
By: **Senator Middleton**

Introduced and read first time: February 1, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Fourth Degree Sexual Offense - Person in Position of Authority**
3 **and Student**

4 FOR the purpose of prohibiting a person in a position of authority from engaging in a
5 sexual act, sexual contact, or vaginal intercourse with a certain person under a
6 certain age under certain circumstances; defining a certain term; providing for a
7 certain statute of limitations for the prosecution of certain misdemeanors
8 created by this Act; and generally relating to a sexual offense involving a person
9 in a position of authority and a person under a certain age under certain
10 circumstances.

11 BY adding to

12 Article - Courts and Judicial Proceedings
13 Section 5-106(aa)
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2004 Supplement)

16 BY repealing and reenacting, without amendments,

17 Article - Criminal Law
18 Section 3-307
19 Annotated Code of Maryland
20 (2002 Volume and 2004 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article - Criminal Law
23 Section 3-308
24 Annotated Code of Maryland
25 (2002 Volume and 2004 Supplement)

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

1

Article - Courts and Judicial Proceedings

2 5-106.

3 (AA) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 3-308(C) OF THE
4 CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE
5 OFFENSE WAS COMMITTED.

6

Article - Criminal Law

7 3-307.

8 (a) A person may not:

9 (1) (i) engage in sexual contact with another without the consent of
10 the other; and

11 (ii) 1. employ or display a dangerous weapon, or a physical object
12 that the victim reasonably believes is a dangerous weapon;

13 2. suffocate, strangle, disfigure, or inflict serious physical
14 injury on the victim or another in the course of committing the crime;

15 3. threaten, or place the victim in fear, that the victim, or an
16 individual known to the victim, imminently will be subject to death, suffocation,
17 strangulation, disfigurement, serious physical injury, or kidnapping; or

18 4. commit the crime while aided and abetted by another;

19 (2) engage in sexual contact with another if the victim is a mentally
20 defective individual, a mentally incapacitated individual, or a physically helpless
21 individual, and the person performing the act knows or reasonably should know the
22 victim is a mentally defective individual, a mentally incapacitated individual, or a
23 physically helpless individual;

24 (3) engage in sexual contact with another if the victim is under the age of
25 14 years, and the person performing the sexual contact is at least 4 years older than
26 the victim;

27 (4) engage in a sexual act with another if the victim is 14 or 15 years old,
28 and the person performing the sexual act is at least 21 years old; or

29 (5) engage in vaginal intercourse with another if the victim is 14 or 15
30 years old, and the person performing the act is at least 21 years old.

31 (b) A person who violates this section is guilty of the felony of sexual offense in
32 the third degree and on conviction is subject to imprisonment not exceeding 10 years.
33 3-308.

34 (a) IN THIS SECTION, "PERSON IN A POSITION OF AUTHORITY":

1 (1) MEANS A PERSON WHO:

2 (I) IS AT LEAST 21 YEARS OLD;

3 (II) IS EMPLOYED BY A PUBLIC OR PRIVATE PRESCHOOL,
4 ELEMENTARY SCHOOL, OR SECONDARY SCHOOL; AND

5 (III) BECAUSE OF THE PERSON'S POSITION OR OCCUPATION,
6 EXERCISES SUPERVISION OVER A MINOR WHO ATTENDS THE SCHOOL; AND

7 (2) INCLUDES A PRINCIPAL, VICE PRINCIPAL, TEACHER, OR SCHOOL
8 COUNSELOR AT A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL, OR
9 SECONDARY SCHOOL.

10 (B) A person may not engage in:

11 (1) sexual contact with another without the consent of the other;

12 (2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act with
13 another if the victim is 14 or 15 years old, and the person performing the sexual act is
14 at least 4 years older than the victim; or

15 (3) except as provided in § 3-307(a)(5) of this subtitle, vaginal
16 intercourse with another if the victim is 14 or 15 years old, and the person performing
17 the act is at least 4 years older than the victim.

18 (C) (1) EXCEPT AS PROVIDED IN § 3-307(A)(4) OF THIS SUBTITLE OR
19 SUBSECTION (B)(2) OF THIS SECTION, A PERSON IN A POSITION OF AUTHORITY MAY
20 NOT ENGAGE IN A SEXUAL ACT OR SEXUAL CONTACT WITH A MINOR WHO, AT THE
21 TIME OF THE SEXUAL ACT OR SEXUAL CONTACT, IS A STUDENT ENROLLED AT A
22 SCHOOL WHERE THE PERSON IN A POSITION OF AUTHORITY IS EMPLOYED.

23 (2) EXCEPT AS PROVIDED IN § 3-307(A)(5) OF THIS SUBTITLE OR
24 SUBSECTION (B)(3) OF THIS SECTION, A PERSON IN A POSITION OF AUTHORITY MAY
25 NOT ENGAGE IN VAGINAL INTERCOURSE WITH A MINOR WHO, AT THE TIME OF THE
26 VAGINAL INTERCOURSE, IS A STUDENT ENROLLED AT A SCHOOL WHERE THE
27 PERSON IN A POSITION OF AUTHORITY IS EMPLOYED.

28 [(b)] (D) (1) Except as provided in paragraph (2) of this subsection, a person
29 who violates this section is guilty of the misdemeanor of sexual offense in the fourth
30 degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not
31 exceeding \$1,000 or both.

32 (2) (i) On conviction of a violation of this section, a person who has
33 been convicted on a prior occasion not arising from the same incident of a violation of
34 §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to
35 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

1 (ii) If the State intends to proceed against a person under
2 subparagraph (i) of this paragraph, it shall comply with the procedures set forth in
3 the Maryland Rules for the indictment and trial of a subsequent offender.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect October 1, 2005.