

SENATE BILL 370

E2

2lr0880

By: **Senators Stone and Klausmeier**

Introduced and read first time: January 30, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – State Child Abuse Registry**

3 FOR the purpose of requiring individuals convicted of child abuse to register with a
4 certain supervising authority by a certain time; providing that an individual is
5 no longer subject to registration on a certain registry under certain conditions;
6 requiring a certain registrant to provide notice of a change in residence or a
7 change of name in a certain time period; establishing when an individual is
8 considered to be convicted for certain purposes; requiring a certain registration
9 statement to include certain information; requiring individuals convicted of
10 child abuse to register with a local law enforcement unit every year for a certain
11 term; requiring a registration to include a certain digital image that is required
12 to be updated at least once each year; requiring the Department of Public Safety
13 and Correctional Services to establish a certain State child abuse registry;
14 requiring the Department to provide certain information on the Internet;
15 requiring the Department to reimburse local law enforcement units for certain
16 costs; prohibiting an individual from knowingly failing to register or knowingly
17 providing certain false information; providing for certain immunity for certain
18 individuals in certain circumstances; establishing certain penalties for a
19 violation of this Act; defining certain terms; and generally relating to a State
20 child abuse registry.

21 BY adding to

22 Article – Criminal Procedure

23 Section 11–7A–01 through 11–7A–11 to be under the new subtitle “Subtitle 7A.

24 Registration of Child Abusers”

25 Annotated Code of Maryland

26 (2008 Replacement Volume and 2011 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Criminal Procedure

2

SUBTITLE 7A. REGISTRATION OF CHILD ABUSERS.

3

11-7A-01.

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

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(B) “IMPRISONMENT” MEANS INCARCERATION PURSUANT TO A CONVICTION, REGARDLESS OF THE NATURE OF THE INSTITUTION IN WHICH THE OFFENDER SERVES THE SENTENCE.

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(C) “LOCAL LAW ENFORCEMENT UNIT” MEANS THE LAW ENFORCEMENT UNIT IN A COUNTY THAT HAS BEEN DESIGNATED BY RESOLUTION OF THE COUNTY GOVERNING BODY AS THE PRIMARY LAW ENFORCEMENT UNIT IN THE COUNTY.

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(D) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, “RELEASE” MEANS ANY TYPE OF RELEASE FROM THE CUSTODY OF A SUPERVISING AUTHORITY.

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(2) “RELEASE” MEANS:

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(I) RELEASE ON PAROLE;

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(II) MANDATORY SUPERVISION RELEASE;

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(III) RELEASE FROM A CORRECTIONAL FACILITY WITH NO REQUIRED PERIOD OF SUPERVISION;

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(IV) WORK RELEASE;

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(V) PLACEMENT ON HOME DETENTION; AND

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(VI) THE FIRST INSTANCE OF ENTRY INTO THE COMMUNITY THAT IS PART OF A SUPERVISING AUTHORITY’S GRADUATED RELEASE PROGRAM.

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(3) “RELEASE” DOES NOT INCLUDE:

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(I) AN ESCAPE; OR

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(III) LEAVE THAT IS GRANTED ON AN EMERGENCY BASIS.

1 **(E) “SUPERVISING AUTHORITY” MEANS AN AGENCY OR PERSON THAT IS**
2 **RESPONSIBLE FOR COLLECTING THE INFORMATION FOR THE INITIAL**
3 **REGISTRATION AND IS:**

4 **(1) THE SECRETARY, IF THE REGISTRANT IS IN THE CUSTODY OF**
5 **A CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT;**

6 **(2) THE ADMINISTRATOR OF A LOCAL CORRECTIONAL FACILITY,**
7 **IF THE REGISTRANT, INCLUDING A PARTICIPANT IN A HOME DETENTION**
8 **PROGRAM, IS IN THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY;**

9 **(3) THE COURT THAT GRANTED THE PROBATION OR SUSPENDED**
10 **SENTENCE, EXCEPT AS PROVIDED IN ITEM (7) OF THIS SUBSECTION, IF THE**
11 **REGISTRANT IS GRANTED PROBATION BEFORE JUDGMENT, PROBATION AFTER**
12 **JUDGMENT, OR A SUSPENDED SENTENCE;**

13 **(4) THE DIRECTOR OF THE PATUXENT INSTITUTION, IF THE**
14 **REGISTRANT IS IN THE CUSTODY OF THE PATUXENT INSTITUTION;**

15 **(5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, IF THE**
16 **REGISTRANT IS IN THE CUSTODY OF A FACILITY OPERATED BY THE**
17 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**

18 **(6) THE COURT IN WHICH THE REGISTRANT WAS CONVICTED, IF**
19 **THE REGISTRANT’S SENTENCE DOES NOT INCLUDE A TERM OF IMPRISONMENT**
20 **OR IF THE SENTENCE IS MODIFIED TO TIME SERVED; OR**

