
By: **Senators Ferguson, Harris, Hogan, Hooper, Jacobs, and Mooney**
Introduced and read first time: February 2, 2001
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 14, 2001

CHAPTER _____

1 AN ACT concerning

2 **Crimes - ~~Child Abuse - Sexual Abuse by an Educator~~ Fourth Degree Sexual**
3 **Offense - Educator and Student**

4 FOR the purpose of ~~altering a certain definition of "sexual abuse" to include sexual~~
5 ~~molestation or exploitation of a child by an educator; establishing that an~~
6 ~~educator who causes certain abuse to a child is guilty of a felony and, on~~
7 ~~conviction, is subject to certain penalties; defining a certain term; and generally~~
8 ~~relating to child sexual abuse by an educator~~ prohibiting certain educators from
9 engaging in a sexual act or vaginal intercourse with a certain person under a
10 certain age under certain circumstances; defining a certain term; and generally
11 relating to a sexual offense involving an educator and a person under a certain
12 age under certain circumstances.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section ~~35C~~ 464C
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2000 Supplement)

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

20 **Article 27 - Crimes and Punishments**

21 ~~35C.~~

22 (a) (1) ~~In this section the following words have the meanings indicated.~~

1 (2) "Abuse" means:

2 (i) The sustaining of physical injury by a child as a result of cruel
3 or inhumane treatment or as a result of a malicious act by any parent or other person
4 who has permanent or temporary care or custody or responsibility for supervision of a
5 child, or by any household or family member, under circumstances that indicate that
6 the child's health or welfare is harmed or threatened thereby; or

7 (ii) Sexual abuse of a child, whether physical injuries are sustained
8 or not.

9 (3) "Child" means any individual under the age of 18 years.

10 (4) "EDUCATOR" MEANS ANY PRINCIPAL, VICE PRINCIPAL, TEACHER, OR
11 SCHOOL COUNSELOR AT A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL,
12 OR SECONDARY SCHOOL.

13 (5) "Family member" means a relative of a child by blood, adoption, or
14 marriage.

15 ~~{(5)}~~ (6) "Household member" means a person who lives with or is a regular
16 presence in a home of a child at the time of the alleged abuse.

17 ~~{(6)}~~ (7) (i) "Sexual abuse" means any act that involves sexual molestation
18 or exploitation of a child by a parent or other person who has permanent or temporary
19 care or custody or responsibility for supervision of a child, [or] by any household or
20 family member, OR BY AN EDUCATOR OF A CHILD, WHETHER THE ABUSE OCCURS
21 DURING THE COURSE OF THE EDUCATOR'S ACADEMIC DUTIES OR OUTSIDE OF
22 THOSE DUTIES.

23 (ii) "Sexual abuse" includes, but is not limited to:

24 1. Incest, rape, or sexual offense in any degree;

25 2. Sodomy; and

26 3. Unnatural or perverted sexual practices.

27 (b) (1) A parent or other person who has permanent or temporary care or
28 custody or responsibility for the supervision of a child, [or] a household or family
29 member OF A CHILD, OR AN EDUCATOR OF A CHILD who causes abuse to the child is
30 guilty of a felony and on conviction is subject to imprisonment in the penitentiary for
31 not more than 15 years.

32 (2) If the violation results in the death of the victim, the person is guilty
33 of a felony and upon conviction is subject to imprisonment for not more than 30 years.

34 (3) The sentence imposed under this section may be imposed separate
35 from and consecutive to or concurrent with a sentence for any offense based upon the
36 act or acts establishing the abuse.

1 464C.

2 (a) IN THIS SECTION, "EDUCATOR" MEANS A PRINCIPAL, VICE PRINCIPAL,
3 TEACHER, OR SCHOOL COUNSELOR AT A PUBLIC OR PRIVATE PRESCHOOL,
4 ELEMENTARY SCHOOL, OR SECONDARY SCHOOL.

5 (B) A person is guilty of a sexual offense in the fourth degree if the person
6 engages]:

7 (1) [in] ENGAGES IN sexual contact with another person against the will
8 and without the consent of the other person; [or]

9 (2) Except as provided in § 464B(a)(4) of this subheading, ENGAGES in a
10 sexual act with another person who is 14 or 15 years of age and the person performing
11 the sexual act is four or more years older than the other person; [or]

12 (3) Except as provided in § 464B(a)(5) of this subheading, ENGAGES in
13 vaginal intercourse with another person who is 14 or 15 years of age and the person
14 performing the act is four or more years older than the other person;

15 (4) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION OR §
16 464B(A)(4) OF THIS SUBHEADING, IS AN EDUCATOR WHO ENGAGES IN A SEXUAL ACT
17 WITH ANOTHER PERSON WHO:

18 (I) IS UNDER 18 YEARS OF AGE; AND

19 (II) AT THE TIME OF THE SEXUAL ACT, IS A STUDENT ENROLLED AT
20 THE SCHOOL THAT EMPLOYS THE EDUCATOR; OR

21 (5) EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION OR §
22 464B(A)(5) OF THIS SUBHEADING, IS AN EDUCATOR WHO ENGAGES IN VAGINAL
23 INTERCOURSE WITH ANOTHER PERSON WHO:

24 (I) IS UNDER 18 YEARS OF AGE; AND

25 (II) AT THE TIME OF THE VAGINAL INTERCOURSE, IS A STUDENT
26 ENROLLED AT THE SCHOOL THAT EMPLOYS THE EDUCATOR.

27 [(b)] (C) Any person violating the provisions of this section is guilty of a
28 misdemeanor and upon conviction is subject to imprisonment for a period of not more
29 than one year, or a fine of not more than \$1,000, or both fine and imprisonment.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2001.

