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**By: Delegates Hecht, Cadden, Heller, Howard, Love, Menes, Nathan-Pulliam, Parker, Pendergrass, Petzold, Pitkin, Rawlings, Stup, Marriott, DeCarlo, B. Hughes, Dypski, and Bobo**

Introduced and read first time: January 30, 1997

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenses - Custodial Employees and Persons in Custody**

3 FOR the purpose of making it a sexual offense in the third degree for certain  
4 governmental custodial employees to engage in vaginal intercourse, a sexual act, or  
5 sexual contact with a person in custody in a home detention program or correctional  
6 facility; allowing a sentence that is imposed for a violation of this Act to be separate  
7 from and consecutive to or concurrent with a sentence for any one of certain other  
8 sexual offenses that are based on a use of force or lack of consent; defining certain  
9 terms; and relating to sexual offenses committed by governmental custodial  
10 employees.

11 BY adding to

12 Article 27 - Crimes and Punishments  
13 Section 464B-1  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume)

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

18 **Article 27 - Crimes and Punishments**

19 464B-1.

20 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS  
21 INDICATED.

22 (2) (I) "CUSTODIAL EMPLOYEE" MEANS AN EMPLOYEE OF A UNIT OF  
23 THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT BY LAW OR COURT  
24 ORDER IS RESPONSIBLE FOR INMATES IN A CORRECTIONAL FACILITY OR HOME  
25 DETENTION PROGRAM.

26 (II) "CUSTODIAL EMPLOYEE" INCLUDES:

27 1. THE EMPLOYEES OF AN AGENT OR CONTRACTOR OF A  
28 UNIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;

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1                                   2. A CORRECTIONAL ADMINISTRATOR, CORRECTIONAL  
2 OFFICER, CORRECTIONAL SUPERVISOR, CASE MANAGER, HEALTH CARE PROVIDER,  
3 AND SOCIAL WORKER; AND

4                                   3. ADMINISTRATIVE AND SUPPORT STAFF.

5                           (3) "CUSTODY" MEANS:

6                                   (I) PRETRIAL INCARCERATION OR HOME DETENTION; OR

7                                   (II) INCARCERATION UNDER A SENTENCE TO A STATE OR LOCAL  
8 CORRECTIONAL FACILITY, COMMUNITY ADULT REHABILITATION CENTER, OR  
9 HOME DETENTION.

10                   (B) A PERSON IS GUILTY OF A SEXUAL OFFENSE IN THE THIRD DEGREE IF  
11 THE PERSON IS A CUSTODIAL EMPLOYEE AND ENGAGES IN VAGINAL INTERCOURSE,  
12 A SEXUAL ACT, OR SEXUAL CONTACT WITH A PERSON IN CUSTODY.

13                   (C) A SENTENCE IMPOSED FOR VIOLATION OF THIS SECTION MAY BE  
14 SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR  
15 ANY OTHER OFFENSE UNDER THIS SUBHEADING THAT IS BASED ON A USE OF  
16 FORCE OR LACK OF CONSENT.

17                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 1997.