

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1292  
Judiciary

(Delegate Lierman, *et al.*)

Judicial Proceedings

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Criminal Law – Law Enforcement – Prohibition on Sexual Activity

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This bill prohibits a law enforcement officer from engaging in sexual contact, vaginal intercourse, or a sexual act with a person in the custody of the law enforcement officer. Violators are guilty of a misdemeanor and on conviction, subject to up to three years imprisonment and/or a \$3,000 fine.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues from fines imposed in the District Court. Potential minimal increase in general fund expenditures due to the bill's incarceration penalty.

**Local Effect:** Potential minimal increase in local revenues from fines imposed in circuit court cases. Potential minimal increase in local expenditures due to the bill's incarceration penalty.

**Small Business Effect:** None.

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Analysis

**Current Law:** Title 3, Subtitle 3 of the Criminal Law Article contains statutory provisions pertaining to several sexual crimes, ranging from rape in the first degree to sexual offense in the fourth degree. Generally, a person convicted of a sex crime or other specified crime in Maryland is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence.

A correctional employee, whether on a paid or volunteer basis, including an employee of the Department of Public Safety and Correctional Services (DPSCS) or a correctional facility and any employee of a contractor providing goods or services to DPSCS or a correctional facility, is prohibited from engaging in sexual contact, vaginal intercourse, or a sexual act with an inmate. Any other individual working in a correctional facility, whether on a paid or volunteer basis, may not engage in sexual contact, vaginal intercourse, or a sexual act with an inmate. A court-ordered services provider is prohibited from engaging in sexual contact, vaginal intercourse, or a sexual act with an individual ordered to obtain services while the order is in effect. In addition, a person is prohibited from engaging in sexual contact, vaginal intercourse, or a sexual act with an individual confined in a child care institution licensed by the Department of Juvenile Services, a juvenile detention center, or specified facilities necessary to diagnose, care for, train, educate, and properly rehabilitate children who need these services. A person who violates any of those prohibitions is guilty of a misdemeanor and on conviction is subject to up to three years imprisonment and/or a \$3,000 fine.

“Sexual act” means, regardless of whether semen is emitted (1) anilingus; (2) cunnilingus; (3) fellatio; (4) anal intercourse, including penetration, however slight, of the anus; or (5) an act in which an object or part of an individual’s body penetrates, however slightly, into another individual’s genital opening or anus and that can reasonably be construed to be for sexual arousal or gratification, or for the abuse of either party. “Sexual act” does not include vaginal intercourse or an act in which an object or part of an individual’s body penetrates an individual’s genital opening or anus for an accepted medical purpose.

“Sexual contact” 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. “Sexual contact” does not include a common expression of familial or friendly affection or an act for an accepted medical purpose.

“Vaginal intercourse” means genital copulation, whether or not semen is emitted and includes penetration, however slight, of the vagina.

While not required by statute, some law enforcement agencies have policies regarding interaction by a law enforcement officer of the agency and a victim, a witness, or a suspect during the course of a criminal investigation.

Among other requirements, the Maryland Police Training and Standards Commission requires, for entrance-level police training and at least every three years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of (1) the criminal laws concerning rape and sexual offenses, including the sexual abuse and exploitation of

children and related evidentiary procedures; (2) the contact with and treatment of victims of crimes and delinquent acts; and (3) the notices, services, support, and rights available to victims and victims' representatives under State law.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City; Harford, Montgomery, and Prince George's counties; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2018  
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