21 **(7) THE DIRECTOR OF PAROLE AND PROBATION, IF THE**
22 **REGISTRANT IS UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND**
23 **PROBATION.**

24 **11-7A-02.**

25 **FOR THE PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL IS CONVICTED**
26 **WHEN THE INDIVIDUAL:**

27 **(1) IS FOUND GUILTY OF A CRIME BY A JURY OR JUDICIAL**
28 **OFFICER;**

29 **(2) ENTERS A PLEA OF GUILTY OR NOLO CONTENDERE;**

1 **(3) IS GRANTED A PROBATION BEFORE JUDGMENT AFTER A**
2 **FINDING OF GUILT FOR A CRIME IF THE COURT, AS A CONDITION OF PROBATION,**
3 **ORDERS COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; OR**

4 **(4) IS FOUND NOT CRIMINALLY RESPONSIBLE FOR A CRIME.**

5 **11-7A-03.**

6 **(A) AN INDIVIDUAL SHALL REGISTER WITH THE INDIVIDUAL'S**
7 **SUPERVISING AUTHORITY IF THE INDIVIDUAL IS CONVICTED OF VIOLATING THE**
8 **CHILD ABUSE STATUTE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE.**

9 **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN**
10 **INDIVIDUAL IS NO LONGER SUBJECT TO REGISTRATION UNDER THIS SUBTITLE**
11 **IF:**

12 **(1) THE UNDERLYING CONVICTION REQUIRING REGISTRATION IS**
13 **REVERSED, VACATED, OR SET ASIDE; OR**

14 **(2) THE REGISTRANT IS PARDONED FOR THE UNDERLYING**
15 **CONVICTION.**

16 **11-7A-04.**

17 **(A) A REGISTRANT SHALL REGISTER WITH THE APPROPRIATE**
18 **SUPERVISING AUTHORITY IN THE STATE:**

19 **(1) IF THE REGISTRANT WAS SENTENCED TO A TERM OF**
20 **IMPRISONMENT, BEFORE THE DATE THAT THE REGISTRANT IS RELEASED; OR**

21 **(2) WITHIN 3 DAYS OF THE DATE THAT THE REGISTRANT:**

22 **(I) IS GRANTED PROBATION BEFORE JUDGMENT;**

23 **(II) IS GRANTED PROBATION AFTER JUDGMENT;**

24 **(III) IS GRANTED A SUSPENDED SENTENCE; OR**

25 **(IV) RECEIVES A SENTENCE THAT DOES NOT INCLUDE A**
26 **TERM OF IMPRISONMENT.**

1 **(B) A REGISTRANT WHO CHANGES RESIDENCES SHALL SEND WRITTEN**
2 **NOTICE OF THE CHANGE TO THE STATE CHILD ABUSE REGISTRY WITHIN 3 DAYS**
3 **AFTER THE CHANGE OCCURS.**

4 **(C) A REGISTRANT WHO IS GRANTED A LEGAL CHANGE OF NAME BY A**
5 **COURT SHALL SEND WRITTEN NOTICE OF THE CHANGE TO THE STATE CHILD**
6 **ABUSE REGISTRY WITHIN 3 DAYS AFTER THE CHANGE IS GRANTED.**

7 **11-7A-05.**

8 **A REGISTRATION STATEMENT SHALL INCLUDE:**

9 **(1) THE REGISTRANT'S FULL NAME, INCLUDING ANY SUFFIX, AND**
10 **ADDRESS;**

11 **(2) A DESCRIPTION OF THE CRIME FOR WHICH THE REGISTRANT**
12 **WAS CONVICTED;**

13 **(3) THE DATE THAT THE REGISTRANT WAS CONVICTED;**

14 **(4) THE JURISDICTION AND THE NAME OF THE COURT IN WHICH**
15 **THE REGISTRANT WAS CONVICTED;**

16 **(5) A LIST OF ANY ALIASES OR FORMER NAMES THAT THE**
17 **REGISTRANT HAS USED;**

18 **(6) THE REGISTRANT'S SOCIAL SECURITY NUMBER AND DATE OF**
19 **BIRTH;**

20 **(7) A COPY OF THE REGISTRANT'S VALID DRIVER'S LICENSE OR**
21 **OTHER IDENTIFICATION CARD;**

22 **(8) THE CRIMINAL HISTORY OF THE REGISTRANT, INCLUDING**
23 **THE DATES OF ALL ARRESTS AND CONVICTIONS, THE STATUS OF PAROLE,**
24 **PROBATION, OR SUPERVISED RELEASE, AND THE EXISTENCE OF ANY**
25 **OUTSTANDING ARREST WARRANTS; AND**

26 **(9) THE REGISTRANT'S SIGNATURE AND DATE SIGNED.**

27 **11-7A-06.**

1 **(A) (1) AN INDIVIDUAL SHALL REGISTER IN PERSON EVERY YEAR**
2 **WITH A LOCAL LAW ENFORCEMENT UNIT FOR THE TERM PROVIDED UNDER**
3 **SUBSECTION (B) OF THIS SECTION.**

