

SENATE BILL 377

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3lr1704
CF HB 31

By: **Senators King, Ferguson, Kelley, Klausmeier, Montgomery, and Stone**
Introduced and read first time: January 25, 2013
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Fourth–Degree Sex Offense – School Employees and**
3 **Contractors**

4 FOR the purpose of altering the definition of “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 contractors or
8 persons employed by or under contract with contractors; and generally relating
9 to a sexual offense involving a person in a position of authority and a minor
10 under certain circumstances.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 3–307
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2012 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Law
18 Section 3–308
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2012 Supplement)

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

23 **Article – Criminal Law**

24 3–307.

25 (a) A person may not:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

11 (2) engage in sexual contact with another if the victim is a mentally
12 defective individual, a mentally incapacitated individual, or a physically helpless
13 individual, and the person performing the act knows or reasonably should know the
14 victim is a mentally defective individual, a mentally incapacitated individual, or a
15 physically helpless individual;

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

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

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

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

26 3–308.

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

28 (1) means a person who:

29 (i) is at least 21 years old;

30 (ii) is employed [as a full–time permanent employee] by **OR**
31 **UNDER CONTRACT WITH:**

1 1. a public or private preschool, elementary school, or
2 secondary school;

3 **2. A CONTRACTOR OF A PUBLIC OR PRIVATE**
4 **PRESCHOOL, ELEMENTARY SCHOOL, OR SECONDARY SCHOOL; and**

5 (iii) because of the person's position or occupation, exercises
6 supervision over a minor who attends the school; and

7 (2) includes a principal, vice principal, teacher, or school counselor at a
8 public or private preschool, elementary school, or secondary school.

9 (b) A person may not engage in:

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

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

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

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

21 (2) Except as provided in § 3-307(a)(5) of this subtitle or subsection
22 (b)(3) of this section, a person in a position of authority may not engage in vaginal
23 intercourse with a minor who, at the time of the vaginal intercourse, is a student
24 enrolled at a school where the person in a position of authority is employed.

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

29 (2) (i) On conviction of a violation of this section, a person who has
30 been convicted on a prior occasion not arising from the same incident of a violation of
31 §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to
32 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

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