

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1350

(Delegate Arian, *et al.*)

Judiciary

Judicial Proceedings

Criminal Law - Fourth Degree Sexual Offense - Out-of-State Convictions

This bill establishes that a conviction from another state or a federal, military, or Native American tribal court that would be considered a conviction for any of a list of specified sexual offenses if committed in Maryland may serve as a predicate crime for an increased penalty for repeat sexual offenders under the fourth-degree sexual offense statute.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Definitions

Under current law, a “person in a position of authority” is a person who (1) is at least age 21 and works for remuneration or as a volunteer for a public or private preschool, elementary school, or secondary school or (2) is at least age 22 and works for remuneration or as a volunteer for a “program” and exercises supervision over or works or interacts with one or more minors who attend the school or participate in the program. A person in a position of

authority includes a principal, vice principal, teacher, coach, or school counselor at a public or private preschool, elementary school, or secondary school.

A “program” means an individual, a business, a religious or faith-based institution, or an organization that provides, on a for-profit or nonprofit basis, instructional, coaching, recreational, spiritual, character-building, or supervisory services or activities for minors, including (1) sports, music, dance, art, or martial arts coaching or instruction; (2) tutoring or academic enrichment; (3) day care or after school care; (4) scouting; or (5) day or overnight camping. “Program” also means any unit of local, State, or federal government.

Prohibitions

The fourth-degree sexual offense statute prohibits a person from (1) engaging in sexual contact with another without the consent of the other or (2) except as prohibited under the third-degree sexual offense statute, engaging in a sexual act or vaginal intercourse with a victim who is age 14 or 15 and the person performing the act is at least 4 years older than the victim.

Except as prohibited under the third-degree sexual offense statute or the prohibitions above, a person in a position of authority may not engage in a sexual act, sexual contact, or vaginal intercourse with a minor who, at the time of the sexual act, sexual contact, or vaginal intercourse (1) is a student enrolled at a school where the person in a position of authority works or (2) is participating in a program for which the person in a position of authority works and is at least six years younger than the person in a position of authority.

Penalties

Under current law, fourth-degree sexual offense is a misdemeanor, punishable by imprisonment for up to one year and/or a \$1,000 maximum fine. However, an increased penalty of imprisonment for up to three years and/or a \$1,000 maximum fine applies to a person who has been convicted on a prior occasion not arising from the same incident of violations of specified sexual crimes under State law. The specified crimes are: first-degree rape; second-degree rape; third-degree sexual offense; fourth-degree sexual offense; attempted rape in the first degree; attempted rape in the second degree; attempted sexual offense in the first-degree (as it existed before October 1, 2017); attempted sexual offense in the second degree (as it existed before October 1, 2017); continuing course of conduct with a child; and sexual abuse of a minor.

The bill expands application of this increased penalty to a person who has been convicted on a prior occasion by a court in another state or in a federal, military, or Native American tribal court of a crime that would constitute any of these crimes if committed in this State.

Under current law, imposition of the subsequent offender penalty is subject to specified procedural requirements. Unless specifically charged by the State, a violation of the fourth-degree sexual offense statute may not be considered a lesser included crime of any other crime. There is a three-year statute of limitations for prosecution of a fourth-degree sexual offense involving a person in a position of authority or sexual contact with a minor without the consent of the minor.

Additional Comments: The Maryland State Commission on Criminal Sentencing Policy advises that according to its database, 131 individuals were sentenced to 173 total counts of sexual offense in the fourth degree in the State's circuit courts during fiscal 2024; 1 individual was sentenced to 1 count as a subsequent offender.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Board of Public Works; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2025
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