

HOUSE BILL 150

Unofficial Copy  
E2  
HB 423/03 - JUD

2004 Regular Session  
4r0060

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By: **Chairman, Judiciary Committee (By Request - Departmental - Public  
Safety and Correctional Services)**

Introduced and read first time: January 21, 2004

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 24, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Sex Offender Registration**

3 FOR the purpose of establishing certain registration requirements for certain  
4 transient registrants; requiring registration of certain information by certain  
5 registrants on work release; requiring annual photographs of certain registrants  
6 as part of registration by certain local law enforcement units; altering certain  
7 ~~annual~~ registration requirements for certain registrants; requiring certain  
8 offenders to register on release from incarceration under certain circumstances;  
9 altering certain registration requirements for sexually violent predators; ~~adding~~  
10 ~~certain registration duties to supervising authorities and certain local law~~  
11 ~~enforcement units for certain transient registrants~~; adding and altering certain  
12 definitions; and generally relating to the registration of sex offenders.

13 BY repealing and reenacting, with amendments,  
14 Article - Criminal Procedure  
15 Section 11-701, 11-704, 11-705, 11-706, 11-707, 11-708, 11-709, and 11-711  
16 Annotated Code of Maryland  
17 (2001 Volume and 2003 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article - Criminal Procedure  
20 Section 11-721  
21 Annotated Code of Maryland  
22 (2001 Volume and 2003 Supplement)

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

3 **Article - Criminal Procedure**

4 11-701.

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

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

7 (1) has been convicted of violating § 3-602 of the Criminal Law Article;

8 (2) has been convicted of violating any of the provisions of the rape or  
9 sexual offense statutes under §§ 3-303 through 3-307 of the Criminal Law Article for  
10 a crime involving a child under the age of 15 years;

11 (3) has been convicted of violating the fourth degree sexual offense  
12 statute under § 3-308 of the Criminal Law Article for a crime involving a child under  
13 the age of 15 years and has been ordered by the court to register under this subtitle;  
14 or

15 (4) 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 one  
17 of the crimes listed in items (1) and (2) of this subsection.

18 (b-1) "Employment" means an occupation, job, or vocation that is full time or  
19 part time for a period exceeding 14 days or for an aggregate period exceeding 30 days  
20 during a calendar year, whether financially compensated, volunteered, or for the  
21 purpose of government or educational benefit.

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

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

27 (1) has been convicted of violating § 3-503 of the Criminal Law Article;

28 (2) has been convicted of violating § 3-502 of the Criminal Law Article or  
29 the fourth degree sexual offense statute under § 3-308 of the Criminal Law Article, if  
30 the victim is under the age of 18 years;

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

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

1 (5) has been convicted of violating the child pornography statute under §  
2 11-207 of the Criminal Law Article;

3 (6) has been convicted of violating any of the prostitution and related  
4 crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended  
5 prostitute or victim is under the age of 18 years;

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

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

10 (9) 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) through (8) of this subsection.

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

15 (2) "Release" includes:

16 (i) release on parole[, mandatory supervision, and work release;  
17 and

18 (ii) except for leave that is granted on an emergency basis, any type  
19 of temporary leave];

20 (II) MANDATORY SUPERVISION RELEASE;

21 (III) RELEASE FROM A CORRECTIONAL FACILITY WITH NO  
22 REQUIRED PERIOD OF SUPERVISION;

23 (IV) WORK RELEASE;

24 (V) PLACEMENT ON HOME DETENTION; AND

25 (VI) THE FIRST INSTANCE OF ENTRY INTO THE COMMUNITY THAT  
26 IS PART OF A SUPERVISING AUTHORITY'S GRADUATED RELEASE PROGRAM.

27 (3) "Release" does not include:

28 (I) an escape; OR

29 (II) LEAVE THAT IS GRANTED ON AN EMERGENCY BASIS.

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

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

32 (2) has been convicted of an attempt to commit a sexually violent offense.

1 (g) "Sexually violent offense" means:

2 (1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of  
3 the Criminal Law Article;

4 (2) assault with intent to commit rape in the first or second degree or a  
5 sexual offense in the first or second degree as prohibited on or before September 30,  
6 1996, under former Article 27, § 12 of the Code; or

7 (3) a crime committed in another state or in a federal, military, or Native  
8 American tribal jurisdiction that, if committed in this State, would constitute one of  
9 the crimes listed in item (1) or (2) of this subsection.

