
By: **Delegates Owings and O'Donnell**
Introduced and read first time: February 13, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Sex Offenders - In-Person Registration, Driver's License Notation, and**
3 **Suspension for Noncompliance**

4 FOR the purpose of requiring certain persons convicted of certain sex offenses to
5 register as sex offenders in person with certain local law enforcement units
6 within certain time periods under certain circumstances; eliminating annual
7 mail registration by certain sex offenders; requiring a certain supervising
8 authority to send a copy of a sex offender's registration statement to the Motor
9 Vehicle Administration within a certain time period; requiring the Department
10 of Public Safety and Correctional Services to notify the Administration of a
11 registrant's failure to comply with certain provisions of the Code; requiring the
12 Administration to issue or reissue a driver's license or identification card to a
13 certain individual with a notation that the individual is a registered sex offender
14 in certain circumstances; authorizing the Administration to remove a notation
15 on a driver's license or identification card that an individual is a registered sex
16 offender under certain circumstances; requiring the Administration to suspend a
17 certain registered sex offender's driver's license or privilege to drive in the State
18 under certain circumstances; authorizing the Administration to issue a
19 work-restricted license or work-restricted privilege to drive under certain
20 circumstances; requiring the Administration to send a certain notice to a sex
21 offender registrant prior to suspending the registrant's license or privilege to
22 drive in the State; limiting the issues that can be contested if a registrant
23 appeals a decision of the Administration to suspend a registrant's license or
24 privilege to drive; requiring the Administration to reinstate a registrant's license
25 or privilege to drive under certain circumstances; requiring the Secretary of
26 Transportation, in cooperation with the Secretary of Public Safety and
27 Correctional Services and the Office of Administrative Hearings to adopt
28 regulations to implement this Act; and generally relating to a sex offender's
29 registration and license to drive.

30 BY repealing and reenacting, without amendments,
31 Article - Criminal Procedure
32 Section 11-701, 11-704, and 11-721
33 Annotated Code of Maryland
34 (2001 Volume and 2003 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Criminal Procedure
3 Section 11-705, 11-707, 11-708, and 11-711
4 Annotated Code of Maryland
5 (2001 Volume and 2003 Supplement)

6 BY adding to
7 Article - Criminal Procedure
8 Section 11-722
9 Annotated Code of Maryland
10 (2001 Volume and 2003 Supplement)

11 BY adding to
12 Article - Transportation
13 Section 12-303.1 and 16-203.1
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2003 Supplement)

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

18 **Article - Criminal Procedure**

19 11-701.

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

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

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

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

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

30 (4) has been convicted in another state or in a federal, military, or Native
31 American tribal court of a crime that, if committed in this State, would constitute one
32 of the crimes listed in items (1) and (2) of this subsection.

33 (b-1) "Employment" means an occupation, job, or vocation that is full time or
34 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.

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

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

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

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

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

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

16 (5) has been convicted of violating the child pornography statute under §
17 11-207 of the Criminal Law Article;

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

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

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

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

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

30 (2) "Release" includes:

31 (i) release on parole, mandatory supervision, and work release;
32 and

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

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

- 1 (f) "Sexually violent offender" means a person who:
- 2 (1) has been convicted of a sexually violent offense; or
- 3 (2) has been convicted of an attempt to commit a sexually violent offense.
- 4 (g) "Sexually violent offense" means:
- 5 (1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of
6 the Criminal Law Article;
- 7 (2) assault with intent to commit rape in the first or second degree or a
8 sexual offense in the first or second degree as prohibited on or before September 30,
9 1996, under former Article 27, § 12 of the Code; or
- 10 (3) a crime committed in another state or in a federal, military, or Native
11 American tribal jurisdiction that, if committed in this State, would constitute one of
12 the crimes listed in item (1) or (2) of this subsection.
- 13 (h) "Sexually violent predator" means:
- 14 (1) a person who:
- 15 (i) is convicted of a sexually violent offense; and
- 16 (ii) has been determined in accordance with this subtitle to be at
17 risk of committing another sexually violent offense; or
- 18 (2) a person who is or was required to register every 90 days for life
19 under the laws of another state or a federal, military, or Native American tribal
20 jurisdiction.
- 21 (i) "Supervising authority" means:
- 22 (1) the Secretary, if the registrant is in the custody of a correctional
23 facility operated by the Department;
- 24 (2) the administrator of a local correctional facility, if the registrant,
25 including a participant in a home detention program, is in the custody of the local
26 correctional facility;
- 27 (3) the court that granted the probation or suspended sentence, except as
28 provided in item (12) of this subsection, if the registrant is granted probation before
29 judgment, probation after judgment, or a suspended sentence;
- 30 (4) the Director of the Patuxent Institution, if the registrant is in the
31 custody of the Patuxent Institution;
- 32 (5) the Secretary of Health and Mental Hygiene, if the registrant is in
33 the custody of a facility operated by the Department of Health and Mental Hygiene;

