

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 329
Judiciary

(Delegate Simpson, *et al.*)

Judicial Proceedings

Criminal Law - School Resource Officers - Prohibition on Sexual Activity with
Students

This bill expands existing statutory prohibitions on specific sexual activity for law enforcement officers to include sexual contact, vaginal intercourse, a sexual act with a student enrolled in a school where the officer serves as a “school resource officer.” **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law:

School Resource Officers

A “school resource officer” is (1) a law enforcement officer who has been assigned to a school in accordance with a memorandum of understanding between the chief law enforcement agency and local school system; or (2) a Baltimore City school police officer.

A Baltimore City school police officer is a person who, when acting in an official capacity, is a member of the Baltimore City School Police Force established in statute and who is authorized by law to make arrests.

In general, a Baltimore City school police officer may act in an official capacity only on the premises of a Baltimore City school or under other specified circumstances. When acting in an official capacity, a Baltimore City school police officer has all the powers of a law enforcement officer in the State. Members of the Baltimore City School Police Force are employees of and appointed by the Baltimore City Board of School Commissioners. During school days, Baltimore City school police officers are authorized to carry weapons on the premises of a school to which they are assigned only before or after regular school hours; they are also authorized to carry weapons on the premises of a school to which they are assigned on days other than school days.

Prohibited Sexual Acts by Law Enforcement

Generally, existing statutory provisions prohibit a law enforcement officer from engaging in sexual contact, vaginal intercourse, or a sexual act with a person (1) who is a victim, witness, or suspect in an open investigation that the law enforcement officer is conducting, supervising, or assisting with if the law enforcement officer knew or should have known that the person is a victim, witness, or suspect in the investigation; (2) requesting assistance from or responding to the law enforcement officer in the course of the law enforcement officer's official duties; or (3) in the custody of the law enforcement officer. Violators are guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$3,000 maximum fine. A sentence imposed for a violation of these prohibitions may be separate from and consecutive to or concurrent with a sentence imposed for an offense under Title 3, Subtitle 3 of the Criminal Law Article (sexual crimes), as specified.

Sexual Offense in the Fourth Degree

A "person in a position of authority" is a person who is (1) at least age 21 and works for remuneration or as a volunteer for a public or private preschool, elementary school, or secondary school or (2) at least age 22 and works for remuneration or as a volunteer for a "program" and exercises supervision over or works or interacts with one or more minors who attend the school or participate in the program. A person in a position of authority includes a principal, vice principal, teacher, coach, or school counselor at a public or private preschool, elementary school, or secondary school.

A "program" means an individual, a business, a religious or faith-based institution, or an organization that provides, on a for-profit or nonprofit basis, instructional, coaching, recreational, spiritual, character-building, or supervisory services or activities for minors, including (1) sports, music, dance, art, or martial arts coaching or instruction; (2) tutoring

or academic enrichment; (3) day care or after school care; (4) scouting; or (5) day or overnight camping. "Program" also means any unit of local, State, or federal government.

The fourth-degree sexual offense statute prohibits a person from (1) engaging in sexual contact with another without the consent of the other or (2) except as prohibited under the third-degree sexual offense statute, engaging in a sexual act or vaginal intercourse with a victim who is age 14 or 15 and the person performing the act is at least 4 years older than the victim.

Except as prohibited under the third-degree sexual offense statute or the prohibitions above, a person in a position of authority may not engage in a sexual act, sexual contact, or vaginal intercourse with a minor who, at the time of the sexual act, sexual contact, or vaginal intercourse (1) is a student enrolled at a school where the person in a position of authority works or (2) is participating in a program for which the person in a position of authority works and is at least six years younger than the person in a position of authority.

Fourth-degree sexual offense is a misdemeanor, punishable by imprisonment for up to one year and/or a \$1,000 maximum fine. However, an increased penalty of imprisonment for up to three years and/or a \$1,000 maximum fine applies to a person who has been convicted on a prior occasion not arising from the same incident of violations of specified sexual crimes under State law. The specified crimes are: first-degree rape; second-degree rape; third-degree sexual offense; fourth-degree sexual offense; attempted rape in the first degree; attempted rape in the second degree; attempted sexual offense in the first-degree (as it existed before October 1, 2017); attempted sexual offense in the second degree (as it existed before October 1, 2017); continuing course of conduct with a child; and sexual abuse of a minor.

Imposition of the subsequent offender penalty is subject to specified procedural requirements. Unless specifically charged by the State, a violation of the fourth-degree sexual offense statute may not be considered a lesser included crime of any other crime. There is a three-year statute of limitations for prosecution of a fourth-degree sexual offense involving a person in a position of authority or sexual contact with a minor without the consent of the minor.

Sexual Offense in the Third Degree

Among other things, the third-degree sexual offense statute prohibits (1) sexual contact between a victim who is younger than age 14 and a person who is at least 4 years older than the victim; (2) a sexual act between a victim who is 14 or 15 years old and a person who is at least 21 years old; and (3) vaginal intercourse involving a victim who is 14 or 15 years old and a person who is at least 21 years old. Third-degree sexual offense is a felony, punishable by imprisonment for up to 10 years.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 81 (Senator Folden) - Judicial Proceedings.

Information Source(s): Howard and Prince George's counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland State Department of Education; Department of Public Safety and Correctional Services; Baltimore City Public Schools; Montgomery County Public Schools; Department of Legislative Services

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