

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Charles County Delegation**

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.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Teachers and School Administrators - Sexual Contact with Students -**
3 **Prohibition**

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 2005 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Criminal Law
3 Section 3-307
4 Annotated Code of Maryland
5 (2002 Volume and 2005 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Criminal Law
8 Section 3-308
9 Annotated Code of Maryland
10 (2002 Volume and 2005 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 5-106.

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

18 **Article - Criminal Law**

19 3-307.

20 (a) A person may not:

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

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

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

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

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

31 (2) engage in sexual contact with another if the victim is a mentally
32 defective individual, a mentally incapacitated individual, or a physically helpless
33 individual, and the person performing the act knows or reasonably should know the

1 victim is a mentally defective individual, a mentally incapacitated individual, or a
2 physically helpless individual;

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

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

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

10 (b) A person who violates this section is guilty of the felony of sexual offense in
11 the third degree and on conviction is subject to imprisonment not exceeding 10 years.
12 3-308.

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

14 (1) MEANS A PERSON WHO:

15 (I) IS AT LEAST 21 YEARS OLD;

16 (II) IS EMPLOYED AS A FULL-TIME PERMANENT EMPLOYEE BY A
17 PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL, OR SECONDARY SCHOOL;
18 AND

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

21 (2) INCLUDES A PRINCIPAL, VICE PRINCIPAL, TEACHER, OR SCHOOL
22 COUNSELOR AT A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL, OR
23 SECONDARY SCHOOL.

24 (B) A person may not engage in:

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

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

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

32 (C) (1) EXCEPT AS PROVIDED IN § 3-307(A)(4) OF THIS SUBTITLE OR
33 SUBSECTION (B)(2) OF THIS SECTION, A PERSON IN A POSITION OF AUTHORITY MAY
34 NOT ENGAGE IN A SEXUAL ACT OR SEXUAL CONTACT WITH A MINOR WHO, AT THE

1 TIME OF THE SEXUAL ACT OR SEXUAL CONTACT, IS A STUDENT ENROLLED AT A
2 SCHOOL WHERE THE PERSON IN A POSITION OF AUTHORITY IS EMPLOYED.

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

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

12 (2) (i) On conviction of a violation of this section, a person who has
13 been convicted on a prior occasion not arising from the same incident of a violation of
14 §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to
15 6 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
20 effect October 1, 2006.