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By: **Delegate Marriott (By Request - Baltimore City Administration) and Delegates Anderson, C. Davis, Doory, Goodwin, Hammen, Harrison, Haynes, Kirk, Krysiak, McHale, McIntosh, Oaks, Paige, Pugh, and Rosenberg**

Introduced and read first time: January 19, 2006

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Sex Offenders - Electronic Tracking and Movement Restrictions - Penalties**  
3 **for Violating Registration Requirements**

4 FOR the purpose of requiring a court to require a certain defendant, as a condition of  
5 probation, to register for certain electronic tracking by the Department of Public  
6 Safety and Correctional Services; authorizing a court to specify geographic  
7 locations to which certain defendants may not travel as a condition of probation;  
8 altering the classification of the crime from a misdemeanor to a felony and  
9 increasing the maximum penalties for a person convicted of knowingly failing to  
10 register as an offender for certain crimes; altering the classification of the crime  
11 from a misdemeanor to a felony and increasing the maximum penalties for a  
12 certain registrant knowingly failing to provide a certain written notice to the  
13 Department; altering the classification of the crime from a misdemeanor to a  
14 felony and increasing the maximum penalties for a certain registrant knowingly  
15 providing false information of a material fact on a certain registration  
16 statement; requiring a certain person who is required to register as a sex  
17 offender for a term of life to register for electronic tracking with the Department  
18 and to wear at all times an electronic tracking device provided by the  
19 Department; requiring the Department to establish and maintain a program to  
20 actively, and in real time, electronically track and identify a certain individual's  
21 geographic location for a certain period of time; requiring the Department to  
22 timely report to the appropriate court or law enforcement agency a certain  
23 individual's presence in a certain area; requiring the Department to develop  
24 certain procedures to determine, investigate, and report a certain individual's  
25 noncompliance with the terms and conditions of a court order or statute;  
26 requiring the Department to immediately investigate reports of noncompliance  
27 with a court order or statute; requiring the Department to contract with a local  
28 law enforcement agency to assist in the location and apprehension of certain  
29 individuals; requiring the Department to establish a reasonable fee for the cost  
30 of electronically tracking and, subject to a certain exception, to collect the fee  
31 from certain individuals; prohibiting a certain offender from failing to register  
32 under this Act, failing to wear a certain electronic tracking device, or altering,

1 tampering with, damaging, or destroying a certain electronic tracking device;  
2 providing penalties for a violation of this Act; defining certain terms; and  
3 generally relating to electronic tracking of, movement restrictions on, and  
4 penalties for certain offenders.

5 BY adding to

6 Article - Criminal Procedure  
7 Section 6-233  
8 Annotated Code of Maryland  
9 (2001 Volume and 2005 Supplement)

10 BY repealing and reenacting, without amendments,

11 Article - Criminal Procedure  
12 Section 11-701 and 11-704 through 11-707  
13 Annotated Code of Maryland  
14 (2001 Volume and 2005 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article - Criminal Procedure  
17 Section 11-721  
18 Annotated Code of Maryland  
19 (2001 Volume and 2005 Supplement)

20 BY adding to

21 Article - Criminal Procedure  
22 Section 11-1101 through 11-1104, inclusive, to be under the new subtitle  
23 "Subtitle 11. Electronic Tracking of Certain Offenders"  
24 Annotated Code of Maryland  
25 (2001 Volume and 2005 Supplement)

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

28 **Article - Criminal Procedure**

29 6-233.

30 IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN  
31 CONVICTED OF A VIOLATION THAT REQUIRES THE DEFENDANT TO REGISTER AS A  
32 SEX OFFENDER FOR A TERM OF LIFE UNDER § 11-707 OF THIS ARTICLE, THE COURT:

33 (1) SHALL REQUIRE AS A CONDITION THAT THE DEFENDANT REGISTER  
34 FOR ELECTRONIC TRACKING BY THE DEPARTMENT UNDER TITLE 11, SUBTITLE 11 OF  
35 THIS ARTICLE; AND

1 (2) MAY SPECIFY AS A CONDITION GEOGRAPHIC LOCATIONS TO WHICH  
2 A DEFENDANT MAY NOT TRAVEL.

