

BILL: Senate Bill 49
TITLE: Criminal Law – Person in a Position of Authority – Sexual Offenses
With a Minor
DATE: January 19, 2022
POSITION: SUPPORT
COMMITTEE: Judicial Proceedings
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The Maryland Association of Boards of Education (MABE) supports Senate Bill 49.

In 2004, MABE strongly supported passage of the State’s initial “person in a position of authority” legislation to prohibit certain persons employed in public or private schools from engaging in a sexual act or vaginal intercourse with a minor enrolled at the school that employs the perpetrator.

MABE continues to strongly support the law’s criminalization of sexual activity between minor students and educators not prohibited under other provisions of state law. In the absence of the “person in position of authority” law, a school employee may be charged with child abuse if the conduct occurs on school property or while the student is engaged in school activities. However, sexual conduct occurring outside this custodial relationship would not subject to the charge of child abuse and no other criminal charge may be available. Since 2004, violators can be found guilty of the misdemeanor of fourth degree sexual offense and subject to maximum penalties of a fine of \$1,000 and imprisonment for one year.

Maryland statute defines “person in a position of authority” as a person who is employed by or works as a volunteer in a public or private school and, because of the person’s position or occupation, exercises supervision and influence over a minor who attends the school. The law further clarifies that this definition includes a principal, vice principal, teacher, or school counselor. School systems are certainly able to effectively discipline and discharge educators engaging in sexual conduct with students, but communities are not fully protected without the assurance that criminal penalties are available to prosecutors. Criminal penalties also better ensure that a record of the employee’s conduct will be available to prospective employers, thereby more effectively protecting the safety and welfare of all students.

The same rationale that garnered support for the “person in position of authority” law described above should support the updating and expansion of this approach to criminalizing sexual activities between adults and the youth they supervise in other service sectors. Just as school employees, these adults entrusted to supervise youth should be held liable for engaging in sexual conduct with the minors in their care.

For these reasons, MABE requests a favorable report on Senate Bill 49.