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BILL: HB 226

TITLE: Criminal Law - Person in a Position of Authority - Sexual Offenses With a Minor

DATE: February 7, 2023

POSITION: Support

COMMITTEE: Judiciary

CONTACT: Mary Pat Fannon, Executive Director, PSSAM

The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four Maryland local school superintendents, **supports** House Bill 226.

Since the passage of the State's initial "person in a position of authority" legislation in 2004, which prohibits certain persons employed in public or private schools from engaging in a sexual act with a minor enrolled at the school that employs the perpetrator, PSSAM continues to strongly support the criminalization of sexual activity between minor students and educators not prohibited under other provisions of state law.

In the absence of the "person in position of authority" law, a school employee may be charged with child abuse if the conduct occurs on school property or while the student is engaged in school activities. However, sexual conduct occurring outside this custodial relationship would not constitute a charge of child abuse and no other criminal charge may be available. Per the legislation passed in 2004, violators can be found guilty of the misdemeanor of fourth degree sexual offense and subject to maximum penalties of a fine of \$1,000 and imprisonment for one year.

Maryland statute defines "person in a position of authority" as a person who is employed by or works as a volunteer in a public or private school and, because of the person's position or occupation, exercises supervision and influence over a minor who attends the school. The law further clarifies that this definition includes a principal, vice principal, teacher, or school counselor. School systems are more suited to administer internal discipline and discharge educators engaging in sexual conduct with students; however, outside of public schools,

communities are not fully protected from perpetrators without the assurance that criminal penalties are available to prosecutors.

Additionally, criminal penalties better ensure that a record of the employee's conduct will be available to future prospective employers, thereby more effectively protecting the safety and welfare of all students. The same rationale that garnered support for the "person in position of authority" law described above should support the update and expansion of this approach to criminalizing sexual activities between adults and the youth they supervise in other service sectors. Just like school employees, these adults are entrusted to supervise youth, and they should be held criminally responsible for engaging in sexual conduct with the minors in their care.

For these reasons, PSSAM **supports** House Bill 226 and requests a favorable committee report.