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Judicial Proceedings Committee



THE SENATE OF MARYLAND
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February 1, 2023

The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Building
11 Bladen Street
Annapolis, Maryland 21401

Re: Senate Bill – 21 – Criminal Law – Person in a Position of Authority – Sexual Misconduct With a Minor

Dear Chairman Smith and Members of the Committee,

Section 3-308 of the current Maryland Criminal Law Article precludes a narrow class of individuals who are in a position of authority over a minor from engaging in sexual conduct with that minor. It's limited to employees of schools who exercise supervision over students, and the protected class merely consists of minor students, who are students under the age of 18. This definition is far too narrow.

A recent case in Montgomery County exposed the loophole in this law. The victim, then age 17, was receiving private music lessons from a teacher in his 50s. The lessons were conducted in the teacher's home, and the victim's father remained in an adjoining room during the lessons. Behind that closed door, the teacher engaged in sexual conduct, and ultimately sexual intercourse, with the victim. Even though the private music teacher was just as much a person of authority as a music teacher in a school would have been, because the offender was not employed by a school, no prosecution was possible under Section 3-308. The Montgomery County State's Attorney's Office properly examined the case and concluded that it could not prosecute.

Senate Bill 21 aims to close this loophole. It revises the definition of a person in a position of authority to include a person at least 21 years old who is employed or under contract with, or volunteering at, a school, a childcare program, an after-school program, an instructional program for music, dance, art, tutoring, academic enrichment or martial arts or any other program with a similar purpose, a sports, scouting or recreational program, a camp or a religious institution. This list represents an attempt to cover the waterfront of situations in which minors (children under 18 years old) are being supervised by persons over 21 years old in a position of authority.

The bill then provides that if such a person in a position of authority engages in a sexual act, sexual contact or vaginal intercourse with a minor who at the time of the conduct is enrolled or participating in the institution, program, or activity where the person in a position of authority is employed, such a person in a position of authority is guilty of the misdemeanor of sexual offense in the fourth degree and is subject to a year in jail or a fine up to \$1,000 or both. The bill goes on to provide that even if the minor has ceased to be enrolled or participating in the institution, the person in authority still may not engage in a sexual act, sexual conduct, or vaginal intercourse with the minor so long as the minor has not turned 18 years old.

In summary, this bill is a robust measure that truly protects all minors (not just school students) from predatory sexual advances by persons in a position of authority.

I appreciate the Committee's consideration of Senate Bill 21 and am more than happy to