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

3 (7) the Secretary, if the registrant is in the State under terms and
4 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
5 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
6 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

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

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.

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

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

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

10 11-705.

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

13 (1) is released;

14 (2) is granted probation;

15 (3) is granted a suspended sentence; or

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

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

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

20 (i) is released;

21 (ii) is granted probation before judgment;

22 (iii) is granted probation after judgment;

23 (iv) is granted a suspended sentence; or

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

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

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

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

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

1 (i) begins employment in the State; or

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

3 (c) (1) A [child sexual offender] REGISTRANT shall also register in person
4 with the local law enforcement unit of the county where the [child sexual offender]
5 REGISTRANT will reside:

6 (i) within 7 days after release, if the [child sexual offender]
7 REGISTRANT is a resident; or

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

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

14 (3) A [child sexual offender] REGISTRANT may be required to give to the
15 local law enforcement unit more information than required under § 11-706 of this
16 subtitle.

17 (d) A registrant who changes residences shall send written notice of the
18 change to the Department AND ALSO REGISTER THE CHANGE IN PERSON WITH THE
19 LOCAL LAW ENFORCEMENT UNIT OF THE COUNTY OF THE NEW RESIDENCE within 7
20 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 11-707.

32 (a) (1) [A child sexual offender] AN OFFENDER, A CHILD SEXUAL
33 OFFENDER, A SEXUALLY VIOLENT OFFENDER, AND A SEXUALLY VIOLENT PREDATOR
34 shall register annually in person with a local law enforcement unit for the term
35 provided under [paragraph (4)] PARAGRAPH (3) of this subsection.

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

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

7 [(4)] (3) 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)] (4) A registrant who is not a resident of the State shall register for
19 the appropriate time specified in this subsection or until the registrant's employment
20 or student enrollment 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] REGISTRANT to
4 register in person with the local law enforcement unit of the county where the [child
5 sexual offender] REGISTRANT will reside or where the [child sexual offender]
6 REGISTRANT who is not a resident of this State 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 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 (E) WITHIN 5 DAYS AFTER OBTAINING A REGISTRATION STATEMENT, THE
36 SUPERVISING AUTHORITY SHALL SEND A COPY OF THE REGISTRATION STATEMENT
37 TO THE MOTOR VEHICLE ADMINISTRATION FOR THE PURPOSE OF NOTING THE
38 REGISTRATION ON THE REGISTRANT'S DRIVER'S LICENSE OR IDENTIFICATION CARD
39 IN ACCORDANCE WITH § 12-303.1 OF THE TRANSPORTATION ARTICLE.

1 11-711.

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

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

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

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

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

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

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

17 11-721.

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

22 (b) A person who violates this section is guilty of a misdemeanor and on
23 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
24 \$5,000 or both.

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

27 11-722.

28 ON DETERMINING THAT A REGISTRANT HAS KNOWINGLY FAILED TO REGISTER,
29 KNOWINGLY FAILED TO PROVIDE THE WRITTEN NOTICE REQUIRED UNDER §
30 11-705(D), (E), OR (F) OF THIS SUBTITLE, OR KNOWINGLY PROVIDED FALSE
31 INFORMATION OF A MATERIAL FACT IN VIOLATION OF THIS SUBTITLE, THE
32 DEPARTMENT SHALL NOTIFY THE MOTOR VEHICLE ADMINISTRATION IN
33 ACCORDANCE WITH § 16-203.1 OF THE TRANSPORTATION ARTICLE.

1

Article - Transportation

2 12-303.1.