10 (h) "Sexually violent predator" means:

11 (1) a person who:

12 (i) is convicted of a sexually violent offense; and

13 (ii) has been determined in accordance with this subtitle to be at  
14 risk of committing another sexually violent offense; or

15 (2) a person who is or was required to register every 90 days for life  
16 under the laws of another state or a federal, military, or Native American tribal  
17 jurisdiction.

18 (i) "Supervising authority" means:

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

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

24 (3) the court that granted the probation or suspended sentence, except as  
25 provided in item (12) of this subsection, if the registrant is granted probation before  
26 judgment, probation after judgment, or a suspended sentence;

27 (4) the Director of the Patuxent Institution, if the registrant is in the  
28 custody of the Patuxent Institution;

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

31 (6) the court in which the registrant was convicted, if the registrant's  
32 sentence does not include a term of imprisonment OR IF THE SENTENCE IS MODIFIED  
33 TO TIME SERVED;

34 (7) the Secretary, if the registrant is in the State under terms and  
35 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title

1 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections  
2 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

8 (10) the Secretary, if the registrant is convicted in a federal, military, or  
9 Native American tribal court and is not under supervision by another supervising  
10 authority;

11 (11) the Secretary, if the registrant is not a resident of this State and has  
12 been convicted in another state or by a federal, military, or Native American tribal  
13 court; or

14 (12) the Director of Parole and Probation, if the registrant is under the  
15 supervision of the Division of Parole and Probation.

16 (J) "TRANSIENT" MEANS THE STATUS OF A NONRESIDENT REGISTRANT WHO  
17 ENTERS THIS STATE FOR A PERIOD EXCEEDING 14 DAYS OR FOR AN AGGREGATE  
18 PERIOD EXCEEDING 30 DAYS DURING A CALENDAR YEAR FOR A PURPOSE OTHER  
19 THAN EMPLOYMENT OR TO ATTEND AN EDUCATIONAL INSTITUTION.

20 11-704.

21 (a) A person shall register with the person's supervising authority if the  
22 person is:

23 (1) a child sexual offender;

24 (2) an offender;

25 (3) a sexually violent offender;

26 (4) a sexually violent predator;

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

30 (6) an offender, sexually violent offender, or sexually violent predator  
31 who, before moving into this State, was required to register in another state or by a  
32 federal, military, or Native American tribal court for a crime that occurred before July  
33 1, 1997; or

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

- 1 (i) to carry on employment; [or]  
2 (ii) to attend a public or private educational institution, including a  
3 secondary school, trade or professional institution, or institution of higher education,  
4 as a full-time or part-time student; OR

5 (III) AS A TRANSIENT.

6 (b) Notwithstanding any other provision of law, a person is no longer subject  
7 to registration under this subtitle if:

8 (1) the underlying conviction requiring registration is reversed, vacated,  
9 or set aside; or

10 (2) the registrant is pardoned for the underlying conviction.

11 11-705.

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

14 (1) is released;

15 (2) is granted probation;

16 (3) is granted a suspended sentence; or

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

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

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

21 (i) is released;

22 (ii) is granted probation before judgment;

23 (iii) is granted probation after judgment;

24 (iv) is granted a suspended sentence; or

25 (v) receives a sentence that does not include a term of  
26 imprisonment;

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

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

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

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

2 (i) begins employment in the State; [or]

3 (ii) registers as a student in the State; OR

4 (III) ENTERS THE STATE AS A TRANSIENT.

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

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

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

12 (2) Within 7 days after registering with the supervising authority, a child  
13 sexual offender who is not a resident and [who works or attends school in this State]  
14 HAS ENTERED THE STATE UNDER § 11-704(A)(7) OF THIS SUBTITLE shall also register  
15 INITIALLY in person with the local law enforcement unit of the county where the child  
16 sexual offender IS A TRANSIENT OR will work or attend school.

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

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

21 (e) (1) A registrant who commences or terminates enrollment as a full-time  
22 or part-time student at an institution of higher education in the State shall send  
23 written notice to the Department within 7 days after the commencement or  
24 termination of enrollment.

