

HOUSE BILL 781

E1

4r1173
CF SB 460

By: **Delegates Clippinger, Arora, Simmons, Glenn, ~~Arora~~, Cluster, Dumais, Glass, Lee, McComas, McDermott, Mitchell, Parrott, Smigiel, Sophocleus, Valderrama, Valentino-Smith, and Waldstreicher**

Introduced and read first time: February 3, 2014

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2014

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Person in a Position of Authority – Sexual Offenses With a**
3 **Minor**

4 FOR the purpose of altering a certain prohibition against a certain “person in a
5 position of authority” from engaging in certain conduct to prohibit a certain
6 person in a position of authority from engaging in sexual contact, a sexual act,
7 or vaginal intercourse with a minor who ~~is at least a certain number of years~~
8 ~~younger than the person in a position of authority and who the person in a~~
9 ~~position of authority knows is or was~~ enrolled or participating in the institution,
10 program, or activity at which the person in a position of authority works;
11 defining a certain term; making a certain conforming change; providing a
12 certain statute of limitations for a violation of this Act; providing penalties for a
13 violation of this Act; providing that a violation of this Act may not be considered
14 a lesser-included offense of another crime, with a certain exception; providing
15 that a prosecution under this Act does not preclude a certain other prosecution;
16 and generally relating to persons in a position of authority and sexual offenses.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 5–106(z)
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Criminal Law
3 Section 3–308
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2013 Supplement)

6 BY adding to
7 Article – Criminal Law
8 Section 3–325
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2013 Supplement)

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

13 **Article – Courts and Judicial Proceedings**

14 5–106.

15 (z) A prosecution for a misdemeanor offense under [§ 3–308(c)] **§ 3–325** or, if
16 the victim was a minor at the time of the offense, § 3–308(b)(1) of the Criminal Law
17 Article shall be instituted within 3 years after the offense was committed.

18 **Article – Criminal Law**

19 3–308.

20 [(a) In this section, “person in a position of authority”:

21 (1) means a person who:

22 (i) is at least 21 years old;

23 (ii) is employed as a full–time permanent employee by a public
24 or private preschool, elementary school, or secondary school; and

25 (iii) because of the person’s position or occupation, exercises
26 supervision over a minor who attends the school; and

27 (2) includes a principal, vice principal, teacher, or school counselor at
28 a public or private preschool, elementary school, or secondary school.]

29 [(b) (A) A person may not engage in:

30 (1) sexual contact with another without the consent of the other;

1 (2) except as provided in § 3–307(a)(4) of this subtitle, a sexual act
2 with another if the victim is 14 or 15 years old, and the person performing the sexual
3 act is at least 4 years older than the victim; or

4 (3) except as provided in § 3–307(a)(5) of this subtitle, vaginal
5 intercourse with another if the victim is 14 or 15 years old, and the person performing
6 the act is at least 4 years older than the victim.

7 [(c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection
8 (b)(2) of this section, a person in a position of authority may not engage in a sexual act
9 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a
10 student enrolled at a school where the person in a position of authority is employed.

11 (2) Except as provided in § 3–307(a)(5) of this subtitle or subsection
12 (b)(3) of this section, a person in a position of authority may not engage in vaginal
13 intercourse with a minor who, at the time of the vaginal intercourse, is a student
14 enrolled at a school where the person in a position of authority is employed.]

15 [(d)] (B) (1) Except as provided in paragraph (2) of this subsection, a
16 person who violates this section is guilty of the misdemeanor of sexual offense in the
17 fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a
18 fine not exceeding \$1,000 or both.

19 (2) (i) On conviction of a violation of this section, a person who has
20 been convicted on a prior occasion not arising from the same incident of a violation of
21 §§ 3–303 through 3–312 or § 3–315 of this subtitle or § 3–602 of this title is subject to
22 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

23 (ii) If the State intends to proceed against a person under
24 subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the
25 Maryland Rules for the indictment and trial of a subsequent offender.

26 **3–325.**

27 (A) (1) **IN THIS SECTION, “PERSON IN A POSITION OF AUTHORITY”**
28 **MEANS A PERSON WHO:**

29 (I) **IS AT LEAST 21 YEARS OLD; ~~AND~~**

30 (II) **WORKS AT:**

31 1. **A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY**
32 **SCHOOL, OR SECONDARY SCHOOL; OR**

33 2. **A SPORTS OR RECREATIONAL FACILITY OR**
34 **PROGRAM; AND**

1 **(III) EXERCISES SUPERVISION OVER ONE OR MORE MINORS**
 2 **ENROLLED OR PARTICIPATING IN THE INSTITUTION, PROGRAM, OR ACTIVITY.**

3 **(2) “PERSON IN A POSITION OF AUTHORITY” INCLUDES AN**
 4 **INDIVIDUAL WHO:**

5 **~~(I) IS A VOLUNTEER WITH, UNDER CONTRACT WITH, OR A~~**
 6 **~~PAID EMPLOYEE OF A COUNTY BOARD OF EDUCATION OR AN INSTITUTION, A~~**
 7 **~~PROGRAM, OR AN ACTIVITY DESCRIBED IN PARAGRAPH (1)(II) OF THIS~~**
 8 **~~SUBSECTION AND WHO, IN THAT CAPACITY, DIRECTS OR SUPERVISES MINORS~~**
 9 **~~ENROLLED OR PARTICIPATING IN THE INSTITUTION, PROGRAM, OR ACTIVITY;~~**
 10 **~~OR~~**

11 **~~(II) SUPERVISES ONE OR MORE PERSONS IN A POSITION OF~~**
 12 **~~AUTHORITY WITHIN THE INSTITUTION, PROGRAM, OR ACTIVITY.~~**

13 **(B) A PERSON IN A POSITION OF AUTHORITY MAY NOT ENGAGE IN**
 14 **SEXUAL CONTACT, A SEXUAL ACT, OR VAGINAL INTERCOURSE WITH A MINOR**
 15 **WHO IS AT LEAST 7 YEARS YOUNGER THAN THE PERSON IN A POSITION OF**
 16 **AUTHORITY AND WHO THE PERSON IN A POSITION OF AUTHORITY KNOWS:**

17 **~~(1) IS ENROLLED OR PARTICIPATING IN THE INSTITUTION,~~**
 18 **~~PROGRAM, OR ACTIVITY AT WHICH THE PERSON IN A POSITION OF AUTHORITY~~**
 19 **~~WORKS; OR~~**

20 **~~(2) WAS PREVIOUSLY ENROLLED OR PARTICIPATING IN THE~~**
 21 **~~INSTITUTION, PROGRAM, OR ACTIVITY AT THE SAME TIME THE PERSON IN A~~**
 22 **~~POSITION OF AUTHORITY WAS WORKING AT THE INSTITUTION, PROGRAM, OR~~**
 23 **~~ACTIVITY.~~**

24 **(C) (1) UNLESS SPECIFICALLY CHARGED BY THE STATE, A**
 25 **VIOLATION OF THIS SECTION MAY NOT BE CONSIDERED A LESSER-INCLUDED**
 26 **OFFENSE OF ANOTHER CRIME.**

27 **(2) A PROSECUTION OF A VIOLATION OF THIS SECTION DOES NOT**
 28 **PRECLUDE A PROSECUTION UNDER § 3-602 OF THIS TITLE.**

29 **(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
 30 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
 31 **EXCEEDING ~~5 YEARS~~ 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 33 October 1, 2014.