

Chapter 193

(House Bill 724)

AN ACT concerning

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

FOR the purpose of altering the period of time within which a prosecution for ~~any~~ a certain sexual offense in the fourth degree must be instituted after the offense was committed, if the victim was a minor at the time of the offense; and generally relating to the statute of limitations for prosecuting a sexual offense in the fourth degree.

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

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

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

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

Article – Courts and Judicial Proceedings

5–106.

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

(z) A prosecution for a misdemeanor offense under ~~§ 3–308(c)] § 3–308 OR,~~
IF THE VICTIM WAS A MINOR AT THE TIME OF THE OFFENSE, § 3–308(b)

§ 3-308(B)(1) of the Criminal Law Article shall be instituted within 3 years after the offense was committed.

Article – Criminal Law

3-308.

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

(1) means a person who:

(i) is at least 21 years old;

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

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

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

(b) A person may not engage in:

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

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

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

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

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

(d) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the misdemeanor of sexual offense in the fourth

degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

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

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

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

Approved by the Governor, May 10, 2011.