25 (2) A registrant who commences or terminates carrying on employment  
26 at an institution of higher education in the State shall send written notice to the  
27 Department within 7 days after the commencement or termination of employment.

28 (f) A registrant who is granted a legal change of name by a court shall send  
29 written notice of the change to the Department within 7 days after the change is  
30 granted.

31 11-706.

32 (a) A registration statement shall include:

33 (1) the registrant's full name, including any suffix, and address;

34 (2) (i) for a registrant under § 11-704(a)(7)(i) of this subtitle OR WHO  
35 IS ON WORK RELEASE, the registrant's place of employment; or

1 (ii) for a registrant under § 11-704(a)(7)(ii) of this subtitle, the  
2 registrant's place of educational institution or school enrollment;

3 (3) (i) for a registrant enrolled, or expecting to enroll, in an institution  
4 of higher education in the State as a full-time or part-time student, the name and  
5 address of the institution of higher education; or

6 (ii) for a registrant who carries on employment, or expects to carry  
7 on employment, at an institution of higher education in the State, the name and  
8 address of the institution of higher education;

9 (4) a description of the crime for which the registrant was convicted;

10 (5) the date that the registrant was convicted;

11 (6) the jurisdiction in which the registrant was convicted;

12 (7) a list of any aliases that the registrant has used;

13 (8) the registrant's Social Security number;

14 (9) any other name by which the registrant has been legally known; and

15 (10) the registrant's signature and date signed.

16 (b) If the registrant is a sexually violent predator, the registration statement  
17 shall also include:

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

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

20 (3) offense history; and

21 (4) documentation of treatment received for a mental abnormality or  
22 personality disorder.

23 11-707.

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

27 (II) EACH REGISTRATION SHALL INCLUDE A PHOTOGRAPH.

28 (2) An offender and a sexually violent offender shall register annually,  
29 ON OR BEFORE JANUARY 1, with ~~{the Department}~~ ~~A LOCAL LAW ENFORCEMENT~~  
30 ~~UNIT~~ in accordance with § 11-711(a) of this subtitle and for the term provided under  
31 paragraph (4) of this subsection.



1 (3) (I) A sexually violent predator shall register IN PERSON every 90  
2 days, ON OR BEFORE JANUARY 1, APRIL 1, JULY 1, AND OCTOBER 1, in accordance with  
3 § 11-711(b) of this subtitle and for the term provided under paragraph (4)(ii) of this  
4 subsection.

5 (II) REGISTRATION SHALL INCLUDE A PHOTOGRAPH TAKEN ONCE  
6 A YEAR.

7 (4) The term of registration is:

8 (i) 10 years; or

9 (ii) life, if:

10 1. the registrant is a sexually violent predator;

11 2. the registrant has been convicted of a sexually violent  
12 offense;

13 3. the registrant has been convicted of a violation of § 3-602  
14 of the Criminal Law Article for commission of a sexual act involving penetration of a  
15 child under the age of 12 years; or

16 4. the registrant has been convicted of a prior crime as a  
17 child sexual offender, an offender, or a sexually violent offender.

18 (5) A registrant who is not a resident of the State shall register for the  
19 appropriate time specified in this subsection or until the registrant's employment  
20 [or], student enrollment, OR TRANSIENT STATUS in the State ends.

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

22 (1) the last date of release;

23 (2) the date granted probation; or

24 (3) the date granted a suspended sentence.

25 11-708.

26 (a) When a registrant registers, the supervising authority shall:

27 (1) give written notice to the registrant of the requirements of this  
28 subtitle;

29 (2) explain the requirements of this subtitle to the registrant, including:

30 (i) the duties of a registrant when the registrant changes residence  
31 address in this State;

1 (ii) the duties of a registrant under § 11-705(e) and (f) of this  
2 subtitle;

3 (iii) the requirement for a child sexual offender to register in person  
4 with the local law enforcement unit of the county where the child sexual offender will  
5 reside or where the child sexual offender who is not a resident of this State IS A  
6 TRANSIENT OR will work or attend school; and

7 (iv) the requirement that if the registrant changes residence  
8 address, employment, or school enrollment to another state that has a registration  
9 requirement, the registrant shall register with the designated law enforcement unit  
10 of that state within 7 days after the change; and

11 (3) obtain a statement signed by the registrant acknowledging that the  
12 supervising authority explained the requirements of this subtitle and gave written  
13 notice of the requirements to the registrant.

