

HOUSE BILL 1072

J3, E4

4lr1275

By: **Delegates Kramer, Barkley, Bates, Fraser-Hidalgo, Frick, Stocksdales, and Valderrama**

Introduced and read first time: February 6, 2014

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Homes and Assisted Living Facilities – Sex Offenders**

3 FOR the purpose of requiring a certain registrant who applies for admission to a
4 nursing home or an assisted living program to provide certain notification to the
5 nursing home or assisted living program during the admission process; adding
6 to the information that must be included in a registration statement; requiring
7 a certain supervising authority to send a copy of a registration statement to a
8 certain nursing home or assisted living program within a certain time period
9 under certain circumstances; prohibiting a facility from knowingly employing an
10 identified registrant; requiring a facility to check the Sex Offender Registry on a
11 certain Web site to make a certain determination; authorizing a facility to
12 decline admission to an identified registrant; requiring and authorizing a
13 facility to take certain action if an identified registrant is a resident of the
14 facility; requiring the Maryland Medical Assistance Program or the State to pay
15 for certain accommodations under certain circumstances; establishing that a
16 facility is not required to provide special accommodations under certain
17 circumstances; authorizing a facility to initiate involuntary transfer or
18 discharge proceedings under certain circumstances; requiring the Department
19 of Health and Mental Hygiene to assist a facility in certain transfer or discharge
20 proceedings; requiring a facility to provide certain written notice to each
21 prospective and current resident or guardian of the resident; defining certain
22 terms; providing that a facility is not liable for certain actions; and generally
23 relating to sex offenders and nursing homes and assisted living programs.

24 BY adding to

25 Article – Criminal Procedure

26 Section 11–705(k)

27 Annotated Code of Maryland

28 (2008 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 11–706(a) and 11–708
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2013 Supplement)

6 BY adding to
7 Article – Health – General
8 Section 19–2401 through 19–2405 to be under the new subtitle “Subtitle 24.
9 Employment and Admission of Registered Sex Offenders in Assisted
10 Living Programs and Nursing Homes”
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2013 Supplement)

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

15 **Article – Criminal Procedure**

16 11–705.

17 **(K) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**
18 **REGISTRANT WHO APPLIES FOR ADMISSION TO A NURSING HOME OR AN**
19 **ASSISTED LIVING PROGRAM SHALL NOTIFY THE NURSING HOME OR ASSISTED**
20 **LIVING PROGRAM DURING THE ADMISSION PROCESS THAT THE REGISTRANT IS**
21 **A REGISTERED SEX OFFENDER IN THE STATE OR IN ANY OTHER STATE.**

22 **(2) IF FEASIBLE, THE NOTIFICATION REQUIRED UNDER**
23 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PROVIDED BEFORE THE**
24 **ADMISSION OF THE REGISTRANT TO THE NURSING HOME OR ASSISTED LIVING**
25 **PROGRAM.**

26 11–706.

27 (a) For all sex offenders in the State, a registration statement shall include:

28 (1) the registrant’s full name, including any suffix, and all addresses
29 and places where the registrant resides or habitually lives;

30 (2) the name and address of each of the registrant’s employers and a
31 description of each location where the registrant performs employment duties, if that
32 location differs from the address of the employer;

33 (3) the name of the registrant’s educational institution or place of
34 school enrollment and the registrant’s educational institution or school address;

1 **(4) IF THE REGISTRANT RESIDES OR HABITUALLY LIVES IN A**
2 **NURSING HOME OR AN ASSISTED LIVING PROGRAM, THE NAME OF THE NURSING**
3 **HOME OR ASSISTED LIVING PROGRAM;**

4 **[(4)] (5)** a description of the crime for which the registrant was
5 convicted;

6 **[(5)] (6)** the date that the registrant was convicted;

7 **[(6)] (7)** the jurisdiction and the name of the court in which the
8 registrant was convicted;

9 **[(7)] (8)** a list of any aliases, former names, names by which the
10 registrant legally has been known, traditional names given by family or clan under
11 ethnic or tribal tradition, electronic mail addresses, computer log-in or screen names
12 or identities, instant-messaging identities, and electronic chat room identities that the
13 registrant has used;

14 **[(8)] (9)** the registrant's Social Security number and any purported
15 Social Security numbers, the registrant's date of birth, purported dates of birth, and
16 place of birth;

17 **[(9)] (10)** all identifying factors, including a physical description;

18 **[(10)] (11)** a copy of the registrant's passport or immigration papers;

19 **[(11)] (12)** information regarding any professional licenses the
20 registrant holds;

