

# SENATE BILL 264

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(PRE-FILED)

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By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Public Safety and Correctional Services)**

Requested: September 21, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of expanding the persons for whom a sentence is required to include a  
5 term of lifetime sexual offender supervision; requiring inclusion of certain conditions  
6 for lifetime sexual offender supervision; requiring a sexual offender management  
7 team to report a certain violation of a condition of lifetime sexual offender  
8 supervision to the office of a certain State’s Attorney; requiring a certain judge to  
9 conduct a certain hearing; authorizing a certain judge to act in a certain matter  
10 under certain circumstances; requiring a certain sentencing court to adjudicate  
11 rather than hear and adjudicate a certain petition; altering the period before a  
12 certain petition may be renewed after being denied; requiring a certain victim or  
13 victim’s representative to be given a certain notice; altering the requirements for a  
14 petition for discharge; requiring the court to notify the State’s Attorney of a certain  
15 determination; requiring the court to hold a certain hearing under certain  
16 circumstances; clarifying that a certain judge shall adjudicate rather than hear a  
17 petition for discharge; and generally relating to sexual offenders.

18 BY repealing and reenacting, with amendments,  
19 Article – Criminal Procedure  
20 Section 11–723 and 11–724  
21 Annotated Code of Maryland  
22 (2018 Replacement Volume and 2020 Supplement)

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

25 **Article – Criminal Procedure**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 11-723.

2 (a) Except where a term of natural life without the possibility of parole is imposed,  
3 a sentence for the following persons shall include a term of lifetime sexual offender  
4 supervision:

5 (1) a person who is a sexually violent predator;

6 (2) a person who has been convicted of a violation of:

7 (i) § 3-303 or § 3-304 of the Criminal Law Article; or

8 (ii) § 3-305 or § 3-306(a)(1) or (2) of the Criminal Law Article as the  
9 sections existed before October 1, 2017;

10 (3) a person who has been convicted of a violation of § 3-309 or § 3-310 of  
11 the Criminal Law Article, § 3-311 of the Criminal Law Article as the section existed before  
12 October 1, 2017, or an attempt to commit a violation of § 3-306(a)(1) or (2) of the Criminal  
13 Law Article as the section existed before October 1, 2017;

14 (4) a person who has been convicted of a violation of § 3-602 of the Criminal  
15 Law Article involving a child under the age of 12 years;

16 (5) a person who is required to register under § 11-704(c) of this subtitle;  
17 **[and] OR**

18 (6) a person who has been convicted more than once arising out of separate  
19 incidents of a crime that requires registration under this subtitle.

20 (b) Except where a term of natural life without the possibility of parole is imposed,  
21 a sentence for a violation of § 3-307(a)(1) or (2) of the Criminal Law Article may include a  
22 term of lifetime sexual offender supervision.

23 (c) (1) Except as provided in paragraph (2) of this subsection, the term of  
24 lifetime sexual offender supervision imposed on a person for a crime committed on or after  
25 October 1, 2010, shall:

26 (i) be a term of life; and

27 (ii) commence on the expiration of the later of any term of  
28 imprisonment, probation, parole, or mandatory supervision.

29 (2) For a person who is required to register under § 11-704(c) of this  
30 subtitle, the term of lifetime sexual offender supervision imposed for an act committed on  
31 or after October 1, 2010, shall:

32 (i) commence when the person's obligation to register commences;

1 and

2 (ii) expire when the person's obligation to register expires, unless the  
3 juvenile court:

4 1. finds after a hearing that there is a compelling reason for  
5 the supervision to continue; and

6 2. orders the supervision to continue for a specified period of  
7 time.

8 (d) (1) For a sentence that includes a term of lifetime sexual offender  
9 supervision, the sentencing court, or juvenile court in the case of a person who is required  
10 to register under § 11-704(c) of this subtitle, shall impose special conditions of lifetime  
11 sexual offender supervision on the person at the time of sentencing, or imposition of the  
12 registration requirement in juvenile court, and advise the person of the length, conditions,  
13 and consecutive nature of that supervision.

14 (2) Before imposing special conditions, the sentencing court or juvenile  
15 court shall order:

16 (i) a presentence investigation in accordance with § 6-112 of the  
17 Correctional Services Article; and

18 (ii) for a sentence for a violation of § 3-307(a)(1) or (2) of the Criminal  
19 Law Article, a risk assessment of the person conducted by a sexual offender treatment  
20 provider.

