
By: **Delegates Minnick, Benson, Bohanan, Kelly, Kullen, Menes, Miller,
Vallario, and Weir**

Introduced and read first time: January 23, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sex Offenders - Electronic Tracking Bracelets**

3 FOR the purpose of requiring a certain person who is required to register as a sex
4 offender for a term of life to register for electronic tracking with the Department
5 of Public Safety and Correctional Services and to wear at all times a certain
6 electronic tracking bracelet provided by the Department; requiring the
7 Department to establish and maintain a program to actively, and in real time,
8 electronically track and identify a certain individual's geographic location for a
9 certain period of time; requiring the Department to timely report to the
10 appropriate court or law enforcement agency a certain individual's presence in a
11 certain area; requiring the Department to develop certain procedures to
12 determine, investigate, and report a certain individual's noncompliance with the
13 terms and conditions of a court order or statute; requiring the Department to
14 immediately investigate reports of noncompliance with a court order or statute;
15 requiring the Department to contract with a local law enforcement agency to
16 assist in the location and apprehension of certain individuals; requiring the
17 Department to establish a reasonable fee for the cost of electronically tracking
18 and, subject to a certain exception, to collect the fee from certain individuals;
19 prohibiting a certain offender from failing to register under this Act, failing to
20 wear a certain electronic tracking device, or altering, tampering with,
21 damaging, or destroying a certain electronic tracking device; providing penalties
22 for a violation of this Act; defining certain terms; and generally relating to
23 electronic tracking of certain offenders.

24 BY adding to

25 Article - Criminal Procedure
26 Section 11-1101 through 11-1104 to be under the new subtitle "Subtitle 11.
27 Electronic Tracking of Certain Offenders"
28 Annotated Code of Maryland
29 (2001 Volume and 2005 Supplement)

30 BY repealing and reenacting, without amendments,

31 Article - Criminal Procedure

1 Section 11-701 and 11-707
2 Annotated Code of Maryland
3 (2001 Volume and 2005 Supplement)

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

6 **Article - Criminal Procedure**

7 11-701.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (5) has been convicted of violating the child pornography statute under §
4 11-207 of the Criminal Law Article;

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

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

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

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

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

17 (2) "Release" means:

18 (i) release on parole;

19 (ii) mandatory supervision release;

20 (iii) release from a correctional facility with no required period of
21 supervision;

22 (iv) work release;

23 (v) placement on home detention; and

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

26 (3) "Release" does not include:

27 (i) an escape; or

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

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

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

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

1 (g) "Sexually violent offense" means:

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

4 (2) assault with intent to commit rape in the first or second degree or a
5 sexual offense in the first or second degree as prohibited on or before September 30,
6 1996, under former Article 27, § 12 of the Code; or

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

10 (h) "Sexually violent predator" means:

11 (1) a person who:

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

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

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

18 (i) "Supervising authority" means:

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

21 (2) the administrator of a local correctional facility, if the registrant,
22 including a participant in a home detention program, is in the custody of the local
23 correctional facility;

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

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

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

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

34 (7) the Secretary, if the registrant is in the State under terms and
35 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title

1 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
2 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

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

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

20 11-707.

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

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

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

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

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

34 (4) The term of registration is:

35 (i) 10 years; or

36 (ii) life, if:

- 1 1. the registrant is a sexually violent predator;
- 2 2. the registrant has been convicted of a sexually violent
3 offense;
- 4 3. the registrant has been convicted of a violation of § 3-602
5 of the Criminal Law Article for commission of a sexual act involving penetration of a
6 child under the age of 12 years; or
- 7 4. the registrant has been convicted of a prior crime as a
8 child sexual offender, an offender, or a sexually violent offender.

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

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

- 13 (1) the last date of release;
- 14 (2) the date granted probation; or
- 15 (3) the date granted a suspended sentence.

16 SUBTITLE 11. ELECTRONIC TRACKING OF CERTAIN OFFENDERS.

17 11-1101.

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

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

23 (C) "ELECTRONIC TRACKING DEVICE" MEANS A BRACELET OF A SOLID
24 DAYLIGHT FLUORESCENT ORANGE COLOR WHICH INCORPORATES TECHNOLOGY
25 THAT CAN DETERMINE THE LOCATION OF A TRACKEE AT ANY TIME AND IS
26 APPROVED BY THE DEPARTMENT.

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

29 11-1102.

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

- 32 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE DEPARTMENT;
- 33 AND

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

3 11-1103.

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

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

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

11 (B) THE DEPARTMENT SHALL:

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

15 (2) IMMEDIATELY INVESTIGATE A REPORT OF NONCOMPLIANCE BY A
16 TRACKEE; AND

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

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

24 (2) IF THE DEPARTMENT DETERMINES THAT A TRACKEE CANNOT
25 AFFORD TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS
26 SUBSECTION, THE DEPARTMENT MAY EXEMPT THE TRACKEE WHOLLY OR PARTLY
27 FROM THE FEE.

28 11-1104.

29 (A) A TRACKEE MAY NOT KNOWINGLY:

30 (1) FAIL TO REGISTER WITH THE DEPARTMENT;

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

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

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

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