

SENATE BILL 156

Unofficial Copy
E1

1998 Regular Session
(8lr1000)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators McCabe, Kelley, Dorman, Hollinger, Teitelbaum,
Colburn, Fry, Jimeno, Green, Lawlah, Sfikas, Conway, Middleton, and
McFadden**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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

1 Section ~~464B-1~~ 464G
 2 Annotated Code of Maryland
 3 (1996 Replacement Volume and 1997 Supplement)

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

6 **Article 27 - Crimes and Punishments**

7 ~~464B-1.~~ 464G.

8 (A) (1) IN THIS SECTION THE FOLLOWING ~~TERMS~~ WORDS HAVE THE
 9 MEANINGS INDICATED.

10 (2) (I) ~~"CUSTODIAL EMPLOYEE" MEANS AN EMPLOYEE OF A UNIT OF~~
 11 ~~THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT BY LAW OR COURT~~
 12 ~~ORDER IS RESPONSIBLE FOR INMATES IN A CORRECTIONAL FACILITY OR HOME~~
 13 ~~DETENTION PROGRAM.~~

14 (II) ~~"CUSTODIAL EMPLOYEE" INCLUDES:~~

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

17 2. ~~A CORRECTIONAL ADMINISTRATOR, CORRECTIONAL~~
 18 ~~OFFICER, CORRECTIONAL SUPERVISOR, CASE MANAGER, HEALTH CARE PROVIDER,~~
 19 ~~AND SOCIAL WORKER; AND~~

20 3. ~~ADMINISTRATIVE AND SUPPORT STAFF.~~

21 (3) ~~"CUSTODY" MEANS:~~

22 (I) ~~PRETRIAL INCARCERATION OR HOME DETENTION; OR~~

23 (II) ~~INCARCERATION UNDER A SENTENCE TO A STATE OR LOCAL~~
 24 ~~CORRECTIONAL FACILITY, COMMUNITY ADULT REHABILITATION CENTER, OR HOME~~
 25 ~~DETENTION.~~

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

29 (2) "CORRECTIONAL EMPLOYEE" MEANS:

30 (I) A CORRECTIONAL OFFICER, AS DEFINED IN ARTICLE 41, § 4-301
 31 OF THE CODE; OR

32 (II) A HEAD OR DEPUTY HEAD OF A CORRECTIONAL FACILITY,
 33 INCLUDING A SHERIFF, WARDEN, SUPERINTENDENT, OR ANY PERSON HAVING AN

1 EQUIVALENT TITLE WHO IS APPOINTED OR EMPLOYED TO SUPERVISE A
2 CORRECTIONAL FACILITY.

3 (3) "INMATE" MEANS A PERSON WHO IS INCARCERATED IN A STATE OR
4 LOCAL CORRECTIONAL FACILITY OR A COMMUNITY ADULT REHABILITATION
5 CENTER.

6 (B) A CORRECTIONAL EMPLOYEE MAY NOT ENGAGE IN VAGINAL
7 INTERCOURSE OR A SEXUAL ACT WITH AN INMATE.

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

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

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