

CHAPTER 458

(House Bill 1207)

AN ACT concerning

Criminal Law – Sexual Acts Contact with Inmates in Correctional and Juvenile Facilities

FOR the purpose of prohibiting certain individuals from engaging in certain sexual contact with inmates under the supervision of a correctional facility; expanding the lists of individuals who are prohibited from engaging in vaginal intercourse or certain sexual acts with an inmate; ~~prohibiting an employee or licensee from the Department of Juvenile Services~~ a person from engaging in certain sexual contact with ~~certain individuals~~ an individual confined in a certain juvenile facility; expanding the applicability of a prohibition against certain sexual acts with an individual confined in a certain juvenile facility; expanding the list of actions that are cause for automatic termination of employment from the State Personnel Management System to include violation of a certain prohibition against engaging in certain sexual acts with inmates in correctional and juvenile facilities; altering a certain definition; and generally relating to inmates and employees of correctional facilities.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–301(f)(1) and 3–314
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 11–105
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

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

Article – Criminal Law

3–301.

(f) (1) “Sexual contact”, as used in §§ 3–307 [and], 3–308, **AND 3–314** of this subtitle, means an intentional touching of the victim’s or actor’s genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.

3–314.

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

(2) (i) “Correctional employee” means a:

1. correctional officer, as defined in § 8–201 of the Correctional Services Article; or

2. managing official or deputy managing official of a correctional facility.

(ii) “Correctional employee” includes a sheriff, warden, or other official who is appointed or employed to supervise a correctional facility.

(3) (i) “Inmate” has the meaning stated in § 1–101 of this article.

(ii) “Inmate” includes an individual confined in a community adult rehabilitation center.

(b) (1) **THIS SUBSECTION APPLIES TO:**

(I) [A] A correctional employee;

(II) **ANY OTHER EMPLOYEE OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR A CORRECTIONAL FACILITY;**

(III) **AN EMPLOYEE OF A CONTRACTOR PROVIDING GOODS OR SERVICES TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR A CORRECTIONAL FACILITY; AND**

(IV) **ANY OTHER INDIVIDUAL WORKING IN A CORRECTIONAL FACILITY, WHETHER ON A PAID OR VOLUNTEER BASIS.**

(2) **A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION** may not engage in **SEXUAL CONTACT**, vaginal intercourse, or a sexual act with an inmate.

(c) ~~An employee or licensee of the Department of Juvenile Services~~ **A PERSON** may not engage in **SEXUAL CONTACT**, vaginal intercourse, or a sexual act with an individual confined in a child care institution licensed by the Department, a detention center for juveniles, or a facility for juveniles listed in Article 83C, § 2-117(a)(2) of the Code.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$3,000 or both.

(e) A sentence imposed for violation of this section may be separate from and consecutive to or concurrent with a sentence for another crime under §§ 3-303 through 3-312 of this subtitle.

Article – State Personnel and Pensions

11-105.

The following actions are causes for automatic termination of employment:

- (1) intentional conduct, without justification, that:
 - (i) seriously injures another person;
 - (ii) causes substantial damage to property; or
 - (iii) seriously threatens the safety of the workplace;
- (2) theft of State property of a value greater than \$300;
- (3) illegal sale, use, or possession of drugs on the job;
- (4) conviction of a controlled dangerous substance offense by an employee in a designated sensitive classification;
- (5) conviction of a felony;

(6) accepting for personal use any fee, gift, or other valuable thing in connection with or during the course of State employment if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons;

(7) (i) violation of the Fair Election Practices Act; or

(ii) using, threatening, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay; [and]

(8) wantonly careless conduct or unwarrantable excessive force in the treatment or care of an individual who is a client, patient, prisoner, or any other individual who is in the care or custody of this State; **AND**

(9) VIOLATION OF § 3-314 OF THE CRIMINAL LAW ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 8, 2007.