

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 1
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Stone” and substitute “Stone, Forehand, Jacobs, Giannetti, and Mooney”.

AMENDMENT NO. 2

On page 1, in line 4, after “supervision;” insert “establishing that the initial registration of an individual relating to certain sexual offenses is a reportable offense for certain criminal records purposes; requiring a certain notice by a certain person to be sent to a certain registry; altering certain time periods for certain notification requirements; establishing that all persons subject to certain registration requirements must register in person every 3 months; requiring that certain registrations include a photograph that shall be updated at least once each year; repealing certain dates before which certain registrants are required to register; requiring a certain supervising authority to obtain a DNA sample from a certain registrant under certain circumstances;”; in line 5, after “superintendent” insert “and certain nonpublic schools”; in line 13, strike “requiring” and substitute “authorizing”; strike beginning with “within” in line 15 down through “notification” in line 26; in line 31, strike “make available to” and substitute “allow”; and in line 32, strike “public” and substitute “public, by request, to receive”.

On page 2, in line 2, after “altering” insert “for a second or subsequent conviction”; in line 6, after “statement;” insert “prohibiting certain registrants from entering the real property of certain schools, child care homes, day care homes, or child care institutions under certain circumstances; establishing certain penalties;”; in line 11, strike “negotiate, enter into,” and substitute “enter into”; in line 31, strike the first comma and substitute “and a”; in lines 31 and 32, strike “, and polygrapher”; in line 36, after “unit;” insert “requiring the Commission, with the advice of a certain board, to adopt certain regulations;”; strike beginning with “Board” in line 37 down through “regulations;” in line 40 and substitute “Board; providing for the membership, appointment, terms, staggering of terms, reimbursements, chair, quorum and meeting requirements, duties, and staffing of”.

(Over)

the Board; requiring certain units of government to cooperate with the Board;”; and in line 41, after “Board;” insert “requiring the State Board of Education to adopt regulations that prohibit a county board of education from contracting for certain services with certain individuals who are required to register as certain offenders or who employ individuals to provide certain services who are required to register as certain offenders;”.

AMENDMENT NO. 3

On page 3, in line 9, after “Section” insert “10-215(a),”; in the same line, after “11-701,” insert “11-705, 11-707, 11-708(b),”; in the same line, strike “11-713,”; strike in their entirety lines 12 through 16, inclusive; and after line 21, insert:

“BY adding to

Article - Education

Section 6-113.1

Annotated Code of Maryland

(2004 Replacement Volume and 2005 Supplement)

BY adding to

Article - Public Safety

Section 1-401 to be under the new subtitle “Subtitle 4. Sexual Offender Advisory Board”

Annotated Code of Maryland

(2003 Volume and 2005 Supplement)”.

AMENDMENT NO. 4

On page 5, after line 27, insert:

“10-215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10-214 of this subtitle:

(1) the issuance or withdrawal of an arrest warrant;

(2) an arrest;

- (3) the release of a person after arrest without the filing of a charge;
- (4) the filing of a charging document;
- (5) a release pending trial or an appeal;
- (6) a commitment to an institution of pretrial detention;
- (7) the dismissal of an indictment or criminal information;
- (8) a nolle prosequi;
- (9) the marking of a charge “stet” on the docket;
- (10) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;
- (11) the imposition of a sentence;
- (12) a commitment to a State correctional facility or local correctional facility;
- (13) a commitment to the Department of Health and Mental Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;
- (14) a release from detention or confinement;
- (15) a conditional release, revocation of conditional release, or discharge of a person committed to the Department of Health and Mental Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;
- (16) an escape from confinement or commitment;
- (17) a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;

(18) an entry of an appeal to an appellate court;

(19) a judgment of an appellate court;

(20) an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;

(21) an adjudication of a child as delinquent:

(i) if the child is at least 14 years old, for an act described in § 3-8A-03(d)(1) of the Courts Article; or

(ii) if the child is at least 16 years old, for an act described in § 3-8A-03(d)(4) or (5) of the Courts Article;

(22) the issuance or withdrawal of a writ of attachment by a juvenile court; [and]

(23) THE REGISTRATION OF A PERSON UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE; AND

~~[(23)]~~ (24) any other event arising out of or occurring during the course of a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes a reportable event.”.