4 **(2) REGISTRATION SHALL INCLUDE A DIGITAL IMAGE THAT**
5 **SHALL BE UPDATED AT LEAST ONCE EACH YEAR.**

6 **(B) THE TERM OF REGISTRATION IS:**

7 **(1) 10 YEARS; OR**

8 **(2) LIFE, IF:**

9 **(I) THE REGISTRANT IS SUBJECT TO REGISTRATION DUE TO**
10 **A VIOLATION UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE THAT RESULTED**
11 **IN THE DEATH OF THE MINOR; OR**

12 **(II) THE REGISTRANT HAS BEEN CONVICTED OF A PRIOR**
13 **CRIME OF CHILD ABUSE.**

14 **(C) A TERM OF REGISTRATION DESCRIBED IN THIS SECTION SHALL BE**
15 **COMPUTED FROM:**

16 **(1) THE LAST DATE OF RELEASE;**

17 **(2) THE DATE GRANTED PROBATION; OR**

18 **(3) THE DATE GRANTED A SUSPENDED SENTENCE.**

19 **11-7A-07.**

20 **(A) WHEN A REGISTRANT REGISTERS, THE SUPERVISING AUTHORITY**
21 **SHALL:**

22 **(1) GIVE WRITTEN NOTICE TO THE REGISTRANT OF THE**
23 **REQUIREMENTS OF THIS SUBTITLE;**

24 **(2) EXPLAIN THE REQUIREMENTS OF THIS SUBTITLE TO THE**
25 **REGISTRANT; AND**

26 **(3) OBTAIN A STATEMENT SIGNED BY THE REGISTRANT**
27 **ACKNOWLEDGING THAT THE SUPERVISING AUTHORITY EXPLAINED THE**

1 REQUIREMENTS OF THIS SUBTITLE AND GAVE WRITTEN NOTICE OF THE
2 REQUIREMENTS TO THE REGISTRANT.

3 (B) THE SUPERVISING AUTHORITY SHALL OBTAIN AN UPDATED DIGITAL
4 IMAGE OF THE REGISTRANT AND FORWARD THE UPDATED DIGITAL IMAGE TO
5 THE DEPARTMENT.

6 (C) AS SOON AS POSSIBLE BUT NOT LATER THAN 3 WORKING DAYS
7 AFTER THE REGISTRATION IS COMPLETE, A SUPERVISING AUTHORITY THAT IS
8 NOT A UNIT OF THE DEPARTMENT SHALL SEND THE REGISTRATION STATEMENT
9 TO THE DEPARTMENT.

10 11-7A-08.

11 THE DEPARTMENT SHALL:

12 (1) ESTABLISH A STATE CHILD ABUSE REGISTRY THAT INCLUDES
13 INFORMATION ON INDIVIDUALS SUBJECT TO REGISTRATION UNDER THIS
14 SUBTITLE;

15 (2) POST ON THE INTERNET A CURRENT LISTING OF EACH
16 REGISTRANT'S NAME, ADDRESS, DATE OF BIRTH, THE MOST RECENT DIGITAL
17 IMAGE, AND THE DESCRIPTION OF THE CRIME OF THE REGISTRANT THAT IS THE
18 BASIS FOR THE REGISTRATION; AND

19 (3) REIMBURSE LOCAL LAW ENFORCEMENT UNITS FOR THE COST
20 OF PROCESSING THE REGISTRATION STATEMENTS OF REGISTRANTS,
21 INCLUDING THE COST OF TAKING DIGITAL IMAGES.

22 11-7A-09.

23 AN ELECTED PUBLIC OFFICIAL, A PUBLIC EMPLOYEE, OR A PUBLIC UNIT
24 HAS THE IMMUNITY DESCRIBED IN §§ 5-302 AND 5-522 OF THE COURTS
25 ARTICLE REGARDING CIVIL LIABILITY FOR DAMAGES ARISING OUT OF ANY
26 ACTION RELATING TO THE PROVISIONS OF THIS SUBTITLE, UNLESS IT IS
27 PROVEN THAT THE OFFICIAL, EMPLOYEE, OR UNIT ACTED WITH GROSS
28 NEGLIGENCE OR IN BAD FAITH.

29 11-7A-10.

30 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS
31 SUBTITLE.

1 11-7A-11.

2 (A) A REGISTRANT MAY NOT KNOWINGLY FAIL TO REGISTER OR
3 KNOWINGLY PROVIDE FALSE INFORMATION OF A MATERIAL FACT AS REQUIRED
4 BY THIS SUBTITLE.

5 (B) A PERSON WHO VIOLATES THIS SECTION:

6 (1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON
7 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A
8 FINE NOT EXCEEDING \$5,000 OR BOTH; AND

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2012.