21 **[(12)] (13)** the license plate number, registration number, and
22 description of any vehicle, including all motor vehicles, boats, and aircraft, owned or
23 regularly operated by the registrant;

24 **[(13)] (14)** the permanent or frequent addresses or locations where all
25 vehicles are kept;

26 **[(14)] (15)** all landline and cellular telephone numbers and any other
27 designations used by the sex offender for the purposes of routing or self-identification
28 in telephonic communications;

29 **[(15)] (16)** a copy of the registrant's valid driver's license or
30 identification card;

31 **[(16)] (17)** the registrant's fingerprints and palm prints;

1 [(17)] (18) the criminal history of the sex offender, including the dates
2 of all arrests and convictions, the status of parole, probation, or supervised release,
3 and the existence of any outstanding arrest warrants; and

4 [(18)] (19) the registrant's signature and date signed.

5 11-708.

6 (a) When a registrant registers, the supervising authority shall:

7 (1) give written notice to the registrant of the requirements of this
8 subtitle;

9 (2) explain the requirements of this subtitle to the registrant,
10 including:

11 (i) the duties of a registrant when the registrant changes
12 residence address in this State or changes the county in which the registrant
13 habitually lives;

14 (ii) the duties of a registrant under § 11-705 of this subtitle;

15 (iii) the requirement for a sex offender to register in person with
16 the local law enforcement unit of each county where the sex offender will reside or
17 habitually live or where the sex offender who is not a resident of this State is a
18 transient or will work or attend school; and

19 (iv) the requirement that if the registrant changes residence
20 address, employment, or school enrollment to another state that has a registration
21 requirement, the registrant shall register with the designated law enforcement unit or
22 sex offender registration unit of that state within 3 days after the change; and

23 (3) obtain a statement signed by the registrant acknowledging that
24 the supervising authority explained the requirements of this subtitle and gave written
25 notice of the requirements to the registrant.

26 (b) (1) The supervising authority shall obtain an updated digital image,
27 fingerprints, and palm prints of the registrant and forward the updated digital image,
28 fingerprints, and palm prints to the Department.

29 (2) For a registrant who has not submitted a DNA sample, as defined
30 in § 2-501 of the Public Safety Article, for inclusion in the statewide DNA database
31 system of the Department of State Police Crime Laboratory, the supervising authority
32 shall:

33 (i) obtain a DNA sample from the registrant at the registrant's
34 initial registration; and

1 (ii) provide the sample to the statewide DNA database system of
2 the Department of State Police Crime Laboratory.

3 (c) (1) Within 3 days after obtaining a registration statement, the
4 supervising authority shall send a copy of the registration statement with the attached
5 fingerprints, palm prints, and updated digital image of the registrant to the local law
6 enforcement unit in each county where the registrant will reside or habitually live or
7 where a registrant who is not a resident is a transient or will work or attend school.

8 (2) (i) If the registrant is enrolled in or carries on employment at,
9 or is expecting to enroll in or carry on employment at, an institution of higher
10 education in the State, within 3 days after obtaining a registration statement, the
11 supervising authority shall send a copy of the registration statement with the attached
12 fingerprints, palm prints, and updated digital image of the registrant to the campus
13 police agency of the institution of higher education.

14 (ii) If an institution of higher education does not have a campus
15 police agency, the copy of the registration statement with the attached fingerprints,
16 palm prints, and updated digital image of the registrant shall be provided to the local
17 law enforcement agency having primary jurisdiction for the campus.

18 (d) As soon as possible but not later than 3 working days after the
19 registration is complete, a supervising authority that is not a unit of the Department
20 shall send the registration statement to the Department.

21 **(E) WITHIN 3 DAYS AFTER OBTAINING A REGISTRATION STATEMENT**
22 **INDICATING THAT THE REGISTRANT RESIDES OR HABITUALLY LIVES IN A**
23 **NURSING HOME OR AN ASSISTED LIVING PROGRAM, THE SUPERVISING**
24 **AUTHORITY SHALL SEND A COPY OF THE REGISTRATION STATEMENT TO THE**
25 **NURSING HOME OR ASSISTED LIVING PROGRAM WHERE THE REGISTRANT WILL**
26 **RESIDE OR LIVE.**

27 **Article – Health – General**

28 **SUBTITLE 24. EMPLOYMENT AND ADMISSION OF REGISTERED SEX OFFENDERS**
29 **IN ASSISTED LIVING PROGRAMS AND NURSING HOMES.**

30 **19–2401.**

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

33 **(B) “FACILITY” MEANS:**

1 (1) AN ASSISTED LIVING PROGRAM REGULATED UNDER
2 SUBTITLE 18 OF THIS TITLE; OR

3 (2) A NURSING HOME REGULATED UNDER SUBTITLE 14 OF THIS
4 TITLE.

