

HOUSE BILL 594

E2, E4

1lr1495

By: **Delegates McDermott, Afzali, Aumann, Bates, Boteler, Cluster, Costa, Dwyer, Eckardt, Elliott, Frank, George, Haddaway-Riccio, Hershey, Hogan, Hough, Jacobs, Kach, Kipke, Krebs, McComas, McDonough, A. Miller, W. Miller, Minnick, Norman, Otto, Parrott, Ready, Schuh, Schulz, Serafini, Smigiel, Stocksdales, Tarrant, Valderrama, Vitale, and Weir**

Introduced and read first time: February 9, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Tier III Sex Offenders – Tracking Device as a**
3 **Condition of Probation and for Life After Release from Custody**

4 FOR the purpose of requiring a court to require a certain defendant, as a condition of
5 probation, to register for certain electronic tracking by the Department of Public
6 Safety and Correctional Services; authorizing a court to specify geographic
7 locations to which certain defendants may not travel as a condition of probation;
8 requiring a certain person who is required to register as a tier III sex offender to
9 register for electronic tracking with the Department and, after release from
10 custody of a supervising authority, to wear at all times and for a certain period
11 of time an electronic tracking device provided by the Department; requiring the
12 Department actively, and in real time, to track electronically and to identify a
13 certain individual's geographic location; requiring the Department to report to
14 the appropriate court or law enforcement agency a certain individual's presence
15 in a certain area; requiring the Department to develop certain procedures to
16 determine, investigate, and report a certain individual's noncompliance with the
17 terms and conditions of a court order or statute; requiring the Department to
18 investigate immediately reports of noncompliance with a court order or statute;
19 requiring the Department to contract with a local law enforcement agency to
20 assist in the location and apprehension of certain individuals; requiring the
21 Department to establish a reasonable fee for the cost of electronically tracking
22 and, subject to a certain exception, to collect the fee from certain individuals;
23 prohibiting a certain offender from knowingly failing to register under this Act,
24 knowingly failing to wear a certain electronic tracking device, or knowingly
25 altering, tampering with, damaging, or destroying a certain electronic tracking
26 device; providing penalties for a violation of this Act; defining certain terms; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 generally relating to electronic tracking of and movement restrictions on certain
2 offenders.

3 BY adding to

4 Article – Criminal Procedure

5 Section 6–233; and 11–7A–01 through 11–7A–04 to be under the new subtitle

6 “Subtitle 7A. Electronic Tracking of Sexual Offenders”

7 Annotated Code of Maryland

8 (2008 Replacement Volume and 2010 Supplement)

9 BY repealing and reenacting, without amendments,

10 Article – Criminal Procedure

11 Section 11–707

12 Annotated Code of Maryland

13 (2008 Replacement Volume and 2010 Supplement)

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

16 **Article – Criminal Procedure**

17 **6–233.**

18 **IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN**
19 **CONVICTED OF A VIOLATION THAT REQUIRES THE DEFENDANT TO REGISTER AS**
20 **A TIER III SEX OFFENDER UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE, THE**
21 **COURT:**

22 **(1) SHALL REQUIRE AS A CONDITION OF PROBATION THAT THE**
23 **DEFENDANT REGISTER FOR ELECTRONIC TRACKING BY THE DEPARTMENT**
24 **UNDER TITLE 11, SUBTITLE 7A OF THIS ARTICLE; AND**

25 **(2) MAY SPECIFY AS A CONDITION OF PROBATION GEOGRAPHIC**
26 **LOCATIONS TO WHICH A DEFENDANT MAY NOT TRAVEL.**

27 11–707.

28 (a) (1) (i) A tier I sex offender and a tier II sex offender shall register
29 in person every 6 months with a local law enforcement unit for the term provided
30 under paragraph (4) of this subsection.

31 (ii) Registration shall include a digital image that shall be
32 updated every 6 months.

1 (2) (i) A tier III sex offender shall register in person every 3
2 months with a local law enforcement unit for the term provided under paragraph (4) of
3 this subsection.

4 (ii) Registration shall include a digital image that shall be
5 updated every 6 months.

6 (3) (i) A sexually violent predator shall register in person every 3
7 months with a local law enforcement unit for the term provided under paragraph (4) of
8 this subsection.

9 (ii) Registration shall include a digital image that shall be
10 updated every 6 months.

11 (4) Subject to subsection (c) of this section, the term of registration is:

12 (i) 15 years, if the registrant is a tier I sex offender;

13 (ii) 25 years, if the registrant is a tier II sex offender;

14 (iii) the life of the registrant, if the registrant is a tier III sex
15 offender; or

16 (iv) up to 5 years, if the registrant is a person described under §
17 11-704(c)(1) of this subtitle, subject to reduction by the juvenile court on the filing of a
18 petition by the registrant for a reduction in the term of registration.

19 (5) A registrant who is not a resident of the State shall register for the
20 appropriate time specified in this subsection or until the registrant's employment,
21 student enrollment, or transient status in the State ends.

22 (b) A term of registration described in this section shall be computed from:

23 (1) the last date of release;

24 (2) the date granted probation;

25 (3) the date granted a suspended sentence; or

26 (4) the date the juvenile court's jurisdiction over the registrant
27 terminates under § 3-8A-07 of the Courts Article if the registrant was a minor who
28 lived in the State at the time the act was committed for which registration is required.

