

SENATE BILL 156

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SB 300/97 - JPR

1998 Regular Session
8r1000

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

Introduced and read first time: January 23, 1998

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 25, 1998

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
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 generally relating to sexual offenses
10 committed by 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 TERMS HAVE THE MEANINGS
21 INDICATED.

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

5 (II) "CUSTODIAL EMPLOYEE" INCLUDES:

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

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

11 3. ADMINISTRATIVE AND SUPPORT STAFF.

12 (3) "CUSTODY" MEANS:

13 (I) PRETRIAL INCARCERATION OR HOME DETENTION; OR

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

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

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

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