
By: Senator McCabe

Introduced and read first time: January 23, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: February 27, 1997

CHAPTER ____

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

2

1 ORDER IS RESPONSIBLE FOR INMATES IN A CORRECTIONAL FACILITY OR HOME
2 DETENTION PROGRAM.

3 (II) "CUSTODIAL EMPLOYEE" INCLUDES:

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

6 2. A CORRECTIONAL ADMINISTRATOR, CORRECTIONAL
7 OFFICER, CORRECTIONAL SUPERVISOR, CASE MANAGER, HEALTH CARE PROVIDER,
8 AND SOCIAL WORKER; AND

9 3. ADMINISTRATIVE AND SUPPORT STAFF.

10 (3) "CUSTODY" MEANS:

11 (I) PRETRIAL INCARCERATION OR HOME DETENTION; OR

12 (II) INCARCERATION UNDER A SENTENCE TO A STATE OR LOCAL
13 CORRECTIONAL FACILITY, COMMUNITY ADULT REHABILITATION CENTER, OR
14 HOME DETENTION.

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

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

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