29 (c) The term of registration for a tier I sex offender shall be reduced to 10
30 years if, in the 10 years following the date on which the registrant was required to
31 register, the registrant:

1 (1) is not convicted of any offense for which a term of imprisonment of
2 more than 1 year may be imposed;

3 (2) is not convicted of any sex offense;

4 (3) successfully completes, without revocation, any period of
5 supervised release, parole, or probation; and

6 (4) successfully completes an appropriate sex offender treatment
7 program.

8 **SUBTITLE 7A. ELECTRONIC TRACKING OF SEXUAL OFFENDERS.**

9 **11-7A-01.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) “ELECTRONIC TRACKING” MEANS MONITORING 24 HOURS A DAY
13 AND 7 DAYS A WEEK THE GEOGRAPHIC LOCATION OF AN INDIVIDUAL THROUGH
14 THE USE OF AN ELECTRONIC TRACKING DEVICE.

15 (C) “ELECTRONIC TRACKING DEVICE” MEANS TECHNOLOGY THAT CAN
16 DETERMINE THE LOCATION OF A TRACKEE AT ANY TIME AND IS APPROVED BY
17 THE DEPARTMENT.

18 (D) “TRACKEE” MEANS A PERSON WHO IS REQUIRED TO REGISTER FOR
19 ELECTRONIC TRACKING UNDER THIS SUBTITLE.

20 **11-7A-02.**

21 A PERSON WHO IS REQUIRED TO REGISTER AS A TIER III SEX OFFENDER
22 UNDER § 11-707 OF THIS TITLE SHALL:

23 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE
24 DEPARTMENT; AND

25 (2) AT ALL TIMES AFTER RELEASE FROM THE CUSTODY OF A
26 SUPERVISING AUTHORITY AND FOR THE PERIOD OF TIME THAT THE PERSON IS
27 REQUIRED TO REGISTER UNDER § 11-707 OF THIS TITLE, WEAR AN ELECTRONIC
28 TRACKING DEVICE PROVIDED BY THE DEPARTMENT.

29 **11-7A-03.**

30 (A) THE DEPARTMENT SHALL:

1 **(1) ACTIVELY, AND IN REAL TIME, TRACK ELECTRONICALLY AND**
2 **IDENTIFY THE GEOGRAPHIC LOCATION OF A TRACKEE FOR AS LONG AS THE**
3 **TRACKEE IS SUBJECT TO THE REQUIREMENTS OF THIS SUBTITLE; AND**

4 **(2) REPORT TO THE APPROPRIATE COURT OR LAW**
5 **ENFORCEMENT AGENCY THE PRESENCE OF A TRACKEE IN A GEOGRAPHIC AREA**
6 **IN WHICH THE TRACKEE HAS BEEN PROHIBITED TO TRAVEL BY COURT ORDER**
7 **OR STATUTE.**

8 **(B) THE DEPARTMENT SHALL:**

9 **(1) DEVELOP PROCEDURES TO DETERMINE, INVESTIGATE, AND**
10 **REPORT THE NONCOMPLIANCE OF A TRACKEE WITH TERMS AND CONDITIONS**
11 **OF A COURT ORDER OR STATUTE;**

12 **(2) IMMEDIATELY INVESTIGATE A REPORT OF NONCOMPLIANCE**
13 **BY A TRACKEE; AND**

14 **(3) CONTRACT WITH LOCAL LAW ENFORCEMENT AGENCIES TO**
15 **ASSIST IN THE LOCATION AND APPREHENSION OF TRACKEES WHO ARE IN**
16 **NONCOMPLIANCE WITH COURT ORDERS OR STATUTES AS REPORTED BY THE**
17 **ELECTRONIC TRACKING DEVICES.**

18 **(C) (1) THE DEPARTMENT SHALL ESTABLISH A REASONABLE FEE**
19 **FOR THE COST OF ELECTRONIC TRACKING AND, EXCEPT AS PROVIDED IN**
20 **PARAGRAPH (2) OF THIS SUBSECTION, COLLECT THE FEE FROM EACH TRACKEE**
21 **ORDERED TO WEAR AN ELECTRONIC TRACKING DEVICE.**

22 **(2) IF THE DEPARTMENT DETERMINES THAT A TRACKEE CANNOT**
23 **AFFORD TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS**
24 **SUBSECTION, THE DEPARTMENT MAY EXEMPT THE TRACKEE WHOLLY OR**
25 **PARTLY FROM THE FEE.**

26 **11-7A-04.**

27 **(A) A TRACKEE MAY NOT KNOWINGLY:**

28 **(1) FAIL TO REGISTER WITH THE DEPARTMENT;**

29 **(2) FAIL TO WEAR AN ELECTRONIC TRACKING DEVICE PROVIDED**
30 **BY THE DEPARTMENT; OR**

1 **(3) ALTER, TAMPER WITH, DAMAGE, OR DESTROY AN ELECTRONIC**
2 **TRACKING DEVICE PROVIDED BY THE DEPARTMENT.**

3 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY**
4 **AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS**
5 **OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2011.