3 11-701.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (5) has been convicted of violating the child pornography statute under §  
35 11-207 of the Criminal Law Article;

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

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

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

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

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

13           (2)     "Release" means:

14                   (i)     release on parole;

15                   (ii)    mandatory supervision release;

16                   (iii)   release from a correctional facility with no required period of  
17 supervision;

18                   (iv)    work release;

19                   (v)     placement on home detention; and

20                   (vi)    the first instance of entry into the community that is part of a  
21 supervising authority's graduated release program.

22           (3)     "Release" does not include:

23                   (i)     an escape; or

24                   (ii)    leave that is granted on an emergency basis.

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

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

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

28       (g)     "Sexually violent offense" means:

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

1           (2)     assault with intent to commit rape in the first or second degree or a  
2 sexual offense in the first or second degree as prohibited on or before September 30,  
3 1996, under former Article 27, § 12 of the Code; or

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

7       (h)     "Sexually violent predator" means:

8           (1)     a person who:

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

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

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

15       (i)     "Supervising authority" means:

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

18           (2)     the administrator of a local correctional facility, if the registrant,  
19 including a participant in a home detention program, is in the custody of the local  
20 correctional facility;

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

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

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

28           (6)     the court in which the registrant was convicted, if the registrant's  
29 sentence does not include a term of imprisonment or if the sentence is modified to  
30 time served;

31           (7)     the Secretary, if the registrant is in the State under terms and  
32 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title  
33 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections  
34 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

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

14 (j) "Transient" means a nonresident registrant who enters a county of this  
15 State with the intent to be in the State or is in the State for a period exceeding 14  
16 days or for an aggregate period exceeding 30 days during a calendar year for a  
17 purpose other than employment or to attend an educational institution.

18 11-704.

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

21 (1) a child sexual offender;

22 (2) an offender;

23 (3) a sexually violent offender;

24 (4) a sexually violent predator;

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

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

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

35 (i) to carry on employment;

1 (ii) to attend a public or private educational institution, including a  
2 secondary school, trade or professional institution, or institution of higher education,  
3 as a full-time or part-time student; or

4 (iii) as a transient.

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;

2 (ii) registers as a student in the State; or

3 (iii) enters the State as a transient.

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

6 (i) within 7 days after release, if the child sexual offender is a  
7 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 child  
11 sexual offender who is not a resident and has entered the State under § 11-704(a)(7)  
12 of this subtitle shall also register in person with the local law enforcement unit of the  
13 county where the child sexual offender is a transient or will work or attend school.

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

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

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

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

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

28 11-706.

29 (a) A registration statement shall include:

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

31 (2) (i) for a registrant under § 11-704(a)(7)(i) of this subtitle or who is  
32 on work release, the registrant's place of employment; or

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



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

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

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

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

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

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

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

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

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

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

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

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

18 (3) offense history; and

19 (4) documentation of treatment received for a mental abnormality or  
20 personality disorder.

21 11-707.

22 (a) (1) (i) A child sexual offender shall register annually in person, on or  
23 before January 1, with a local law enforcement unit for the term provided under  
24 paragraph (4) of this subsection.

25 (ii) Each registration shall include a new photograph.

26 (2) An offender and a sexually violent offender shall register annually, on  
27 or before January 1, with the Department in accordance with § 11-711(a) of this  
28 subtitle and for the term provided under paragraph (4) of this subsection.

29 (3) (i) A sexually violent predator shall register in person every 90  
30 days, on or before January 1, April 1, July 1, and October 1, in accordance with §  
31 11-711(b) of this subtitle and for the term provided under paragraph (4)(ii) of this  
32 subsection.

1 (ii) Registration shall include a photograph that shall be updated at  
2 least once each year.

3 (4) The term of registration is:

4 (i) 10 years; or

5 (ii) life, if:

6 1. the registrant is a sexually violent predator;

7 2. the registrant has been convicted of a sexually violent  
8 offense;

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

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

14 (5) A registrant who is not a resident of the State shall register for the  
15 appropriate time specified in this subsection or until the registrant's employment,  
16 student enrollment, or transient status in the State ends.

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

18 (1) the last date of release;

19 (2) the date granted probation; or

20 (3) the date granted a suspended sentence.

21 11-721.