3 (A) ON RECEIPT OF NOTICE FROM THE DEPARTMENT OF PUBLIC SAFETY AND
4 CORRECTIONAL SERVICES THAT A HOLDER OF OR APPLICANT FOR A DRIVER'S
5 LICENSE OR IDENTIFICATION CARD HAS REGISTERED AS A SEX OFFENDER UNDER §
6 11-704 OF THE CRIMINAL PROCEDURE ARTICLE, THE ADMINISTRATION SHALL
7 REQUIRE THAT ANY DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED OR
8 REISSUED TO THE HOLDER DISPLAY A NOTATION THAT THE HOLDER IS A
9 REGISTERED SEX OFFENDER.

10 (B) THE SEX OFFENDER REGISTRATION NOTATION ON A DRIVER'S LICENSE
11 OR IDENTIFICATION CARD MAY BE REMOVED ONLY ON WRITTEN NOTICE TO THE
12 ADMINISTRATION BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
13 SERVICES THAT THE NOTATION IS NO LONGER REQUIRED.

14 16-203.1.

15 (A) ON NOTIFICATION BY THE DEPARTMENT OF PUBLIC SAFETY AND
16 CORRECTIONAL SERVICES IN ACCORDANCE WITH § 11-722 OF THE CRIMINAL
17 PROCEDURE ARTICLE THAT A SEX OFFENDER REGISTRANT HAS KNOWINGLY FAILED
18 TO REGISTER, KNOWINGLY FAILED TO PROVIDE THE WRITTEN NOTICE REQUIRED
19 UNDER § 11-705(D), (E), OR (F) OF THE CRIMINAL PROCEDURE ARTICLE, OR
20 KNOWINGLY PROVIDED FALSE INFORMATION OF A MATERIAL FACT IN VIOLATION OF
21 TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE, THE
22 ADMINISTRATION:

23 (1) SHALL SUSPEND A REGISTRANT'S LICENSE OR PRIVILEGE TO DRIVE
24 IN THE STATE; AND

25 (2) MAY ISSUE A WORK-RESTRICTED LICENSE OR WORK-RESTRICTED
26 PRIVILEGE TO DRIVE.

27 (B) (1) PRIOR TO THE SUSPENSION OF A LICENSE OR THE PRIVILEGE TO
28 DRIVE IN THE STATE AND THE ISSUANCE OF A WORK-RESTRICTED LICENSE OR
29 WORK-RESTRICTED PRIVILEGE TO DRIVE UNDER SUBSECTION (A) OF THIS SECTION,
30 THE ADMINISTRATION SHALL SEND WRITTEN NOTICE OF THE PROPOSED ACTION TO
31 THE REGISTRANT, INCLUDING NOTICE OF THE REGISTRANT'S RIGHT TO CONTEST
32 THE ACCURACY OF THE INFORMATION.

33 (2) ANY CONTEST UNDER THIS SUBSECTION SHALL BE LIMITED TO
34 WHETHER THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE
35 REGISTRANT OR THE INDIVIDUAL WHOSE LICENSE OR PRIVILEGE TO DRIVE HAS
36 BEEN SUSPENDED.

37 (C) (1) A REGISTRANT MAY APPEAL A DECISION OF THE ADMINISTRATION
38 TO SUSPEND THE REGISTRANT'S LICENSE OR PRIVILEGE TO DRIVE.

1 (2) AT A HEARING UNDER THIS SUBSECTION, THE ISSUE SHALL BE
2 LIMITED TO WHETHER THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE
3 REGISTRANT OR THE INDIVIDUAL WHOSE LICENSE OR PRIVILEGE TO DRIVE HAS
4 BEEN SUSPENDED.

5 (D) THE ADMINISTRATION SHALL REINSTATE A REGISTRANT'S LICENSE OR
6 PRIVILEGE TO DRIVE IN THE STATE IF:

7 (1) THE ADMINISTRATION RECEIVES A COURT ORDER TO REINSTATE
8 THE LICENSE OR PRIVILEGE TO DRIVE; OR

9 (2) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
10 SERVICES NOTIFIES THE ADMINISTRATION THAT THE REGISTRANT IS IN
11 COMPLIANCE WITH TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.

12 (E) THE SECRETARY OF TRANSPORTATION, IN COOPERATION WITH THE
13 SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AND THE OFFICE OF
14 ADMINISTRATIVE HEARINGS, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
15 SECTION.

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