

SENATE BILL 358

E2
SB 370/12 – JPR

9lr2492
CF 9lr2506

By: **Senator Serafini**

Introduced and read first time: January 31, 2019

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

20 BY adding to

21 Article – Criminal Procedure

22 Section 11–7A–01 through 11–7A–11 to be under the new subtitle “Subtitle 7A.
23 Registration of Child Abusers”

24 Annotated Code of Maryland
25 (2018 Replacement Volume)

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

28 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 7A. REGISTRATION OF CHILD ABUSERS.**

2 **11-7A-01.**

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

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

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

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

14 **(2) “RELEASE” MEANS:**

15 **(I) RELEASE ON PAROLE;**

16 **(II) MANDATORY SUPERVISION RELEASE;**

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

19 **(IV) WORK RELEASE;**

20 **(V) PLACEMENT ON HOME DETENTION; AND**

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

23 **(3) “RELEASE” DOES NOT INCLUDE:**

24 **(I) AN ESCAPE; OR**

25 **(II) LEAVE THAT IS GRANTED ON AN EMERGENCY BASIS.**

26 **(E) “SUPERVISING AUTHORITY” MEANS AN AGENCY OR A PERSON THAT IS**
27 **RESPONSIBLE FOR COLLECTING THE INFORMATION FOR THE INITIAL**

1 REGISTRATION AND IS:

2 (1) THE SECRETARY, IF THE REGISTRANT IS IN THE CUSTODY OF A
3 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT;

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

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

11 (4) THE DIRECTOR OF THE PATUXENT INSTITUTION, IF THE
12 REGISTRANT IS IN THE CUSTODY OF THE PATUXENT INSTITUTION;

13 (5) THE SECRETARY OF HEALTH, IF THE REGISTRANT IS IN THE
14 CUSTODY OF A FACILITY OPERATED BY THE MARYLAND DEPARTMENT OF HEALTH;

15 (6) THE COURT IN WHICH THE REGISTRANT WAS CONVICTED, IF THE
16 REGISTRANT'S SENTENCE DOES NOT INCLUDE A TERM OF IMPRISONMENT OR IF THE
17 SENTENCE IS MODIFIED TO TIME SERVED; OR

18 (7) THE DIRECTOR OF PAROLE AND PROBATION, IF THE REGISTRANT
19 IS UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND PROBATION.

20 11-7A-02.

21 FOR THE PURPOSES OF THIS SUBTITLE, AN INDIVIDUAL IS CONVICTED WHEN
22 THE INDIVIDUAL:

23 (1) IS FOUND GUILTY OF A CRIME BY A JURY OR JUDICIAL OFFICER;

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

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

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

29 11-7A-03.

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

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

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

8 **(2) THE REGISTRANT IS PARDONED FOR THE UNDERLYING**
9 **CONVICTION.**

10 **11-7A-04.**

11 **(A) A REGISTRANT SHALL REGISTER WITH THE APPROPRIATE SUPERVISING**
12 **AUTHORITY IN THE STATE:**

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

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

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

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

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

19 **(IV) RECEIVES A SENTENCE THAT DOES NOT INCLUDE A TERM OF**
20 **IMPRISONMENT.**

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

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

27 **11-7A-05.**

1 **A REGISTRATION STATEMENT SHALL INCLUDE:**

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

4 **(2) A DESCRIPTION OF THE CRIME FOR WHICH THE REGISTRANT WAS**
5 **CONVICTED;**

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

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

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

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

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

15 **(8) THE CRIMINAL HISTORY OF THE REGISTRANT, INCLUDING THE**
16 **DATES OF ALL ARRESTS AND CONVICTIONS, THE STATUS OF PAROLE, PROBATION,**
17 **OR SUPERVISED RELEASE, AND THE EXISTENCE OF ANY OUTSTANDING ARREST**
18 **WARRANTS; AND**

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

20 **11-7A-06.**

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

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

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

27 **(1) 10 YEARS; OR**

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

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

4 (II) THE REGISTRANT HAS BEEN CONVICTED OF A PRIOR CRIME
5 OF CHILD ABUSE.

6 (C) A TERM OF REGISTRATION DESCRIBED IN THIS SECTION SHALL BE
7 COMPUTED FROM:

8 (1) THE LAST DATE OF RELEASE;

9 (2) THE DATE GRANTED PROBATION; OR

10 (3) THE DATE GRANTED A SUSPENDED SENTENCE.

11 11-7A-07.

12 (A) WHEN A REGISTRANT REGISTERS, THE SUPERVISING AUTHORITY
13 SHALL:

14 (1) GIVE WRITTEN NOTICE TO THE REGISTRANT OF THE
15 REQUIREMENTS OF THIS SUBTITLE;

16 (2) EXPLAIN THE REQUIREMENTS OF THIS SUBTITLE TO THE
17 REGISTRANT; AND

18 (3) OBTAIN A STATEMENT SIGNED BY THE REGISTRANT
19 ACKNOWLEDGING THAT THE SUPERVISING AUTHORITY EXPLAINED THE
20 REQUIREMENTS OF THIS SUBTITLE AND GAVE WRITTEN NOTICE OF THE
21 REQUIREMENTS TO THE REGISTRANT.

22 (B) THE SUPERVISING AUTHORITY SHALL OBTAIN AN UPDATED DIGITAL
23 IMAGE OF THE REGISTRANT AND FORWARD THE UPDATED DIGITAL IMAGE TO THE
24 DEPARTMENT.

25 (C) AS SOON AS POSSIBLE BUT NOT LATER THAN 3 WORKING DAYS AFTER
26 THE REGISTRATION IS COMPLETE, A SUPERVISING AUTHORITY THAT IS NOT A UNIT
27 OF THE DEPARTMENT SHALL SEND THE REGISTRATION STATEMENT TO THE
28 DEPARTMENT.

29 11-7A-08.

1 **THE DEPARTMENT SHALL:**

2 **(1) ESTABLISH A STATE CHILD ABUSE REGISTRY THAT INCLUDES**
3 **INFORMATION ON INDIVIDUALS SUBJECT TO REGISTRATION UNDER THIS SUBTITLE;**

4 **(2) POST ON THE INTERNET A CURRENT LISTING OF EACH**
5 **REGISTRANT'S NAME, ADDRESS, DATE OF BIRTH, AND MOST RECENT DIGITAL IMAGE**
6 **AND THE DESCRIPTION OF THE CRIME OF THE REGISTRANT THAT IS THE BASIS FOR**
7 **THE REGISTRATION; AND**

8 **(3) REIMBURSE LOCAL LAW ENFORCEMENT UNITS FOR THE COST OF**
9 **PROCESSING THE REGISTRATION STATEMENTS OF REGISTRANTS, INCLUDING THE**
10 **COST OF TAKING DIGITAL IMAGES.**

11 **11-7A-09.**

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

17 **11-7A-10.**

18 **THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

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

20 **(A) A REGISTRANT MAY NOT KNOWINGLY FAIL TO REGISTER OR KNOWINGLY**
21 **PROVIDE FALSE INFORMATION OF A MATERIAL FACT AS REQUIRED BY THIS**
22 **SUBTITLE.**

23 **(B) A PERSON WHO VIOLATES THIS SECTION:**

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2019.