

HOUSE BILL 1359

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HB 619/97 - JUD

1998 Regular Session
8lr0712

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
Re-referred to: Judiciary, March 9, 1998

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 29, 1998

CHAPTER _____

1 AN ACT concerning

2 **Sexual Offenses - ~~Custodial Employees and Persons in Custody~~ Correctional**
3 **Employees and Inmates**

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

13 BY adding to
14 Article 27 - Crimes and Punishments
15 Section ~~464B-1~~ 464G
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

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

1

Article 27 - Crimes and Punishments

2 ~~464B-1, 464G.~~3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.5 ~~(2) (I) "CUSTODIAL EMPLOYEE" MEANS AN EMPLOYEE OF A UNIT OF~~
6 ~~THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT BY LAW OR COURT~~
7 ~~ORDER IS RESPONSIBLE FOR INMATES IN A CORRECTIONAL FACILITY OR HOME~~
8 ~~DETENTION PROGRAM.~~

9 (II) "CUSTODIAL EMPLOYEE" INCLUDES:

10 1. ~~THE EMPLOYEES OF AN AGENT OR CONTRACTOR OF A~~
11 ~~UNIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;~~12 2. ~~A CORRECTIONAL ADMINISTRATOR, CORRECTIONAL~~
13 ~~OFFICER, CORRECTIONAL SUPERVISOR, CASE MANAGER, HEALTH CARE PROVIDER,~~
14 ~~AND SOCIAL WORKER; AND~~15 3. ~~ADMINISTRATIVE AND SUPPORT STAFF.~~

16 (3) "CUSTODY" MEANS:

17 (I) ~~PRETRIAL INCARCERATION OR HOME DETENTION; OR~~18 (II) ~~INCARCERATION UNDER A SENTENCE TO A STATE OR LOCAL~~
19 ~~CORRECTIONAL FACILITY, COMMUNITY ADULT REHABILITATION CENTER, OR HOME~~
20 ~~DETENTION.~~21 ~~(B) A PERSON IS GUILTY OF A SEXUAL OFFENSE IN THE THIRD DEGREE IF THE~~
22 ~~PERSON IS A CUSTODIAL EMPLOYEE AND ENGAGES IN VAGINAL INTERCOURSE, A~~
23 ~~SEXUAL ACT, OR SEXUAL CONTACT WITH A PERSON IN CUSTODY.~~24 (2) "CORRECTIONAL EMPLOYEE" MEANS:25 (I) A CORRECTIONAL OFFICER, AS DEFINED IN ARTICLE 41, § 4-301
26 OF THE CODE; OR27 (II) A HEAD OR DEPUTY HEAD OF A CORRECTIONAL FACILITY,
28 INCLUDING A SHERIFF, WARDEN, SUPERINTENDENT, OR ANY PERSON HAVING AN
29 EQUIVALENT TITLE WHO IS APPOINTED OR EMPLOYED TO SUPERVISE A
30 CORRECTIONAL FACILITY.31 (3) "INMATE" MEANS A PERSON WHO IS INCARCERATED IN A STATE OR
32 LOCAL CORRECTIONAL FACILITY OR A COMMUNITY ADULT REHABILITATION
33 CENTER.34 (B) A CORRECTIONAL EMPLOYEE MAY NOT ENGAGE IN VAGINAL
35 INTERCOURSE OR A SEXUAL ACT WITH AN INMATE.

1 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
2 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$3,000 OR
3 IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

4 ~~(C)~~ (D) A SENTENCE IMPOSED FOR VIOLATION OF THIS SECTION MAY BE
5 SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR
6 ANY OTHER OFFENSE UNDER THIS SUBHEADING ~~THAT IS BASED ON A USE OF FORCE~~
7 ~~OR LACK OF CONSENT.~~

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