14 (b) The supervising authority shall obtain a photograph and fingerprints of  
15 the registrant and attach the photograph and fingerprints to the registration  
16 statement.

17 (c) (1) Within 5 days after obtaining a registration statement, the  
18 supervising authority shall send a copy of the registration statement with the  
19 attached fingerprints and photograph of the registrant to the local law enforcement  
20 unit in the county where the registrant will reside or where a registrant who is not a  
21 resident IS A TRANSIENT OR will work or attend school.

22 (2) (i) If the registrant is enrolled in or carries on employment at, or is  
23 expecting to enroll in or carry on employment at, an institution of higher education in  
24 the State, within 5 days after obtaining a registration statement, the supervising  
25 authority shall send a copy of the registration statement with the attached  
26 fingerprints and photograph of the registrant to the campus police agency of the  
27 institution of higher education.

28 (ii) If an institution of higher education does not have a campus  
29 police agency, the copy of the registration statement with the attached fingerprints  
30 and photograph of the registrant shall be provided to the local law enforcement  
31 agency having primary jurisdiction for the campus.

32 (d) As soon as possible but not later than 5 working days after the registration  
33 is complete, a supervising authority that is not a unit of the Department shall send  
34 the registration statement to the Department.

35 11-709.

36 (a) Each year within 5 days after a child sexual offender completes the  
37 registration requirements of § 11-707(a) of this subtitle, a local law enforcement unit  
38 shall send notice of the child sexual offender's annual registration, INCLUDING THE  
39 PHOTOGRAPH, to the Department.

1 (b) (1) As soon as possible but not later than 5 working days after receiving  
2 a registration statement of a child sexual offender, a local law enforcement unit shall  
3 send written notice of the registration statement to the county superintendent, as  
4 defined in § 1-101 of the Education Article, in the county where the child sexual  
5 offender is to reside or where a child sexual offender who is not a resident of the State  
6 IS A TRANSIENT OR will work or attend school.

7 (2) As soon as possible but not later than 5 working days after receiving  
8 notice from the local law enforcement unit under paragraph (1) of this subsection, the  
9 county superintendent shall send written notice of the registration statement to  
10 principals of the schools under the superintendent's supervision that the  
11 superintendent considers necessary to protect the students of a school from a child  
12 sexual offender.

13 (c) A local law enforcement unit that receives a notice from a supervising  
14 authority under this section shall send a copy of the notice to the police department,  
15 if any, of a municipal corporation if the registrant:

16 (1) is to reside in the municipal corporation after release; or

17 (2) escapes from a facility but resided in the municipal corporation  
18 before being committed to the custody of a supervising authority.

19 11-711.

20 (a) (1) [~~The Department~~] ~~A LOCAL LAW ENFORCEMENT UNIT~~ shall mail  
21 annually a verification form to the last reported address of each offender and sexually  
22 violent offender.

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

24 (3) Within 10 days after receiving the verification form, the offender or  
25 sexually violent offender shall sign the verification form and mail it to the  
26 Department.

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

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

30 (3) Within 10 days after receiving the verification form, the sexually  
31 violent predator shall sign the form and mail it to the local law enforcement unit.

32 (4) Within 5 days after receiving a verification form from a sexually  
33 violent predator, a local law enforcement unit] ~~WITHIN 5 DAYS AFTER A SEXUALLY~~  
34 ~~VIOLENT PREDATOR COMPLETES THE REGISTRATION REQUIREMENTS OF § 11-707(A)~~  
35 ~~OF THIS SUBTITLE, A LOCAL LAW ENFORCEMENT UNIT~~ shall send [a copy of the  
36 verification form] ~~NOTICE OF THE REGISTRATION~~ to the Department.

1 11-721.

2 (a) A registrant may not knowingly fail to register, knowingly fail to provide  
3 the written notice required under § 11-705(d), § 11-705(e), or § 11-705(f) of this  
4 subtitle, or knowingly provide false information of a material fact as required by this  
5 subtitle.

6 (b) A person who violates this section is guilty of a misdemeanor and on  
7 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding  
8 \$5,000 or both.

9 (c) A person who violates this section is subject to § 5-106(b) of the Courts  
10 Article.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
12 effect October 1, 2004.