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

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sex Offender Registration - Supervising Authority**

3 FOR the purpose of altering the definition of "supervising authority" to include the
4 court in which a certain registrant is convicted if the sentence is modified to
5 time served; and generally relating to sex offender registration.

6 BY repealing and reenacting, with amendments,
7 Article - Criminal Procedure
8 Section 11-701
9 Annotated Code of Maryland
10 (2001 Volume and 2004 Supplement)

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

13 **Article - Criminal Procedure**

14 11-701.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (5) has been convicted of violating the child pornography statute under §
22 11-207 of the Criminal Law Article;

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

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

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

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

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

35 (2) "Release" includes:

1 (i) release on parole, mandatory supervision, and work release;
2 and

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

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

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

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

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

9 (g) "Sexually violent offense" means:

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

12 (2) assault with intent to commit rape in the first or second degree or a
13 sexual offense in the first or second degree as prohibited on or before September 30,
14 1996, under former Article 27, § 12 of the Code; or

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

18 (h) "Sexually violent predator" means:

19 (1) a person who:

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

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

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

26 (i) "Supervising authority" means:

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

29 (2) the administrator of a local correctional facility, if the registrant,
30 including a participant in a home detention program, is in the custody of the local
31 correctional facility;

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

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

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

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

11 (7) the Secretary, if the registrant is in the State under terms and
12 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
13 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
14 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect October 1, 2005.