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By: **Delegates Hecht, Hutchins, Hubbard, Pitkin, Grosfeld, Stup, Menes,  
Nathan-Pulliam, and Marriott**

Introduced and read first time: February 27, 1998

Assigned to: Rules and Executive Nominations

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

11 BY adding to  
12 Article 27 - Crimes and Punishments  
13 Section 464B-1  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1997 Supplement)

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 WORDS 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:

## HOUSE BILL 1359

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

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

6                                   3.       ADMINISTRATIVE AND SUPPORT STAFF.

7                   (3)       "CUSTODY" MEANS:

8                                   (I)       PRETRIAL INCARCERATION OR HOME DETENTION; OR

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

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

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

19       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 1998.