

SENATE BILL 196

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11r0806
CF 11r1217

By: **Senators Garagiola, Astle, Colburn, Currie, DeGrange, Forehand,
Glassman, Jacobs, Kelley, Middleton, Montgomery, Peters, Pugh,
Ramirez, Stone, and Young**

Introduced and read first time: January 26, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offense in the Fourth Degree – Statute of Limitations – Increase**

3 FOR the purpose of altering the period of time within which a prosecution for any
4 sexual offense in the fourth degree must be instituted after the offense was
5 committed; and generally relating to the statute of limitations for prosecuting a
6 sexual offense in the fourth degree.

7 BY repealing and reenacting, without amendments,
8 Article – Courts and Judicial Proceedings
9 Section 5–106(a)
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2010 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Courts and Judicial Proceedings
14 Section 5–106(z)
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Criminal Law
19 Section 3–308
20 Annotated Code of Maryland
21 (2002 Volume and 2010 Supplement)

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

24 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5–106.

2 (a) Except as provided by this section and § 1–303 of the Environment
3 Article, a prosecution for a misdemeanor shall be instituted within 1 year after the
4 offense was committed.

5 (z) A prosecution for a misdemeanor offense under [§ 3–308(c)] **§ 3–308** of
6 the Criminal Law Article shall be instituted within 3 years after the offense was
7 committed.

8 Article – Criminal Law

9 3–308.

10 (a) In this section, “person in a position of authority”:

11 (1) means a person who:

12 (i) is at least 21 years old;

13 (ii) is employed as a full–time permanent employee by a public
14 or private preschool, elementary school, or secondary school; and

15 (iii) because of the person’s position or occupation, exercises
16 supervision over a minor who attends the school; and

17 (2) includes a principal, vice principal, teacher, or school counselor at
18 a public or private preschool, elementary school, or secondary school.

19 (b) A person may not engage in:

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

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

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

27 (c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection
28 (b)(2) of this section, a person in a position of authority may not engage in a sexual act
29 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a
30 student enrolled at a school where the person in a position of authority is employed.

1 (2) Except as provided in § 3–307(a)(5) of this subtitle or subsection
2 (b)(3) of this section, a person in a position of authority may not engage in vaginal
3 intercourse with a minor who, at the time of the vaginal intercourse, is a student
4 enrolled at a school where the person in a position of authority is employed.

5 (d) (1) Except as provided in paragraph (2) of this subsection, a person
6 who violates this section is guilty of the misdemeanor of sexual offense in the fourth
7 degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not
8 exceeding \$1,000 or both.

9 (2) (i) On conviction of a violation of this section, a person who has
10 been convicted on a prior occasion not arising from the same incident of a violation of
11 §§ 3–303 through 3–312 or § 3–315 of this subtitle or § 3–602 of this title is subject to
12 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2011.