AMENDMENT NO. 5

On page 6, after line 15, insert:

“(B-3) “EXTENDED PAROLE SUPERVISION OFFENDER” MEANS A PERSON WHO:

(1) IS A SEXUALLY VIOLENT PREDATOR;

(2) HAS BEEN CONVICTED OF A VIOLATION OF § 3-303, § 3-304, § 3-305, § 3-306(A)(1) OR (2), OR § 3-307(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;

(3) HAS BEEN CONVICTED OF A VIOLATION OF § 3-309, § 3-310, OR § 3-311 OF THE CRIMINAL LAW ARTICLE OR AN ATTEMPT TO COMMIT A VIOLATION OF § 3-306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;

(4) HAS BEEN CONVICTED OF A VIOLATION OF § 3-602 OF THE CRIMINAL LAW ARTICLE FOR COMMISSION OF A SEXUAL ACT INVOLVING PENETRATION OF A CHILD UNDER THE AGE OF 12 YEARS; OR

(5) HAS BEEN CONVICTED MORE THAN ONCE OF A CRIME AS A CHILD SEXUAL OFFENDER, AN OFFENDER, OR A SEXUALLY VIOLENT OFFENDER.”.

AMENDMENT NO. 6

On page 9, after line 9, insert:

“11-705.

(a) In this section, “resident” means a person who lives in this State when the person:

(1) is released;

(2) is granted probation;

(3) is granted a suspended sentence; or

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

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

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

(i) is released;

(ii) is granted probation before judgment;

(Over)

- (iii) is granted probation after judgment;
- (iv) is granted a suspended sentence; or
- (v) receives a sentence that does not include a term of imprisonment;

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

- (i) establishes a temporary or permanent residence in the State; or
- (ii) applies for a driver's license in the State; or

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

- (i) begins employment in the State;
- (ii) registers as a student in the State; or
- (iii) enters the State as a transient.

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

- (i) within 7 days after release, if the child sexual offender is a resident; or
- (ii) within 7 days after registering with the supervising authority, if the registrant is moving into this State.

(2) Within 7 days after registering with the supervising authority, a child sexual offender who is not a resident and has entered the State under § 11-704(a)(7) of this subtitle shall also register in person with the local law enforcement unit of the county where the child sexual offender is a transient or will work or attend school.

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

(d) A registrant who changes residences shall send written notice of the change to the [Department] STATE REGISTRY within [7] 5 days after the change occurs.

(e) (1) A registrant who commences or terminates enrollment as a full-time or part-time student at an institution of higher education in the State shall send written notice to the [Department] STATE REGISTRY within [7] 5 days after the commencement or termination of enrollment.

(2) A registrant who commences or terminates carrying on employment at an institution of higher education in the State shall send written notice to the [Department] STATE REGISTRY within [7] 5 days after the commencement or termination of employment.

(f) A registrant who is granted a legal change of name by a court shall send written notice of the change to the [Department] STATE REGISTRY within [7] 5 days after the change is granted.”.

AMENDMENT NO. 7

On page 9, strike beginning with “annually” in line 11 down through “January 1,” in line 12 and substitute “IN PERSON EVERY 3 MONTHS”; in line 14, strike “Each registration shall include a new photograph” and substitute “REGISTRATION SHALL INCLUDE A PHOTOGRAPH THAT SHALL BE UPDATED AT LEAST ONCE EACH YEAR”; in line 15, before “An” insert “(I)”; strike beginning with “annually” in line 15 down through “January 1,” in line 16 and substitute “IN PERSON EVERY 3 MONTHS”; in line 16, strike “the Department” and substitute “A LOCAL LAW ENFORCEMENT UNIT”; after line 17, insert:

“(II) REGISTRATION SHALL INCLUDE A PHOTOGRAPH THAT SHALL BE UPDATED AT LEAST ONCE EACH YEAR.”;

and strike beginning with “90” in line 18 down through “October 1” in line 19 and substitute “3 MONTHS”.

