90
10 days to the last reported address of a sexually violent [predator] OFFENDER.

11 (2) The verification form may not be forwarded.

12 (3) Within 10 days after receiving the verification form, the sexually
13 violent [predator] OFFENDER shall sign the form and mail it to the local law
14 enforcement unit.

15 (4) Within 5 days after receiving a verification form from a sexually
16 violent [predator] OFFENDER, a local law enforcement unit shall send a copy of the
17 verification form to the Department.

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