

# SENATE BILL 435

E2, E4

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By: **Senators Stone, Jacobs, Kasemeyer, Klausmeier, and Mooney**

Introduced and read first time: February 1, 2010

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Offenders – Tracking Device as Condition of**  
3 **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 has been convicted of a certain offense for the  
9 second time or who is required to register as a sex offender for a term of life to  
10 register for electronic tracking with the Department and, after release from  
11 custody of a supervising authority, to wear at all times and for a term of life an  
12 electronic tracking device provided by the Department; requiring a person  
13 ordered by the court to register for electronic tracking as a condition of  
14 probation to register for electronic tracking with the Department and to wear at  
15 all times and for a certain length of time an electronic tracking device; requiring  
16 the Department actively, and in real time, to track electronically and to identify  
17 a certain individual's geographic location; requiring the Department to timely  
18 report to the appropriate court or law enforcement agency a certain individual's  
19 presence in a certain area; requiring the Department to develop certain  
20 procedures to determine, investigate, and report a certain individual's  
21 noncompliance with the terms and conditions of a court order or statute;  
22 requiring the Department to investigate immediately reports of noncompliance  
23 with a court order or statute; requiring the Department to contract with a local  
24 law enforcement agency to assist in the location and apprehension of certain  
25 individuals; requiring the Department to establish a reasonable fee for the cost  
26 of electronically tracking and, subject to a certain exception, to collect the fee  
27 from certain individuals; prohibiting a certain offender from failing to register  
28 under this Act, failing to wear a certain electronic tracking device, or altering,  
29 tampering with, damaging, or destroying a certain electronic tracking device;  
30 providing penalties for a violation of this Act; defining certain terms; and

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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 2009 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 2009 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 OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW**  
20 **ARTICLE IN WHICH THE VICTIM WAS A MINOR, THE COURT:**

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

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

26 11–707.

27 (a) (1) (i) A child sexual offender shall register in person every 6  
28 months with a local law enforcement unit for the term provided under paragraph (4) of  
29 this subsection.

30 (ii) Registration shall include a photograph that shall be  
31 updated every 6 months.

32 (2) (i) An offender and a sexually violent offender shall register in  
33 person every 6 months with a local law enforcement unit for the term provided under  
34 paragraph (4) of this subsection.

1                   (ii) Registration shall include a photograph that shall be  
2 updated every 6 months.

3                   (3) (i) A sexually violent predator shall register in person every 3  
4 months for the term provided under paragraph (4)(ii) of this subsection.

5                   (ii) Registration shall include a photograph that shall be  
6 updated every 6 months.

7                   (4) The term of registration is:

8                   (i) except as provided in items (ii) and (iii) of this paragraph, 10  
9 years;

10                   (ii) except as provided in item (iii) of this paragraph, the life of  
11 the registrant, if:

12                                 1. the registrant is a sexually violent predator;

13                                 2. the registrant has been convicted of a sexually violent  
14 offense;

15                                 3. the registrant has been convicted of a violation of  
16 § 3–602 of the Criminal Law Article for commission of a sexual act involving  
17 penetration of a child under the age of 12 years; or

18                                 4. the registrant has been convicted of a prior crime as a  
19 child sexual offender, an offender, or a sexually violent offender; or

20                   (iii) up to 5 years, if the registrant is a person described under §  
21 11–701(c)(5)(i) of this subtitle or a person described under § 11–701(j)(3)(i) of this  
22 subtitle, subject to reduction by the juvenile court on the filing of a petition by the  
23 registrant for a reduction in the term of registration.

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

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

28                                 (1) the last date of release;

29                                 (2) the date granted probation;

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

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

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

5 **11-7A-01.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
7 INDICATED.

8 (B) "ELECTRONIC TRACKING" MEANS MONITORING 24 HOURS A DAY  
9 AND 7 DAYS A WEEK THE GEOGRAPHIC LOCATION OF AN INDIVIDUAL THROUGH  
10 THE USE OF AN ELECTRONIC TRACKING DEVICE.

11 (C) "ELECTRONIC TRACKING DEVICE" MEANS TECHNOLOGY THAT CAN  
12 DETERMINE THE LOCATION OF A TRACKEE AT ANY TIME AND IS APPROVED BY  
13 THE DEPARTMENT.

14 (D) "TRACKEE" MEANS A PERSON WHO IS REQUIRED TO REGISTER FOR  
15 ELECTRONIC TRACKING UNDER THIS SUBTITLE.

16 **11-7A-02.**

17 (A) A PERSON WHO HAS BEEN CONVICTED FOR A SECOND TIME OF A  
18 VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE IN WHICH  
19 THE VICTIM WAS A MINOR OR WHO IS REQUIRED TO REGISTER AS A SEX  
20 OFFENDER FOR A TERM OF LIFE UNDER § 11-707 OF THIS TITLE SHALL:

21 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE  
22 DEPARTMENT; AND

23 (2) AT ALL TIMES AND FOR A TERM OF LIFE AFTER RELEASE  
24 FROM CUSTODY OF A SUPERVISING AUTHORITY, WEAR AN ELECTRONIC  
25 TRACKING DEVICE PROVIDED BY THE DEPARTMENT.

26 (B) A PERSON WHO HAS BEEN ORDERED TO REGISTER FOR  
27 ELECTRONIC TRACKING AS A CONDITION OF PROBATION UNDER § 6-233 OF  
28 THIS ARTICLE SHALL:

29 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE  
30 DEPARTMENT; AND

1           **(2) AT ALL TIMES, AND FOR THE LENGTH OF TIME ORDERED BY**  
2 **THE COURT, WEAR AN ELECTRONIC TRACKING DEVICE PROVIDED BY THE**  
3 **DEPARTMENT.**

4 **11-7A-03.**

5           **(A) THE DEPARTMENT SHALL:**

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

9           **(2) REPORT TO THE APPROPRIATE COURT OR LAW**  
10 **ENFORCEMENT AGENCY A TRACKEE'S PRESENCE IN A GEOGRAPHIC AREA IN**  
11 **WHICH THE TRACKEE HAS BEEN PROHIBITED TO TRAVEL BY COURT ORDER OR**  
12 **STATUTE.**

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

14           **(1) DEVELOP PROCEDURES TO DETERMINE, INVESTIGATE, AND**  
15 **REPORT A TRACKEE'S NONCOMPLIANCE WITH TERMS AND CONDITIONS OF A**  
16 **COURT ORDER OR STATUTE;**

17           **(2) IMMEDIATELY INVESTIGATE A REPORT OF NONCOMPLIANCE**  
18 **BY A TRACKEE; AND**

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

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

27           **(2) IF THE DEPARTMENT DETERMINES THAT A TRACKEE CANNOT**  
28 **AFFORD TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS**  
29 **SUBSECTION, THE DEPARTMENT MAY EXEMPT THE TRACKEE WHOLLY OR**  
30 **PARTLY FROM THE FEE.**

31 **11-7A-04.**

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

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

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

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

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

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2010.