

HOUSE BILL 1116

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CF SB 320

By: **Delegates Morgan, Clark, Crosby, and Kipke**

Introduced and read first time: February 6, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Offenders – Lifetime Supervision**

3 FOR the purpose of requiring a sentence for certain persons convicted of certain sexual
4 abuse crimes to include a term of lifetime sexual offender supervision; providing for
5 the application of this Act; and generally relating to sexual offender supervision.

6 BY repealing and reenacting, without amendments,
7 Article – Criminal Law
8 Section 3–602
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2019 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 11–723
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2019 Supplement)

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

Article – Criminal Law

19 3–602.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) “Family member” has the meaning stated in § 3–601 of this subtitle.

22 (3) “Household member” has the meaning stated in § 3–601 of this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) (i) "Sexual abuse" means an act that involves sexual molestation or
2 exploitation of a minor, whether physical injuries are sustained or not.

3 (ii) "Sexual abuse" includes:

- 4 1. incest;
- 5 2. rape;
- 6 3. sexual offense in any degree;
- 7 4. sodomy; and
- 8 5. unnatural or perverted sexual practices.

9 (b) (1) A parent or other person who has permanent or temporary care or
10 custody or responsibility for the supervision of a minor may not cause sexual abuse to the
11 minor.

12 (2) A household member or family member may not cause sexual abuse to
13 a minor.

14 (c) A person who violates this section is guilty of a felony and on conviction is
15 subject to imprisonment not exceeding 25 years.

16 (d) A sentence imposed under this section may be separate from and consecutive
17 to or concurrent with a sentence for:

18 (1) any crime based on the act establishing the violation of this section; or

19 (2) a violation of § 3-601 of this subtitle involving an act of abuse separate
20 from sexual abuse under this section.

21 Article – Criminal Procedure

22 11-723.

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

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

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

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

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

3 (3) a person who has been convicted of a violation of § 3-309 or § 3-310 of
4 the Criminal Law Article, § 3-311 of the Criminal Law Article as the section existed before
5 October 1, 2017, or an attempt to commit a violation of [§ 3-306(a)(1) or (2)] **§ 3-306** of the
6 Criminal Law Article as the section existed before October 1, 2017;

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

9 (5) a person who is required to register under § 11-704(c) of this subtitle;
10 and

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

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

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

19 (i) be a term of life; and

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

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

25 (i) commence when the person's obligation to register commences;
26 and

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

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

31 2. orders the supervision to continue for a specified period of
32 time.

33 (d) (1) For a sentence that includes a term of lifetime sexual offender

1 supervision, the sentencing court, or juvenile court in the case of a person who is required
2 to register under § 11–704(c) of this subtitle, shall impose special conditions of lifetime
3 sexual offender supervision on the person at the time of sentencing, or imposition of the
4 registration requirement in juvenile court, and advise the person of the length, conditions,
5 and consecutive nature of that supervision.

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

8 (i) a presentence investigation in accordance with § 6–112 of the
9 Correctional Services Article; and

10 (ii) for a sentence for a violation of § 3–307(a)(1) or (2) of the Criminal
11 Law Article, a risk assessment of the person conducted by a sexual offender treatment
12 provider.

13 (3) The conditions of lifetime sexual offender supervision may include:

14 (i) monitoring through global positioning satellite tracking or
15 equivalent technology;

16 (ii) where appropriate and feasible, restricting a person from living
17 in proximity to or loitering near schools, family child care homes, child care centers, and
18 other places used primarily by minors;

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

21 (iv) requiring a person to participate in a sexual offender treatment
22 program;

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

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

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

27 (viii) prohibiting a person from contacting specific individuals or
28 categories of individuals; and

29 (ix) any other conditions deemed appropriate by the sentencing court
30 or juvenile court.

31 (4) The sentencing court or juvenile court may adjust the special conditions
32 of lifetime sexual offender supervision, in consultation with the person's sexual offender
33 management team.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 apply only prospectively and may not be applied or interpreted to have any effect on or
3 application to any conviction before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2020.