
By: **Senators Jacobs, Colburn, Ferguson, Hafer, Haines, Harris, Hooper,
Kittleman, Mooney, Munson, Schrader, and Stoltzfus**

Introduced and read first time: February 1, 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 for a certain time in a certain
10 manner; altering the period of time for which certain child sexual offenders and
11 offenders are required to register; requiring a local law enforcement unit to mail
12 a certain verification form to a certain address of a sexually violent offender
13 under certain circumstances; requiring a sexually violent offender to sign a
14 certain form within a certain period of time and mail it to a local law
15 enforcement unit; requiring a local law enforcement unit to send a copy of a
16 certain verification form to the Department of Public Safety and Correctional
17 Services within a certain period of time; making certain conforming changes;
18 and generally relating to sexual offender 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

1 Section 11-703
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 - Criminal Procedure**

7 11-701.

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

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

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

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

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

16 (g) "Sexually violent offense" means:

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

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

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

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

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

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

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

33 (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 AND

7 (3) offense history[; and

8 (4) documentation of treatment received for a mental abnormality or
9 personality disorder].

10 11-707.

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

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

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

19 (4) The term of registration is:

20 (i) 10 years; or

21 (ii) life, if:

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

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

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

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

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

- 1 (1) the last date of release; or
2 (2) the date granted probation or a suspended sentence.

3 11-711.

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

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

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

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

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

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

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

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