

HOUSE BILL 14

E1

3lr0438

(PRE-FILED)

By: ~~Delegates Simmons and K. Kelly~~ Clippinger, K. Kelly, Simmons, Arora, Dumais, Glenn, Anderson, Lee, McComas, Mitchell, Sophocleus, Valderrama, Valentino-Smith, and Waldstreicher

Requested: September 17, 2012

Introduced and read first time: January 9, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Part-Time School Employees, Contractors, and Coaches –**
3 **Sexual Contact with Minors**

4 FOR the purpose of altering the definition of a “person in a position of authority”
5 relating to prohibiting an individual from engaging in a sexual act, sexual
6 contact, or vaginal intercourse with a minor under certain circumstances to
7 remove a limitation to full-time employees and to include certain employees of a
8 county department of recreation, certain contractors, certain persons employed
9 by or under contract with certain contractors, and certain coaches; prohibiting a
10 certain person from engaging in a sexual act, sexual conduct, or vaginal
11 intercourse with a minor who the person is directly supervising in a county
12 department of recreation program; and generally relating to a sexual offense
13 involving a person in a position of authority and a minor under certain
14 circumstances.

15 BY repealing and reenacting, without amendments,
16 Article – Criminal Law
17 Section 3-307
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2012 Supplement)

20 BY repealing and reenacting, with amendments,

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 Article – Criminal Law
2 Section 3–308
3 Annotated Code of Maryland
4 (2012 Replacement Volume and 2012 Supplement)

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

7 **Article – Criminal Law**

8 3–307.

9 (a) A person may not:

10 (1) (i) engage in sexual contact with another without the consent of
11 the other; and

12 (ii) 1. employ or display a dangerous weapon, or a physical
13 object that the victim reasonably believes is a dangerous weapon;

14 2. suffocate, strangle, disfigure, or inflict serious
15 physical injury on the victim or another in the course of committing the crime;

16 3. threaten, or place the victim in fear, that the victim,
17 or an individual known to the victim, imminently will be subject to death, suffocation,
18 strangulation, disfigurement, serious physical injury, or kidnapping; or

19 4. commit the crime while aided and abetted by another;

20 (2) engage in sexual contact with another if the victim is a mentally
21 defective individual, a mentally incapacitated individual, or a physically helpless
22 individual, and the person performing the act knows or reasonably should know the
23 victim is a mentally defective individual, a mentally incapacitated individual, or a
24 physically helpless individual;

25 (3) engage in sexual contact with another if the victim is under the age
26 of 14 years, and the person performing the sexual contact is at least 4 years older than
27 the victim;

28 (4) engage in a sexual act with another if the victim is 14 or 15 years
29 old, and the person performing the sexual act is at least 21 years old; or

30 (5) engage in vaginal intercourse with another if the victim is 14 or 15
31 years old, and the person performing the act is at least 21 years old.

1 (b) A person who violates this section is guilty of the felony of sexual offense
 2 in the third degree and on conviction is subject to imprisonment not exceeding 10
 3 years.

4 3-308.

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

6 (1) means:

7 **(I)** a person who:

8 ~~(i)~~ **1.** is at least 21 years old;

9 ~~(ii)~~ **2.** is employed [as a full-time permanent employee] by
 10 **OR UNDER CONTRACT WITH:**

11 ~~1.~~ **A.** a public or private preschool, elementary school, or
 12 secondary school; **OR**

13 ~~2.~~ **B.** **A CONTRACTOR OF A PUBLIC OR PRIVATE**
 14 **PRESCHOOL, ELEMENTARY SCHOOL, OR SECONDARY SCHOOL;** and

15 ~~(iii)~~ **3.** because of the person’s position or occupation,
 16 exercises supervision over a minor who attends the school; **OR**

17 **(II) A PERSON WHO:**

18 **1. IS AT LEAST 21 YEARS OLD;**

19 **2. IS EMPLOYED BY OR UNDER CONTRACT WITH:**

20 **A. A COUNTY DEPARTMENT OF RECREATION; OR**

21 **B. A CONTRACTOR OF A COUNTY DEPARTMENT OF**
 22 **RECREATION; AND**

23 **3. BECAUSE OF THE PERSON’S POSITION OR**
 24 **OCCUPATION, EXERCISES SUPERVISION OVER A MINOR WHO PARTICIPATES IN A**
 25 **COUNTY DEPARTMENT OF RECREATION PROGRAM;** and

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

28 (b) A person may not engage in:

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

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

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

8 (c) (1) **(I)** Except as provided in § 3-307(a)(4) of this subtitle or
9 subsection (b)(2) of this section, a person in a position of authority, **AS DEFINED IN**
10 **SUBSECTION (A)(1)(I) OF THIS SECTION**, may not engage in a sexual act or sexual
11 contact with a minor who, at the time of the sexual act or sexual contact, is a student
12 enrolled at a school where the person in a position of authority is employed.

13 **(II) EXCEPT AS PROVIDED IN § 3-307(A)(4) OF THIS**
14 **SUBTITLE OR SUBSECTION (B)(2) OF THIS SECTION, A PERSON IN A POSITION OF**
15 **AUTHORITY, AS DEFINED IN SUBSECTION (A)(1)(II) OF THIS SECTION, MAY NOT**
16 **ENGAGE IN A SEXUAL ACT OR SEXUAL CONTACT WITH A MINOR WHO, AT THE**
17 **TIME OF THE SEXUAL ACT OR SEXUAL CONTACT, THE PERSON IN A POSITION OF**
18 **AUTHORITY IS DIRECTLY SUPERVISING IN A COUNTY DEPARTMENT OF**
19 **RECREATION PROGRAM.**

20 (2) **(I)** Except as provided in § 3-307(a)(5) of this subtitle or
21 subsection (b)(3) of this section, a person in a position of authority, **AS DEFINED IN**
22 **SUBSECTION (A)(1)(I) OF THIS SECTION**, may not engage in vaginal intercourse
23 with a minor who, at the time of the vaginal intercourse, is a student enrolled at a
24 school where the person in a position of authority is employed.

25 **(II) EXCEPT AS PROVIDED IN § 3-307(A)(5) OF THIS**
26 **SUBTITLE OR SUBSECTION (B)(3) OF THIS SECTION, A PERSON IN A POSITION OF**
27 **AUTHORITY, AS DEFINED IN SUBSECTION (A)(1)(II) OF THIS SECTION, MAY NOT**
28 **ENGAGE IN VAGINAL INTERCOURSE WITH A MINOR WHO, AT THE TIME OF THE**
29 **SEXUAL ACT OR SEXUAL CONTACT, THE PERSON IN A POSITION OF AUTHORITY**
30 **IS DIRECTLY SUPERVISING IN A COUNTY DEPARTMENT OF RECREATION**
31 **PROGRAM.**

32 (d) (1) Except as provided in paragraph (2) of this subsection, a person
33 who violates this section is guilty of the misdemeanor of sexual offense in the fourth
34 degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not
35 exceeding \$1,000 or both.

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

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.