21 **(3) THE CONDITIONS OF LIFETIME SEXUAL OFFENDER SUPERVISION**  
22 **SHALL INCLUDE:**

23 **(I) ALL STANDARD AND SPECIAL CONDITIONS OF SUPERVISION**  
24 **IMPOSED BY THE SENTENCING COURT AT THE TIME OF SENTENCING; AND**

25 **(II) ALL STANDARD AND SPECIAL CONDITIONS OF SUPERVISION**  
26 **IMPOSED BY THE MARYLAND PAROLE COMMISSION AT THE TIME OF RELEASE FROM**  
27 **CUSTODY.**

28 **[(3)] (4)** The conditions of lifetime sexual offender supervision may  
29 include:

30 (i) monitoring through global positioning satellite tracking or  
31 equivalent technology;

32 (ii) where appropriate and feasible, restricting a person from living  
33 in proximity to or loitering near schools, family child care homes, child care centers, and

1 other places used primarily by minors;

2 (iii) restricting a person from obtaining employment or from  
3 participating in an activity that would bring the person into contact with minors;

4 (iv) requiring a person to participate in a sexual offender treatment  
5 program;

6 (v) prohibiting a person from using illicit drugs or alcohol;

7 (vi) authorizing a parole and probation agent to access the person's  
8 personal computer to check for material relating to sexual relations with minors;

9 (vii) requiring a person to take regular polygraph examinations;

10 (viii) prohibiting a person from contacting specific individuals or  
11 categories of individuals; and

12 (ix) any other conditions deemed appropriate by the sentencing court  
13 or juvenile court.

14 **[(4)] (5)** The sentencing court or juvenile court may adjust the special  
15 conditions of lifetime sexual offender supervision, in consultation with the person's sexual  
16 offender management team.

17 11-724.

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

21 **(2) IF A PERSON VIOLATES A CONDITION OF LIFETIME SEXUAL**  
22 **OFFENDER SUPERVISION, THE SEXUAL OFFENDER MANAGEMENT TEAM SHALL**  
23 **REPORT THE VIOLATION TO THE OFFICE OF THE STATE'S ATTORNEY FOR THE**  
24 **JURISDICTION IN WHICH THE TERM OF LIFETIME SEXUAL OFFENDER SUPERVISION**  
25 **WAS IMPOSED.**

26 **(3) (I) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME**  
27 **SEXUAL OFFENDER SUPERVISION SHALL CONDUCT A HEARING FOR THE VIOLATION**  
28 **OF A CONDITION OF THE SUPERVISION.**

29 **(II) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS**  
30 **RESIGNED OR DIED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY ACT**  
31 **IN THE MATTER.**

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) **A VICTIM OR VICTIM'S REPRESENTATIVE WHO HAS REQUESTED**  
25 **NOTICE UNDER § 11-104 OF THIS TITLE SHALL BE NOTIFIED OF THE PETITION FOR**  
26 **DISCHARGE AND OF THE FINAL DECISION OF THE JUDGE IN GRANTING OR DENYING**  
27 **THE PETITION.**

28 [(4)] (5) A petition for discharge shall include[:

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

1                   **(I) A RISK ASSESSMENT OF THE PERSON CONDUCTED BY A**  
2 **SEXUAL OFFENDER TREATMENT PROVIDER APPROVED BY THE DEPARTMENT;**

3                   **(II) A POLYGRAPH EXAMINATION OF THE PERSON CONDUCTED**  
4 **BY A POLYGRAPH EXAMINER APPROVED BY THE DEPARTMENT; and**

5                   **[(ii)] (III) a recommendation FROM THE SEXUAL OFFENDER**  
6 **MANAGEMENT TEAM regarding the discharge of the person from [the sexual offender**  
7 **management team] LIFETIME SEXUAL OFFENDER SUPERVISION.**

8                   **[(5)] (6) (i)** The sentencing court may not deny a petition for discharge  
9 without a hearing.

10                   (ii) The court may not discharge a person from lifetime sexual  
11 offender supervision unless the court makes a finding on the record that the petitioner is  
12 no longer a danger to others.

13                   **(III) 1. IF, BASED ON A REVIEW OF THE PETITION FOR**  
14 **DISCHARGE AND ANY ACCOMPANYING DOCUMENTS, AND WITHOUT A HEARING, THE**  
15 **COURT DETERMINES THAT THE PETITIONER QUALIFIES FOR DISCHARGE FROM**  
16 **LIFETIME SEXUAL OFFENDER SUPERVISION, THE COURT SHALL NOTIFY THE**  
17 **STATE'S ATTORNEY.**

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

22                   **[(6)] (7) (i)** The judge who originally imposed the lifetime sexual  
23 offender supervision shall **[hear] ADJUDICATE** a petition for discharge.

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

26                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2021.