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

25 (b) A person who violates this section is guilty of a [misdemeanor] FELONY  
26 and on conviction is subject to imprisonment not exceeding [3] 5 years or a fine not  
27 exceeding [\$5,000] \$10,000 or both.

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

1 SUBTITLE 11. ELECTRONIC TRACKING OF CERTAIN OFFENDERS.

2 11-1101.

3 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (B) "ELECTRONIC TRACKING" MEANS MONITORING 24 HOURS A DAY AND 7  
6 DAYS A WEEK THE GEOGRAPHIC LOCATION OF AN INDIVIDUAL THROUGH THE USE  
7 OF AN ELECTRONIC TRACKING DEVICE.

8 (C) "ELECTRONIC TRACKING DEVICE" MEANS TECHNOLOGY THAT CAN  
9 DETERMINE THE LOCATION OF A TRACKEE AT ANY TIME AND IS APPROVED BY THE  
10 DEPARTMENT.

11 (D) "TRACKEE" MEANS A PERSON WHO IS REQUIRED TO REGISTER FOR  
12 ELECTRONIC TRACKING UNDER THIS SUBTITLE.

13 11-1102.

14 A PERSON REQUIRED TO REGISTER AS A SEX OFFENDER FOR A TERM OF LIFE  
15 UNDER § 11-707 OF THIS TITLE SHALL:

16 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE DEPARTMENT;  
17 AND

18 (2) AT ALL TIMES WEAR AN ELECTRONIC TRACKING DEVICE PROVIDED  
19 BY THE DEPARTMENT.

20 11-1103.

21 (A) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A PROGRAM TO:

22 (1) ACTIVELY, AND IN REAL TIME, ELECTRONICALLY TRACK AND  
23 IDENTIFY A TRACKEE'S GEOGRAPHIC LOCATION FOR AS LONG AS THE TRACKEE IS  
24 SUBJECT TO THE REQUIREMENTS OF THIS SUBTITLE; AND

25 (2) REPORT TO THE APPROPRIATE COURT OR LAW ENFORCEMENT  
26 AGENCY A TRACKEE'S PRESENCE IN A GEOGRAPHIC AREA IN WHICH THE TRACKEE  
27 HAS BEEN PROHIBITED TO TRAVEL BY COURT ORDER OR STATUTE.

28 (B) THE DEPARTMENT SHALL:

29 (1) DEVELOP PROCEDURES TO DETERMINE, INVESTIGATE, AND REPORT  
30 A TRACKEE'S NONCOMPLIANCE WITH TERMS AND CONDITIONS OF A COURT ORDER  
31 OR STATUTE;

32 (2) IMMEDIATELY INVESTIGATE A REPORT OF NONCOMPLIANCE BY A  
33 TRACKEE; AND

1           (3)     CONTRACT WITH LOCAL LAW ENFORCEMENT AGENCIES TO ASSIST  
2 IN THE LOCATION AND APPREHENSION OF TRACKEES WHO ARE IN NONCOMPLIANCE  
3 WITH COURT ORDERS OR STATUTES AS REPORTED BY THE ELECTRONIC TRACKING  
4 DEVICES.

5     (C)     (1)     THE DEPARTMENT SHALL ESTABLISH A REASONABLE FEE FOR THE  
6 COST OF ELECTRONIC TRACKING AND, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF  
7 THIS SUBSECTION, COLLECT THE FEE FROM EACH TRACKEE IN THE PROGRAM.

8           (2)     IF THE DEPARTMENT DETERMINES THAT A TRACKEE CANNOT  
9 AFFORD TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS  
10 SUBSECTION, THE DEPARTMENT MAY EXEMPT THE TRACKEE WHOLLY OR PARTLY  
11 FROM THE FEE.

12 11-1104.

13     (A)     A TRACKEE MAY NOT KNOWINGLY:

14           (1)     FAIL TO REGISTER WITH THE DEPARTMENT;

15           (2)     FAIL TO WEAR AN ELECTRONIC TRACKING DEVICE PROVIDED BY  
16 THE DEPARTMENT; OR

17           (3)     ALTER, TAMPER WITH, DAMAGE, OR DESTROY AN ELECTRONIC  
18 TRACKING DEVICE PROVIDED BY THE DEPARTMENT.

19     (B)     A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON  
20 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE  
21 NOT EXCEEDING \$10,000 OR BOTH.

22     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2006.