AMENDMENT NO. 8

On page 10, after line 7, insert:

“11-708.

(b) (1) The supervising authority shall obtain a photograph and fingerprints of the registrant and attach the photograph and fingerprints to the registration statement.

(2) FOR A REGISTRANT WHO HAS NOT SUBMITTED A DNA SAMPLE, AS DEFINED IN § 2-501 OF THE PUBLIC SAFETY ARTICLE, FOR INCLUSION IN THE STATEWIDE DNA DATABASE SYSTEM OF THE DEPARTMENT OF STATE POLICE CRIME LABORATORY, THE SUPERVISING AUTHORITY SHALL:

(I) OBTAIN A DNA SAMPLE FROM THE REGISTRANT AT THE REGISTRANT’S INITIAL REGISTRATION; AND

(II) PROVIDE THE SAMPLE TO THE STATEWIDE DNA DATABASE SYSTEM OF THE DEPARTMENT OF STATE POLICE CRIME LABORATORY.

(3) THIS SUBSECTION DOES NOT APPLY IF THE REGISTRANT IS REQUIRED TO REGISTER UNDER § 11-704 OF THIS SUBTITLE SOLELY AS A RESULT OF A MISDEMEANOR CONVICTION.”;

in line 11, strike “annual” and substitute “QUARTERLY”; in line 17, after “Article,” insert “AND ALL NONPUBLIC PRIMARY AND SECONDARY SCHOOLS”; in the same line, after “county” insert “WITHIN 1 MILE OF”; and in line 20, strike “5” and substitute “10”.

AMENDMENT NO. 9

On page 11, strike beginning with the first “AS” in line 9 down through “OFFENDER,” in line 12; strike beginning with “SHALL” in line 12 down through “TO” in line 13 and substitute “MAY NOTIFY”; in line 14, strike “AREA” and substitute “COMMUNITY”; in the same line, strike the second “THE” and substitute “A”; and in line 16, after “SCHOOL” insert “OF THE FILING OF A REGISTRATION STATEMENT OR NOTICE OF CHANGE OF ADDRESS BY THE CHILD SEXUAL OFFENDER”.

On pages 11 through 13, strike in their entirety the lines beginning with line 23 on page 11 through line 12 on page 13, inclusive.

AMENDMENT NO. 10

On page 13, in line 19, after “REGISTRATION” insert “, EXCLUDING DETAILS THAT WOULD IDENTIFY THE VICTIM”; in line 28, strike “MAKE AVAILABLE TO” and substitute “ALLOW”; and in line 31, strike “THE OPTION OF RECEIVING” and substitute “, BY REQUEST, TO RECEIVE”.

AMENDMENT NO. 11

On page 14, in line 23, after “section” insert “:

(1) FOR A FIRST OFFENSE,”;

in the same line, in each instance, strike the bracket; in the same line, strike “FELONY”; in line 24, in each instance, strike the bracket; in the same line, strike “5”; in line 25, in each instance, strike the bracket; in the same line, strike “\$10,000”; in the same line, after “both” insert “; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH”;

after line 28, insert:

“(A) THIS SUBSECTION DOES NOT APPLY TO A CHILD SEXUAL OFFENDER REQUIRED TO REGISTER UNDER § 11-704 OF THIS TITLE WHO ENTERS REAL PROPERTY:

(1) WHERE THE CHILD SEXUAL OFFENDER IS A STUDENT OR THE CHILD OF THE CHILD SEXUAL OFFENDER IS A STUDENT OR RECEIVES CHILD CARE, UNLESS THE CHILD SEXUAL OFFENDER HAS BEEN GIVEN PROPER NOTICE NOT TO ENTER THE REAL PROPERTY;

(Over)

(2) WITH THE SPECIFIC WRITTEN PERMISSION OF:

(I) THE SUPERINTENDENT OF SCHOOLS, THE LOCAL SCHOOL BOARD, OR THE PRINCIPAL OF THE SCHOOL; OR

(II) THE OWNER OR OPERATOR OF THE REGISTERED FAMILY DAY CARE HOME, LICENSED CHILD CARE HOME, OR LICENSED CHILD CARE INSTITUTION; OR

(3) FOR THE PURPOSE OF VOTING AT A SCHOOL ON AN ELECTION DAY IN THE STATE, IF THE CHILD SEXUAL OFFENDER IS PROPERLY REGISTERED TO VOTE AND THE CHILD SEXUAL OFFENDER'S POLLING PLACE IS AT THE SCHOOL.