5 (C) "IDENTIFIED REGISTRANT" MEANS AN INDIVIDUAL WHO IS
6 REQUIRED TO REGISTER UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL
7 PROCEDURE ARTICLE.

8 19-2402.

9 A FACILITY MAY NOT KNOWINGLY EMPLOY AN IDENTIFIED REGISTRANT.

10 19-2403.

11 (A) (1) DURING THE ADMISSION PROCESS, A FACILITY SHALL CHECK
12 THE SEX OFFENDER REGISTRY ON THE WEB SITE MAINTAINED BY THE
13 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO
14 DETERMINE IF THE APPLICANT IS AN IDENTIFIED REGISTRANT.

15 (2) A FACILITY MAY DECLINE THE ADMISSION OF AN IDENTIFIED
16 REGISTRANT.

17 (B) (1) IF AN IDENTIFIED REGISTRANT IS A RESIDENT OF A FACILITY
18 AND THE FACILITY DETERMINES THAT SPECIAL ACCOMMODATIONS, INCLUDING
19 A PRIVATE ROOM OR PRIVATE DUTY NURSING, ARE NECESSARY TO MONITOR
20 THE RESIDENT, THE COST OF THE ACCOMMODATIONS SHALL BE PAID FOR BY
21 THE IDENTIFIED REGISTRANT.

22 (2) (I) IF THE IDENTIFIED REGISTRANT IS AN ENROLLEE IN
23 THE MEDICAL ASSISTANCE PROGRAM, THE SPECIAL ACCOMMODATIONS SHALL
24 BE PAID FOR BY THE MEDICAL ASSISTANCE PROGRAM OR THE STATE.

25 (II) A FACILITY IS NOT REQUIRED TO PROVIDE SPECIAL
26 ACCOMMODATIONS IF THE SPECIAL ACCOMMODATIONS ARE NOT PAID FOR BY
27 THE MEDICAL ASSISTANCE PROGRAM OR THE STATE UNDER SUBPARAGRAPH
28 (I) OF THIS PARAGRAPH.

29 (C) (1) THE FACILITY SHALL PROVIDE NOTICE TO EMPLOYEES OF
30 THE FACILITY THAT THE IDENTIFIED REGISTRANT IS A RESIDENT OF THE
31 FACILITY.

1 **(2) WITHIN 90 DAYS AFTER ADMISSION OF AN IDENTIFIED**
2 **REGISTRANT, THE FACILITY SHALL PROVIDE APPROPRIATE TRAINING TO**
3 **DIRECT CARE WORKERS ON RECOGNIZING SIGNS OF SEXUAL ABUSE.**

4 **(D) (1) THE FACILITY MAY INITIATE INVOLUNTARY TRANSFER OR**
5 **DISCHARGE PROCEEDINGS IF THE FACILITY DETERMINES THAT THE FACILITY IS**
6 **UNABLE TO MANAGE THE IDENTIFIED REGISTRANT IN A SAFE MANNER.**

7 **(2) THE DEPARTMENT SHALL ASSIST THE FACILITY IN THE**
8 **TRANSFER OR DISCHARGE OF THE IDENTIFIED REGISTRANT, INCLUDING THE**
9 **IMMEDIATE ADMITTANCE OF THE IDENTIFIED REGISTRANT TO A**
10 **STATE-OPERATED FACILITY IF THE IDENTIFIED REGISTRANT MEETS THE**
11 **ADMISSION CRITERIA OF THE STATE-OPERATED FACILITY.**

12 **19-2404.**

13 **A FACILITY SHALL PROVIDE TO EACH PROSPECTIVE AND CURRENT**
14 **RESIDENT OR GUARDIAN OF A RESIDENT A WRITTEN NOTICE CONCERNING THE**
15 **SEX OFFENDER REGISTRY AND THE AVAILABILITY OF THE REGISTRY ON THE**
16 **WEB SITE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL**
17 **SERVICES.**

18 **19-2405.**

19 **A FACILITY MAY NOT BE LIABLE FOR ANY ACTION TAKEN BY THE FACILITY**
20 **THAT IS BASED ON INFORMATION PROVIDED UNDER § 11-705 OR § 11-708 OF**
21 **THE CRIMINAL PROCEDURE ARTICLE OR BASED ON INFORMATION FROM THE**
22 **SEX OFFENDER REGISTRY.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **October 1, 2014.**