

HOUSE BILL 223

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2lr0777
CF SB 49

By: **Delegate Love**

Introduced and read first time: January 13, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Person in a Position of Authority – Sexual Offenses With a**
3 **Minor**

4 FOR the purpose of altering the definition of “person in a position of authority” for purposes
5 of a certain prohibition against engaging in a sexual act, sexual contact, or vaginal
6 intercourse with a certain minor; altering a certain prohibition against a certain
7 person in a position of authority from engaging in certain conduct to prohibit a
8 certain person in a position of authority from engaging in a sexual act, sexual contact,
9 or vaginal intercourse with a minor who is or was enrolled or participating in the
10 institution, program, or activity where the person in a position of authority is or was
11 employed or under contract; and generally relating to persons in a position of
12 authority and sexual offenses.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 3–308
16 Annotated Code of Maryland
17 (2021 Replacement Volume and 2021 Supplement)

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

20 **Article – Criminal Law**

21 3–308.

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

23 (1) means a person who:

24 (i) is at least 21 years old;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) is employed by or under contract with:

2 1. a public or private preschool, elementary school, or
3 secondary school;

4 2. A CHILD CARE FACILITY, INCLUDING AN
5 AFTER-SCHOOL PROGRAM;

6 3. A COMMERCIAL OR NONPROFIT INSTRUCTIONAL
7 PROGRAM FOR MUSIC, DANCE, ART, TUTORING, ACADEMIC ENRICHMENT, MARTIAL
8 ARTS, OR A PROGRAM WITH A SIMILAR PURPOSE;

9 4. A SPORTS, SCOUTING, OR RECREATIONAL ACTIVITY
10 OR PROGRAM;

11 5. A DAY OR OVERNIGHT CAMP;

12 6. A RELIGIOUS INSTITUTION; OR

13 7. ANY UNIT OF LOCAL, STATE, OR FEDERAL
14 GOVERNMENT; and

15 (iii) because of the person's position or occupation, exercises
16 supervision over a minor who attends [the school] OR PARTICIPATES IN AN
17 INSTITUTION, A PROGRAM, OR AN ACTIVITY INCLUDED IN ITEM (II) OF THIS ITEM OR
18 OPERATED BY ANY UNIT OF LOCAL, STATE, OR FEDERAL GOVERNMENT; and

19 (2) includes [a principal, vice principal, teacher, coach, or school counselor
20 at a public or private preschool, elementary school, or secondary school] AN INDIVIDUAL
21 WHO:

22 (I) IS UNDER CONTRACT WITH OR IS A VOLUNTEER, AN INTERN,
23 OR A PAID EMPLOYEE OF AN INSTITUTION, A PROGRAM, OR AN ACTIVITY INCLUDED
24 IN ITEM (1)(II) OF THIS SUBSECTION AND WHO, IN THAT CAPACITY, DIRECTS OR
25 SUPERVISES MINORS ENROLLED OR PARTICIPATING IN THE INSTITUTION,
26 PROGRAM, OR ACTIVITY; OR

27 (II) SUPERVISES ONE OR MORE PERSONS IN A POSITION OF
28 AUTHORITY WITHIN THE INSTITUTION, PROGRAM, OR ACTIVITY.

29 (b) A person may not engage in:

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

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

4 (3) except as provided in § 3–307(a)(5) of this subtitle, vaginal intercourse
5 with another if the victim is 14 or 15 years old, and the person performing the act is at least
6 4 years older than the victim.

7 (c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection (b)(2)
8 of this section, a person in a position of authority may not engage in a sexual act [or], sexual
9 contact, **OR VAGINAL INTERCOURSE** with a minor who[.]:

10 (I) at the time of the sexual act or sexual contact, is [a student
11 enrolled at a school] **ENROLLED OR PARTICIPATING IN THE INSTITUTION, PROGRAM,
12 OR ACTIVITY** where the person in a position of authority is employed **OR UNDER
13 CONTRACT; OR**

14 (II) **WAS PREVIOUSLY ENROLLED OR PARTICIPATING IN THE
15 INSTITUTION, PROGRAM, OR ACTIVITY AT THE SAME TIME THE PERSON IN A
16 POSITION OF AUTHORITY WAS EMPLOYED OR UNDER CONTRACT AT THE
17 INSTITUTION, PROGRAM, OR ACTIVITY.**

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

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

26 (2) (i) On conviction of a violation of this section, a person who has been
27 convicted on a prior occasion not arising from the same incident of a violation of § 3–303, §
28 3–304, §§ 3–307 through 3–310 of this subtitle, § 3–311 or § 3–312 of this subtitle as the
29 sections existed before October 1, 2017, § 3–315 of this subtitle, or § 3–602 of this title is
30 subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

34 (E) **UNLESS SPECIFICALLY CHARGED BY THE STATE, A VIOLATION OF THIS
35 SECTION MAY NOT BE CONSIDERED A LESSER INCLUDED CRIME OF ANY OTHER
36 CRIME.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.