(B) A CHILD SEXUAL OFFENDER MAY NOT KNOWINGLY ENTER ON REAL PROPERTY:

(1) THAT IS USED FOR PUBLIC OR NONPUBLIC ELEMENTARY OR SECONDARY EDUCATION; OR

(2) ON WHICH IS LOCATED:

(I) A FAMILY DAY CARE HOME REGISTERED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; OR

(II) A CHILD CARE HOME OR A CHILD CARE INSTITUTION LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

11-723.”;

and strike beginning with the second “A” in line 30 down through “SUBTITLE” in line 32 and substitute “AN EXTENDED PAROLE SUPERVISION OFFENDER”.

On page 15, in line 3, strike “11-723.” and substitute “11-724.”; in line 5, strike “NEGOTIATE, ENTER INTO,” and substitute “ENTER INTO”; in line 7, strike “11-722” and substitute “11-723”; strike beginning with “OR” in line 12 down through “BOTH” in line 13; in line 17, after “SUPERVISION” insert “SHALL COMMENCE UPON RELEASE OF THE EXTENDED PAROLE SUPERVISION OFFENDER FROM INCARCERATION OR IMPOSITION OF PROBATION ON THE EXTENDED PAROLE SUPERVISION OFFENDER AND”; in line 30, after “THE” insert “PERSONAL”; and in line 31, after “REGISTRANT” insert “TO CHECK FOR MATERIAL RELATING TO SEXUAL RELATIONS WITH MINORS”.

AMENDMENT NO. 12

On page 16, in line 22, strike “11-724.” and substitute “11-725.”; in line 30, after the semicolon insert “AND”; and strike line 33 in its entirety.

On page 17, in line 2, strike “AND”; in line 3, after “LEADERS” insert “; AND”

(V) A POLYGRAPHER”;

and in line 7, after “(2)” insert “UNLESS DISCLOSURE OF A REPORT WOULD BE IN VIOLATION OF LAWS REGARDING CONFIDENTIALITY OF TREATMENT RECORDS,”.

On pages 17 and 18, strike in their entirety the lines beginning with line 11 on page 17 through line 1 on page 18, inclusive.

On page 18, in line 4, after “BOARD” insert “ESTABLISHED UNDER § 1-401 OF THE PUBLIC SAFETY ARTICLE”; in line 5, strike “11-723” and substitute “11-724”; and strike in their entirety lines 6 through 10, inclusive.

AMENDMENT NO. 13

On page 18, after line 10, insert:

“Article - Education

6-113.1.

(Over)

THE STATE BOARD SHALL ADOPT REGULATIONS THAT PROHIBIT A COUNTY BOARD FROM CONTRACTING TO REPAIR, MAINTAIN, IMPROVE, OR BUILD SCHOOL PROPERTY WITH A PERSON WHO IS REQUIRED TO REGISTER AS A CHILD SEXUAL OFFENDER OR AN EXTENDED PAROLE SUPERVISION OFFENDER UNDER § 11-704 OF THE CRIMINAL PROCEDURE ARTICLE OR WHO EMPLOYS INDIVIDUALS TO REPAIR, MAINTAIN, IMPROVE, OR BUILD SCHOOL PROPERTY WHO ARE REQUIRED TO REGISTER AS CHILD SEXUAL OFFENDERS OR EXTENDED PAROLE SUPERVISION OFFENDERS UNDER § 11-704 OF THE CRIMINAL PROCEDURE ARTICLE.

Article - Public Safety

SUBTITLE 4. SEXUAL OFFENDER ADVISORY BOARD.

