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

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 21, 2005

CHAPTER _____

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;

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

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

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

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

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

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

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

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

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

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

28 (5) has been convicted of violating the child pornography statute under §
29 11-207 of the Criminal Law Article;

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

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

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

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

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

6 (2) "Release" includes:

7 (i) release on parole, mandatory supervision, and work release;
8 and

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

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

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

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

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

15 (g) "Sexually violent offense" means:

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

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

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

24 (h) "Sexually violent predator" means:

25 (1) a person who:

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

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

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

32 (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 (12) 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 OR IF THE SENTENCE IS MODIFIED
15 TO TIME SERVED;

16 (7) the Secretary, if the registrant is in the State under terms and
17 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
18 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
19 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

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

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

