
By: **Senator McFadden (By Request - Baltimore City Administration)**

Introduced and read first time: January 24, 2006

Assigned to: Judicial Proceedings

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,
33 tampering with, damaging, or destroying a certain electronic tracking device;
34 providing penalties for a violation of this Act; defining certain terms; and
35 generally relating to electronic tracking of, movement restrictions on, and

1 penalties for certain offenders.

2 BY adding to

3 Article - Criminal Procedure

4 Section 6-233

5 Annotated Code of Maryland

6 (2001 Volume and 2005 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article - Criminal Procedure

9 Section 11-701 and 11-704 through 11-707

10 Annotated Code of Maryland

11 (2001 Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - Criminal Procedure

14 Section 11-721

15 Annotated Code of Maryland

16 (2001 Volume and 2005 Supplement)

17 BY adding to

18 Article - Criminal Procedure

19 Section 11-1101 through 11-1104, inclusive, to be under the new subtitle

20 "Subtitle 11. Electronic Tracking of Certain Offenders"

21 Annotated Code of Maryland

22 (2001 Volume and 2005 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Criminal Procedure**

26 6-233.

27 IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN

28 CONVICTED OF A VIOLATION THAT REQUIRES THE DEFENDANT TO REGISTER AS A

29 SEX OFFENDER FOR A TERM OF LIFE UNDER § 11-707 OF THIS ARTICLE, THE COURT:

30 (1) SHALL REQUIRE AS A CONDITION THAT THE DEFENDANT REGISTER

31 FOR ELECTRONIC TRACKING BY THE DEPARTMENT UNDER TITLE 11, SUBTITLE 11 OF

32 THIS ARTICLE; AND

33 (2) MAY SPECIFY AS A CONDITION GEOGRAPHIC LOCATIONS TO WHICH

34 A DEFENDANT MAY NOT TRAVEL.

1 11-701.

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

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

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

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

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

12 (4) 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) and (2) of this subsection.

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

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

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

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

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

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

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

32 (5) has been convicted of violating the child pornography statute under §
33 11-207 of the Criminal Law Article;

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

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

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

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

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

10 (2) "Release" means:

11 (i) release on parole;

12 (ii) mandatory supervision release;

13 (iii) release from a correctional facility with no required period of
14 supervision;

15 (iv) work release;

16 (v) placement on home detention; and

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

19 (3) "Release" does not include:

20 (i) an escape; or

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

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

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

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

25 (g) "Sexually violent offense" means:

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

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

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

4 (h) "Sexually violent predator" means:

5 (1) a person who:

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

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

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

12 (i) "Supervising authority" means:

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

15 (2) the administrator of a local correctional facility, if the registrant,
16 including a participant in a home detention program, is in the custody of the local
17 correctional facility;

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

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

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

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

28 (7) the Secretary, if the registrant is in the State under terms and
29 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
30 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
31 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

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

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

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

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

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

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

13 11-704.

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

16 (1) a child sexual offender;

17 (2) an offender;

18 (3) a sexually violent offender;

19 (4) a sexually violent predator;

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

23 (6) an offender, sexually violent offender, or sexually violent predator
24 who, before moving into this State, was required to register in another state or by a
25 federal, military, or Native American tribal court for a crime that occurred before July
26 1, 1997; or

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

30 (i) to carry on employment;

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

34 (iii) as a transient.

1 (b) Notwithstanding any other provision of law, a person is no longer subject
2 to registration under this subtitle if:

3 (1) the underlying conviction requiring registration is reversed, vacated,
4 or set aside; or

5 (2) the registrant is pardoned for the underlying conviction.

6 11-705.

7 (a) In this section, "resident" means a person who lives in this State when the
8 person:

9 (1) is released;

10 (2) is granted probation;

11 (3) is granted a suspended sentence; or

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

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

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

16 (i) is released;

17 (ii) is granted probation before judgment;

18 (iii) is granted probation after judgment;

19 (iv) is granted a suspended sentence; or

20 (v) receives a sentence that does not include a term of
21 imprisonment;

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

24 (i) establishes a temporary or permanent residence in the State; or

25 (ii) applies for a driver's license in the State; or

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

27 (i) begins employment in the State;

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

29 (iii) enters the State as a transient.

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

3 (i) within 7 days after release, if the child sexual offender is a
4 resident; or

5 (ii) within 7 days after registering with the supervising authority, if
6 the registrant is moving into this State.

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

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

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

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

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

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

25 11-706.

26 (a) A registration statement shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (3) offense history; and

16 (4) documentation of treatment received for a mental abnormality or
17 personality disorder.

18 11-707.

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

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

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

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

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

32 (4) The term of registration is:

- 1 (i) 10 years; or
- 2 (ii) life, if:
 - 3 1. the registrant is a sexually violent predator;
 - 4 2. the registrant has been convicted of a sexually violent
 - 5 offense;
 - 6 3. the registrant has been convicted of a violation of § 3-602
 - 7 of the Criminal Law Article for commission of a sexual act involving penetration of a
 - 8 child under the age of 12 years; or
 - 9 4. the registrant has been convicted of a prior crime as a
 - 10 child sexual offender, an offender, or a sexually violent offender.

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

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

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

18 11-721.

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

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

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

27 SUBTITLE 11. ELECTRONIC TRACKING OF CERTAIN OFFENDERS.

28 11-1101.

29 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 30 INDICATED.

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

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

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

6 11-1102.

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

9 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE DEPARTMENT;
10 AND

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

13 11-1103.

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

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

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

21 (B) THE DEPARTMENT SHALL:

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

25 (2) IMMEDIATELY INVESTIGATE A REPORT OF NONCOMPLIANCE BY A
26 TRACKEE; AND

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

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

34 (2) IF THE DEPARTMENT DETERMINES THAT A TRACKEE CANNOT
35 AFFORD TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS

1 SUBSECTION, THE DEPARTMENT MAY EXEMPT THE TRACKEE WHOLLY OR PARTLY
2 FROM THE FEE.

3 11-1104.

4 (A) A TRACKEE MAY NOT KNOWINGLY:

5 (1) FAIL TO REGISTER WITH THE DEPARTMENT;

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

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

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

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