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## **Unfavorable Response to HB12 Juvenile Sex Offender Registry – Qualifying Offenses and Access**

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. FAIR finds several of HB12's proposed changes objectionable due to the harm they would cause to young people, who are generally highly amenable to treatment and rehabilitation. We are especially concerned about opening the registry to very young children, and the inclusion of visual surveillance, familial offenses among children, and sexual pictures taken by young children.

### **Eliminating Minimum Age for Juvenile Registration**

HB12 proposes to remove the following provision from existing Maryland Law: "(2) the person was a minor who was at least 14 years old at the time the delinquent act was committed." (Crim. Proc. 11-704.1(b)(2)). Without this provision, juveniles younger than 14 could be placed on the juvenile registry. What is the intended goal of this change? The Juvenile Courts already have jurisdiction over all juvenile delinquency cases. Under this bill, registration requirements would apply to children as young as 10.

### **Issues with Extending Registration to Age 18 in some instances**

Under the bill's proposed changes, juveniles placed on the registry would remain there until the age of 18, with no mechanism for removal. Currently, court oversight ends at age 21, and if all requirements are met, the juvenile's record is sealed. Under current law, a 14-year-old may remain on the juvenile registry until age 21 or may be removed earlier, depending on the offense and the court's disposition.

If this bill removes the age-14 limitation and mandates registration until at least age 18, a child as young as 10 could be required to comply with registration obligations for many years beyond their supervision period. During that time, registry information could be accessible to school officials and others, despite the absence of ongoing court oversight.

Further, the bill contains no language limiting this extension of registration to prospective application only. Maryland's registration scheme has been declared punitive. Although the juvenile registry is privately maintained, applying a newly extended registration period retroactively would raise constitutional concerns under Maryland law, and a legal challenge is certainly possible.

### **Risky Expansion to Include Familial Sexual Offenses**

The addition of Criminal Law 3-602 would allow for the registration of very young children who may barely understand appropriate versus inappropriate behavior. The existing statute is designed to punish adult conduct directed at children; however, this expansion could result in placing a child on the registry for exploratory behavior between similarly aged family members, such as 10-year-old cousins. Moreover,

notification of a school superintendent in such cases serves no meaningful purpose, as these incidents occur within the family rather than among schoolmates.

### **Problems with Including Visual Surveillance**

Criminal Law 3-902 requires that visual surveillance must have prurient intent, which should theoretically exclude very young children. However, pre-pubescent children may engage in such conduct out of curiosity or imitation of adult behavior. Even for adults, though, this offense is classified as a misdemeanor. Subjecting a child to placement on even a private registry for such conduct is unnecessarily harsh. If notification of a superintendent is deemed necessary, there must be a more appropriate approach than imposing registry requirements—particularly under a system that mandates placement until age of 18 with no opportunity of early removal.

### **Ambiguities in the Definition of Child Pornography**

The inclusion of Criminal Law 11-207 as a registerable offense under the condition that “the victim had no knowledge or consent” is deeply problematic. Juveniles frequently engage in exploratory behavior and give mutual acknowledgement and consent, though social dynamics—such as breakups—can later complicate these situations. Legally, however, juveniles are presumed incapable of consent due to their age. This contradiction raises serious questions about how consent would be assessed under this provision.

There must be a more constructive approach than a punitive, reactionary response that demoralizes juveniles for mistakes or lapses in judgment, particularly at such sensitive developmental stages. In an era of cell phones and digital cameras, does the legislature truly intend to impose a 5-year registration requirement on a 13-year-old for taking a picture of a friend engaging in self-touching and showing it to another friend in the same room? (proposed Crim. Proc. 11-704.1(b)(5)). Would counseling and support not be a more appropriate and effective response?

### **Consequences of Placement on Juvenile Registry**

The addition of new registerable offenses is not merely a matter of placing a juvenile on a list accessible to law enforcement (and possibly educational authorities), with biannual reporting requirements. As bills such as this one expand the scope of juvenile registration, other proposed legislation—such as last session’s SB78—has sought to remove juvenile registrants from schools if their delinquent act, had it been committed by an adult, would constitute a felony. If this bill were enacted alongside an SB78-type bill, the combined effect would impose severe and lifelong consequences on youth who may have engaged in foolish or impulsive behaviors, such as sexting. In such cases, counseling and education would provide far more appropriate, constructive, and lasting positive outcomes than punitive registration.

For these reasons, FAIR urges the committee to return an unfavorable report.

Sincerely,



Brenda V. Jones, Executive Director  
Families Advocating Intelligent Registries