

# SENATE BILL 1268

E2

8lr4079

---

By: **Senator Middleton**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 17, 2018

Assigned to: Rules

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Lifetime Sexual Offender Supervision – Violations and**  
3 **Petitions for Discharge**

4 FOR the purpose of requiring a sexual offender management team to report a certain  
5 violation of a condition of lifetime sexual offender supervision to the office of a certain  
6 State’s Attorney; requiring a certain judge to conduct a certain hearing; authorizing  
7 a certain judge to act in a certain matter under certain circumstances; requiring a  
8 certain sentencing court to adjudicate rather than hear and adjudicate a certain  
9 petition; altering the time period before a certain petition may be renewed after being  
10 denied; requiring a certain victim or victim’s representative to be given a certain  
11 notice; altering the requirements for a petition for discharge; prohibiting a court from  
12 granting a petition for discharge from lifetime sexual offender supervision without  
13 making a certain finding; requiring the court to notify the State’s Attorney of a  
14 certain determination; requiring the court to hold a certain hearing under certain  
15 circumstances; clarifying that a certain judge shall adjudicate rather than hear a  
16 petition for discharge; and generally relating to sexual offenders.

17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Procedure  
19 Section 11–724  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2017 Supplement)

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

24 **Article – Criminal Procedure**

25 11–724.

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) A person subject to lifetime sexual offender supervision may not  
2 knowingly or willfully violate the conditions of the lifetime sexual offender supervision  
3 imposed under § 11-723 of this subtitle.

4 (2) IF A PERSON VIOLATES A CONDITION OF LIFETIME SEXUAL  
5 OFFENDER SUPERVISION, THE SEXUAL OFFENDER MANAGEMENT TEAM SHALL  
6 REPORT THE VIOLATION TO THE OFFICE OF THE STATE'S ATTORNEY FOR THE  
7 JURISDICTION IN WHICH THE TERM OF LIFETIME SEXUAL OFFENDER SUPERVISION  
8 WAS IMPOSED.

9 (3) (I) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME  
10 SEXUAL OFFENDER SUPERVISION SHALL CONDUCT ANY HEARING FOR A VIOLATION  
11 OF A CONDITION OF THE SUPERVISION.

12 (II) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS  
13 DIED OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY ACT  
14 IN THE MATTER.

15 (b) A person who violates any conditions imposed under § 11-723 of this subtitle:

16 (1) for a first offense, is guilty of a misdemeanor and on conviction is subject  
17 to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; and

18 (2) for a second or subsequent offense, is guilty of a felony and on conviction  
19 is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

20 (c) Imprisonment for a lifetime sexual offender supervision violation is not  
21 subject to diminution credits.

22 (d) (1) A violation of subsection (a) of this section does not discharge a person  
23 from lifetime sexual offender supervision.

24 (2) On release from a sentence imposed under subsection (b) of this section,  
25 a person remains on lifetime sexual offender supervision, subject to the original terms of  
26 supervision, until discharged under subsection (f) of this section.

27 (e) During the period of lifetime sexual offender supervision, the court may:

28 (1) remand the person to a correctional facility or release the person with  
29 or without bail pending the hearing or determination of a charge of violation of a condition  
30 of lifetime sexual offender supervision; and

31 (2) if the court finds that the person committed a violation of a condition of  
32 supervision, impose a sentence as prescribed in subsection (b) of this section.

1 (f) (1) The sentencing court shall [hear and] adjudicate a petition for  
2 discharge from lifetime sexual offender supervision.

3 (2) A person may file a petition for discharge after serving at least 5 years  
4 of extended sexual offender supervision.

5 (3) If a petition for discharge is denied, a person may not renew the petition  
6 for a minimum of [1 year] **2 YEARS**.

7 **(4) A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS REQUESTED**  
8 **NOTICE UNDER § 11-104 OF THIS ARTICLE SHALL BE NOTIFIED OF THE PETITION**  
9 **FOR DISCHARGE AND OF THE FINAL DECISION OF THE JUDGE IN GRANTING OR**  
10 **DENYING THE PETITION.**

11 ~~[(4)]~~ **(5)** A petition for discharge shall include[:

12 (i) a risk assessment of the person conducted by a sexual offender  
13 treatment provider within 3 months before the date of the filing of the petition] **A REPORT**  
14 **FROM THE SEXUAL OFFENDER MANAGEMENT TEAM THAT INCLUDES:**

15 **(I) A RISK ASSESSMENT FROM THE SEXUAL OFFENDER**  
16 **MANAGEMENT TEAM THAT INCLUDES A RISK ASSESSMENT OF THE PERSON BY A**  
17 **SEXUAL OFFENDER TREATMENT PROVIDER; and**

18 (ii) a recommendation **FROM THE SEXUAL OFFENDER**  
19 **MANAGEMENT TEAM** regarding the discharge of the person from [the sexual offender  
20 management team] **LIFETIME SEXUAL OFFENDER SUPERVISION.**

21 ~~[(5)]~~ **(6)** (i) The sentencing court may not deny a petition for discharge  
22 without a hearing.

23 (ii) The court may not [discharge a person from lifetime sexual  
24 offender supervision unless the court makes a finding on the record that the petitioner is  
25 no longer a danger to others] **GRANT A PETITION FOR DISCHARGE FROM LIFETIME**  
26 **SEXUAL OFFENDER SUPERVISION UNLESS THE COURT MAKES A FINDING ON THE**  
27 **RECORD THAT THE PETITIONER'S RISK FOR SEXUAL RE-OFFENSE HAS BEEN**  
28 **DETERMINED BY AN ASSESSMENT TO BE WITHIN A RANGE SUFFICIENT TO**  
29 **REASONABLY JUSTIFY TERMINATING FURTHER SUPERVISION.**

30 **(III) 1. IF, BASED ON A REVIEW OF THE PETITION FOR**  
31 **DISCHARGE AND ANY ACCOMPANYING DOCUMENTS, AND WITHOUT A HEARING, THE**  
32 **COURT DETERMINES THAT THE PETITIONER QUALIFIES FOR DISCHARGE FROM**  
33 **LIFETIME SEXUAL OFFENDER SUPERVISION, THE COURT SHALL NOTIFY THE**  
34 **STATE'S ATTORNEY.**

1                                   **2. IF, AFTER A NOTIFICATION FROM THE COURT**  
2 **DESCRIBED IN SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE STATE'S**  
3 **ATTORNEY REQUESTS A HEARING ON THE MATTER, THE COURT SHALL HOLD A**  
4 **HEARING.**

5                                   **[(6)] (7)**       (i)     The judge who originally imposed the lifetime sexual  
6 offender supervision shall **[hear] ADJUDICATE** a petition for discharge.

7   (ii)     If the judge has been removed from office, has died or resigned,  
8 or is otherwise incapacitated, another judge may act in the matter.

9                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2018.