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By: **Senators Jacobs, Stone, Colburn, Ferguson, Hafer, Haines, Harris,  
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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 13, 2002

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CHAPTER \_\_\_\_\_

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,

1 Article - Criminal Procedure  
2 Section 11-701(f), (g), (h), and (i), 11-704, 11-706(b), 11-707, and 11-711  
3 Annotated Code of Maryland  
4 (2001 Volume)

5 BY repealing  
6 Article - Criminal Procedure  
7 Section 11-703  
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 (f) "Sexually violent offender" means a person who:

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

17 (2) has been convicted of an attempt to commit a sexually violent  
18 offense]; or

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

22 (g) "Sexually violent offense" means:

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

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

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

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

- 1 (h) ["Sexually violent predator" means a person who:
- 2 (1) is convicted of a subsequent sexually violent offense; and
- 3 (2) has been determined in accordance with this subtitle to be at risk of  
4 committing another sexually violent offense.
- 5 (i)] "Supervising authority" means:
- 6 (1) the Secretary, if the registrant is in the custody of a correctional  
7 facility operated by the Department;
- 8 (2) the administrator of a local correctional facility, if the registrant,  
9 including a participant in a home detention program, is in the custody of the local  
10 correctional facility;
- 11 (3) the court that granted the probation or suspended sentence, except as  
12 provided in item (11) of this subsection, if the registrant is granted probation before  
13 judgment, probation after judgment, or a suspended sentence;
- 14 (4) the Director of the Patuxent Institution, if the registrant is in the  
15 custody of the Patuxent Institution;
- 16 (5) the Secretary of Health and Mental Hygiene, if the registrant is in  
17 the custody of a facility operated by the Department of Health and Mental Hygiene;
- 18 (6) the court in which the registrant was convicted, if the registrant's  
19 sentence does not include a term of imprisonment;
- 20 (7) the Secretary, if the registrant is in the State under terms and  
21 conditions of the Uniform Act for Out-of-State Parolee Supervision, set forth in Title  
22 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections  
23 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;
- 24 (8) the Secretary, if the registrant moves to this State and was convicted  
25 in another state of a crime that would require the registrant to register if the crime  
26 was committed in this State;
- 27 (9) the Secretary, if the registrant moves to this State from another state  
28 where the registrant was required to register;
- 29 (10) the Secretary, if the registrant is not a resident of this State; or
- 30 (11) the Director of Parole and Probation, if the registrant is under the  
31 supervision of the Division of Parole and Probation.

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       (b)       In making a determination under subsection (a) of this section, the court  
7 shall consider:

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

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

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

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

18 11-704.

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

20           (1)       a child sexual offender;

21           (2)       an offender;

22           (3)       a sexually violent offender;

23           (4)       [a sexually violent predator;

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

27           [(6)]   (5)       an [offender,] OFFENDER OR sexually violent offender[, or  
28 sexually violent predator] who, before moving into this State, was required to register  
29 in another state or by a federal, military, or Native American tribal court for a crime  
30 that occurred before July 1, 1997; or

31           [(7)]   (6)       a child sexual offender, offender, OR sexually violent offender[,  
32 or sexually violent predator] who is required to register in another state, who is not  
33 a resident of this State, and who enters this State:

34           (i)       to carry on employment or a vocation that is full-time or  
35 part-time for a period exceeding 14 days or for an aggregate period exceeding 30 days

1 during a calendar year, whether financially compensated, volunteered, or for the  
2 purpose of government or educational benefit; or

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

6 11-706.

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

9 (1) identifying factors, including a physical description;

10 (2) anticipated future residence, if known at the time of registration;

11 AND

12 (3) offense history[; and

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

15 11-707.

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

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

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

24 (4) The term of registration is:

25 (i) 10 years; or

26 (ii) life, if:

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

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

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

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

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

5 (1) the last date of release; or

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

7 11-711.

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

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

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

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

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

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

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

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