

HOUSE BILL 944

E1
HB 908/15 – JUD

6lr0987

By: **Delegates Vogt, Adams, Arentz, Buckel, Carozza, Carter, Cluster, Folden, Ghrist, Glass, Hornberger, Jacobs, Jalisi, Krebs, Malone, McComas, McConkey, McKay, Metzgar, Moon, Rey, Shoemaker, A. Washington, M. Washington, and K. Young**

Introduced and read first time: February 10, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Professional Counselors and Therapists – Misconduct**
3 **(Lynette’s Law)**

4 FOR the purpose of prohibiting a certain professional counselor or therapist from engaging
5 in a sexual act, sexual contact, or vaginal intercourse with a person who is receiving
6 counseling from the professional counselor or therapist or who has received
7 counseling from the professional counselor or therapist within a certain period of
8 time; prohibiting a certain professional counselor or therapist from knowingly, and
9 with intent to deceive, making a false statement concerning the person’s criminal
10 record on an employment application; defining certain terms; and generally relating
11 to the conduct of professional counselors and therapists.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Law
14 Section 3–307
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2015 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 9–509
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2015 Supplement)

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

24 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-307.

2 (a) A person may not:

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

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

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

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

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

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

18 (3) engage in sexual contact with another if the victim is under the age of
19 14 years, and the person performing the sexual contact is at least 4 years older than the
20 victim;

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

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

25 (b) **(1) IN THIS SUBSECTION, "PROFESSIONAL COUNSELOR OR**
26 **THERAPIST" MEANS A PERSON WHO IS LICENSED OR CERTIFIED TO PRACTICE:**

27 **(I) MARRIAGE AND FAMILY THERAPY, ALCOHOL AND DRUG**
28 **COUNSELING, OR PROFESSIONAL COUNSELING BY THE STATE BOARD OF**
29 **PROFESSIONAL COUNSELORS AND THERAPISTS UNDER TITLE 17 OF THE HEALTH**
30 **OCCUPATIONS ARTICLE;**

31 **(II) PSYCHOLOGY BY THE STATE BOARD OF EXAMINERS OF**
32 **PSYCHOLOGISTS UNDER TITLE 18 OF THE HEALTH OCCUPATIONS ARTICLE;**

1 (III) BACHELOR SOCIAL WORK, GRADUATE SOCIAL WORK,
2 CERTIFIED SOCIAL WORK, OR CERTIFIED SOCIAL WORK–CLINICAL BY THE STATE
3 BOARD OF SOCIAL WORK EXAMINERS UNDER TITLE 19 OF THE HEALTH
4 OCCUPATIONS ARTICLE;

5 (IV) AS A NURSE PSYCHOTHERAPIST BY THE STATE BOARD OF
6 NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE; OR

7 (V) AS A PHYSICIAN BY THE STATE BOARD OF PHYSICIANS
8 UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE AND SPECIALIZES IN
9 ADULT, ADOLESCENT, OR CHILD PSYCHIATRY.

10 (2) A PROFESSIONAL COUNSELOR OR THERAPIST MAY NOT ENGAGE
11 IN A SEXUAL ACT OR SEXUAL CONTACT WITH A PERSON WHO:

12 (I) AT THE TIME OF THE SEXUAL ACT OR SEXUAL CONTACT, IS A
13 PATIENT RECEIVING COUNSELING OR THERAPY FROM THE PROFESSIONAL
14 COUNSELOR OR THERAPIST; OR

15 (II) HAS RECEIVED COUNSELING OR THERAPY FROM THE
16 PROFESSIONAL COUNSELOR OR THERAPIST WITHIN THE 2 YEARS PRECEDING THE
17 SEXUAL ACT OR SEXUAL CONTACT.

18 (3) A PROFESSIONAL COUNSELOR OR THERAPIST MAY NOT ENGAGE
19 IN VAGINAL INTERCOURSE WITH A PERSON WHO:

20 (I) AT THE TIME OF THE VAGINAL INTERCOURSE, IS A PATIENT
21 RECEIVING COUNSELING OR THERAPY FROM THE PROFESSIONAL COUNSELOR OR
22 THERAPIST; OR

23 (II) HAS RECEIVED COUNSELING OR THERAPY FROM THE
24 PROFESSIONAL COUNSELOR OR THERAPIST WITHIN THE 2 YEARS PRECEDING THE
25 VAGINAL INTERCOURSE.

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

28 **9–509.**

29 (A) IN THIS SECTION, “PROFESSIONAL COUNSELOR OR THERAPIST” MEANS
30 A PERSON WHO IS LICENSED OR CERTIFIED TO PRACTICE MARRIAGE AND FAMILY
31 THERAPY, ALCOHOL AND DRUG COUNSELING, OR PROFESSIONAL COUNSELING BY

1 THE STATE BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS UNDER
2 TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE.

3 (B) A PROFESSIONAL COUNSELOR OR THERAPIST MAY NOT KNOWINGLY,
4 AND WITH INTENT TO DECEIVE, MAKE A FALSE STATEMENT CONCERNING THE
5 PERSON'S CRIMINAL RECORD ON AN EMPLOYMENT APPLICATION.

6 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
7 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR
8 A FINE NOT EXCEEDING \$500 OR BOTH.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2016.