

HOUSE BILL 568

E2, J3

9lr2391

By: **Delegates Kramer, Anderson, Carter, Dwyer, Frank, Kelly, Levi, McComas, McConkey, Ramirez, Smigiel, and Valderrama**

Introduced and read first time: February 6, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Facility Resident Protection Act**

3 FOR the purpose of prohibiting sex offender registrants from knowingly entering onto
4 real property on which certain nursing facilities are located unless a certain
5 waiver has been granted; authorizing a registrant to seek a certain waiver for
6 purposes of residence, treatment, or visitation; requiring certain facilities to
7 consider certain factors when deciding whether to grant a waiver; requiring
8 certain facilities to provide certain written notice and prominently display
9 certain notice when a certain waiver is granted; requiring certain facilities to
10 provide certain notice of the arrival and departure of a registrant under certain
11 circumstances; providing for the expiration of certain waivers; authorizing
12 certain facilities to withdraw a waiver under certain circumstances; and
13 generally relating to certain registrants entering onto nursing facility property.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Procedure
16 Section 11–722
17 Annotated Code of Maryland
18 (2008 Replacement Volume)

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

21 **Article – Criminal Procedure**

22 11–722.

23 (a) This section does not apply to a registrant who enters real property:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(1) where the registrant is a student or the registrant's child is a student or receives child care, if:

(i) within the past year the registrant has been given the specific written permission of the Superintendent of Schools, the local school board, the principal of the school, or the owner or operator of the registered family day care home, licensed child care home, or licensed child care institution, as applicable; and

(ii) the registrant promptly notifies an agent or employee of the school, home, or institution of the registrant's presence and purpose of visit; or

(2) for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote and the registrant's polling place is at the school.

(b) A registrant may not knowingly enter onto 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; **OR**

(III) A FACILITY REGULATED UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH – GENERAL ARTICLE OR A RELATED INSTITUTION REGULATED UNDER TITLE 19, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE, UNLESS A WAIVER HAS BEEN GRANTED TO THE REGISTRANT BY THE FACILITY OR RELATED INSTITUTION AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

(C) (1) A REGISTRANT MAY SEEK A WAIVER FROM THE PROHIBITION UNDER SUBSECTION (B)(2)(III) OF THIS SECTION FOR PURPOSES OF RESIDENCE, TREATMENT, OR VISITATION AT THE FACILITY OR RELATED INSTITUTION.

(2) IN DECIDING WHETHER TO GRANT A WAIVER, A FACILITY OR RELATED INSTITUTION SHALL CONSIDER:

(I) THE NATURE AND CIRCUMSTANCES OF THE CRIME COMMITTED BY THE REGISTRANT;

1 (II) THE EFFECT OF A WAIVER ON THE STAFF, RESIDENTS,
2 AND VISITORS OF THE FACILITY OR RELATED INSTITUTION;

3 (III) THE SENTENCE GIVEN TO THE REGISTRANT;

4 (IV) ANY ANTISOCIAL BEHAVIOR OF THE REGISTRANT;

5 (V) THE SUBSEQUENT REHABILITATION OF THE
6 REGISTRANT;

7 (VI) THE AGE AND HEALTH OF THE REGISTRANT;

8 (VII) THE REASON THE WAIVER IS NEEDED; AND

9 (VIII) ANY OTHER FACTOR CONSIDERED NECESSARY BY THE
10 FACILITY OR RELATED INSTITUTION.

11 (3) IF A FACILITY OR RELATED INSTITUTION GRANTS A WAIVER
12 TO A REGISTRANT FOR PURPOSES OF TREATMENT OR RESIDENCE, THE
13 FACILITY OR RELATED INSTITUTION SHALL:

14 (I) PROVIDE WRITTEN NOTICE TO EACH RESIDENT,
15 RESIDENT'S GUARDIAN, AND FACILITY EMPLOYEE OF THE PRESENCE OF THE
16 REGISTRANT; AND

17 (II) DISPLAY IN A PROMINENT MANNER AT THE ENTRANCE
18 OF THE FACILITY NOTICE TO VISITORS OF THE PRESENCE OF THE REGISTRANT.

19 (4) (I) IF A FACILITY OR RELATED INSTITUTION GRANTS A
20 WAIVER FOR PURPOSES OF VISITATION, THE FACILITY OR RELATED
21 INSTITUTION SHALL PROMPTLY NOTIFY AN AGENT OR EMPLOYEE, AS
22 DESIGNATED BY THE FACILITY OR RELATED INSTITUTION, OF THE ARRIVAL AND
23 DEPARTURE OF THE REGISTRANT.

24 (II) A WAIVER GRANTED FOR PURPOSES OF VISITATION
25 SHALL EXPIRE 1 YEAR FROM THE DATE ON WHICH THE WAIVER WAS GRANTED.

26 (5) A WAIVER GRANTED BY A FACILITY OR RELATED INSTITUTION
27 MAY BE WITHDRAWN IF THE FACILITY OR RELATED INSTITUTION CONSIDERS
28 THE WITHDRAWAL OF THE WAIVER TO BE IN THE BEST INTEREST OF THE
29 RESIDENTS, STAFF, AND VISITORS TO THE FACILITY OR RELATED INSTITUTION.

1 [(c)] (D) A person who enters into a contract with a county board of
2 education or a nonpublic school may not knowingly employ an individual to work at a
3 school if the individual is a registrant.

4 [(d)] (E) A person who violates this section is guilty of a misdemeanor and
5 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
6 \$5,000 or both.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2009.