1-401.

(A) THERE IS A SEXUAL OFFENDER ADVISORY BOARD IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(2) THE DIRECTOR OF THE DIVISION OF PAROLE AND PROBATION, OR THE DIRECTOR'S DESIGNEE;

(3) THE CHAIRMAN OF THE MARYLAND PAROLE COMMISSION, OR THE CHAIRMAN'S DESIGNEE;

(4) THE EXECUTIVE DIRECTOR OF THE MENTAL HYGIENE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(5) THE SECRETARY OF STATE POLICE, OR THE SECRETARY'S DESIGNEE; AND

(6) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) A REPRESENTATIVE FROM A VICTIM'S ADVOCACY GROUP;

(II) A HEALTH CARE PROFESSIONAL WITH EXPERTISE IN MENTAL DISORDERS;

(III) A STATE'S ATTORNEY;

(IV) A LAWYER WITH EXPERTISE IN CRIMINAL DEFENSE;

(V) A SEXUAL OFFENDER TREATMENT PROVIDER;

(VI) A POLYGRAPHER;

(VII) A REPRESENTATIVE OF A LOCAL LAW ENFORCEMENT UNIT; AND

(VIII) TWO CITIZEN MEMBERS.

(C) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2006.

(3) AT THE END OF A TERM AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(Over)

(5) A MEMBER WHOSE TERM HAS EXPIRED MAY BE REAPPOINTED TO THE BOARD.

(D) A BOARD MEMBER:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(E) THE GOVERNOR SHALL SELECT A CHAIRMAN FROM AMONG THE BOARD'S MEMBERS.

(F) (1) A MAJORITY OF THE BOARD'S MEMBERS CONSTITUTES A QUORUM.

(2) THE BOARD MAY ADOPT RULES FOR CONDUCTING BUSINESS.

(3) THE BOARD SHALL MEET AT LEAST TWICE ANNUALLY AT THE TIMES AND PLACES IT DETERMINES.

(G) THE BOARD SHALL:

(1) REVIEW TECHNOLOGY FOR THE TRACKING OF OFFENDERS;

(2) REVIEW THE EFFECTIVENESS OF THE STATE'S LAWS CONCERNING SEXUAL OFFENDERS;

(3) REVIEW THE LAWS OF OTHER STATES AND JURISDICTIONS CONCERNING SEXUAL OFFENDERS;

(4) REVIEW PRACTICES AND PROCEDURES OF THE MARYLAND PAROLE COMMISSION AND THE DIVISION OF PAROLE AND PROBATION CONCERNING SUPERVISION AND MONITORING OF SEXUAL OFFENDERS;

(5) REVIEW DEVELOPMENTS IN THE TREATMENT AND ASSESSMENT OF SEXUAL OFFENDERS; AND

(6) DEVELOP STANDARDS FOR SEXUAL OFFENDER TREATMENT BASED ON CURRENT AND EVOLVING BEST PRACTICES;

(7) CERTIFY STATE SEXUAL OFFENDER TREATMENT PROGRAMS THAT ARE IN COMPLIANCE WITH STANDARDS; AND

(8) PROVIDE TRAINING FOR SEXUAL OFFENDER MANAGEMENT TEAMS.

(H) ON OR BEFORE DECEMBER 31, 2008, AND EVERY YEAR THEREAFTER, THE BOARD SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(I) EACH UNIT OF STATE AND LOCAL GOVERNMENT SHALL COOPERATE WITH THE BOARD.

(J) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL PROVIDE STAFF TO THE BOARD.”.

AMENDMENT NO. 14

On page 18, before line 11, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Sexual Offender Advisory Board who are subject to appointment shall expire as follows:

(1) One citizen member in 2007;

(2) The member of the victim’s advocacy group in 2007;

(Over)

- (3) The health care professional with expertise in mental disorders in 2008;
- (4) One citizen member in 2008;
- (5) The sexual offender treatment provider in 2008;
- (6) The lawyer with expertise in criminal defense in 2009;
- (7) The State's Attorney in 2009; and
- (8) The polygrapher in 2009.”.