

## **SB0049\_Chris\_Apple\_FAV.pdf**

Uploaded by: Christopher Apple

Position: FAV

TESTIMONY IN SUPPORT OF BILL SB0049 - FAVORABLE  
Criminal Law - Person in a Position of Authority - Sexual Offenses With a Minor

TO: Chair Smith, Vice Chair Waldstreicher,  
and members of the Judicial Proceedings  
Committee

FROM: Chris Apple  
7001 Cradlerock Farm Court  
Columbia, MD 21045  
District 13

Jan 19, 2022

I am Chris Apple, I live in Columbia in District 13. This testimony is in support of Bill SB0049.

When a person uses their position of authority to initiate a sexual contact or relationship with a minor in their care, it is not always considered a crime in Maryland. In fact, if the child is above a certain age, it is only a crime if the authority figure is a teacher at a public or private school. Current law makes no mention of other positions of authority, such as gym instructors, private tutors, or religious leaders.

Student-teacher relationships are often similar to other mentor-mentee relationships. In both cases the mentee can come to regard their mentor as an authority, and can come to respect and trust their mentor. In both cases, a mentor can exploit that trust and use it to begin a sexual relationship with the child in their care. Student-teacher relationships are so similar to other kinds of mentorship that this seems a clear loophole in the current law.

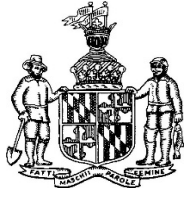
Previous testimony has included several examples of mentors who abused the minors in their care. Because the abusers were not public or private school teachers, they could not be prosecuted under current law. SB0049 provides good amendments to close this loophole and covers many additional mentor-mentee relationships that could be exploited.

I respectfully urge the committee to issue a favorable report for SB0049.

# **Feinstein Letter of Support SB68.pdf**

Uploaded by: Debbie Feinstein

Position: FAV



STATE'S ATTORNEY  
JOHN J. MCCARTHY

## State's Attorney for Montgomery County

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DEPUTY STATE'S ATTORNEYS  
PETER A. FEENEY  
RYAN S. WECHSLER

January 17, 2022

The Honorable William Smith & Members of the Senate Judicial Proceedings Committee  
Chairperson, Senate Judicial Proceedings Committee  
11 Bladen Street  
Annapolis, MD 21401

Dear Chairperson Smith and JPR Committee Members:

I write in support of SB68, Sexual Offenses—Crime of Violence and Lifetime Supervision. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office. I also serve on the Montgomery County Child Advocacy Center's Multidisciplinary Team, a group that reviews cases involving child abuse and neglect.

The crime of Sexual Abuse of a Minor, set forth in section 3-602 of the Criminal Law Article, criminalizes sexual molestation or exploitation of a minor by a parent, household member, family member, or any other person who has permanent or temporary care or responsibility for the supervision of a minor. Sexual molestation or exploitation includes rape and other sexual offenses. Currently, the crime of Sexual Abuse of a Minor only constitutes a crime of violence under section 14-101 of the Criminal Law Article if the victim is under the age of thirteen. SB68 will make Sexual Abuse of a Minor a crime of violence when the offender is at least twenty-one years of age, and the victim is under the age of sixteen.

Several months ago, in Montgomery County, a middle school teacher was sentenced to jail time for sexually abusing two fourteen year old students. This defendant is eligible for parole after serving a quarter of his time. Had SB68 been law, the defendant would have first been eligible for parole after serving half of his time. A tangible and significant difference.

Fourteen and fifteen year old minors who are sexually abused should receive the same protection as other victims of serious crime, and perpetrators should be subjected to the same enhancements and penalties as other violent offenders. Categorizing sexual abuse of a minor as a crime of violence for victims under the age of sixteen sends a strong message to our community about the seriousness of this offense and serves as a deterrent to would-be offenders.

Maryland law should delineate Sexual Abuse of a Minor as a crime of violence for victims under the age of sixteen where the offender is over the age of twenty-one. I urge a favorable report on SB268.

Sincerely,

Debbie Feinstein  
Chief, Special Victims Division  
Senior Assistant State's Attorney

# **SB49 Position of Authority 1.19.22.pdf**

Uploaded by: Jeanette Ortiz

Position: FAV



**SB49 CRIMINAL LAW - PERSON IN A POSITION OF AUTHORITY - SEXUAL OFFENSES WITH A  
MINOR**

January 19, 2022

JUDICIAL PROCEEDINGS COMMITTEE

**SUPPORT**

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

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Anne Arundel County Public Schools (AACPS) supports **SB49 Criminal Law - Person in a Position of Authority - Sexual Offenses With a Minor**. This bill expands the definition of a “person in a position of authority” under the fourth-degree sexual offense statute. The bill also expands the application of the fourth-degree sexual offense statute to include specified individuals. Finally, the bill establishes that unless specifically charged by the State, a violation of the fourth-degree sexual offense statute cannot be a lesser included offense of any other crime.

Safety in public schools is increasingly important to local boards of education. AACPS supports legislation and program initiatives that contribute to the safety and well-being of students in school and in the community. Accordingly, AACPS supports the expansion of the definition of “person in position of authority” in Maryland law to encompass part-time, temporary, and contract employees of public and private schools as it relates to prosecution for sex offenses against minors.

Accordingly, AACPS respectfully requests a **FAVORABLE** committee report on SB49.

## **SB 49.Person in Position of Authority Expansion.pd**

Uploaded by: John Woolums

Position: FAV

**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  
**CONTACT:** John R. Woolums, Esq.

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.



## **Position of Authority.pdf**

Uploaded by: Kathryn Marsh

Position: FAV



# ANTHONY B. COVINGTON

State's Attorney for Charles County

January 17, 2022

Maryland Senate Judicial Proceedings Committee  
William C. Smith, Jr., *Chair*  
Miller Senate Office Building, 2 East Wing  
11 Bladen St., Annapolis, MD 21401 – 1991

Re: Favorable Report for Senate Bill 49

Dear Chairman Smith and Members of the Committee:

As a career special victims' prosecutor there have been numerous cases that have come across my desk that involve a minor victim who has been sexually exploited by a person who held a position of authority. In many cases where the minor is twelve or older and there is not a true "care and custody" component which leads to these cases falling through the cracks. The types of cases I have seen but have been unable to charge include but are not limited to: coaches, scout leaders, internships, tutor sessions, volunteer organizations and youth groups. In these situations, the adult leaders have exploited their positions of trust and engaged the minor in grooming behaviors that led to sexual relationships. Many of the victims I have met have struggled with guilt and shame for years as they considered the sexual exploitation "consensual" or at least agreed to due to the grooming manipulation.

Maryland is in the minority of states when it comes to protection of minors from adult individuals in positions of authority. More than 30 states have expanded positions of authority to better protect its' citizens from sexual exploitation. Maryland must do better, and I urge a favorable return of this bill.

Thank you,

*K.A. Marsh*

Kathryn A. Marsh  
Special Victims Liaison, Assistant State's Attorney

## **Person in Authority - testimony - senate 2022 - MC**

Uploaded by: Lisae C Jordan

Position: FAV



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## Working to end sexual violence in Maryland

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Fax: 301-565-3619

For more information contact:  
Lisae C. Jordan, Esquire  
443-995-5544  
mcasa.org

### **Testimony Supporting Senate Bill 49** **Lisae C. Jordan, Executive Director & Counsel** January 19, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judicial Proceedings Committee to report favorably on Senate Bill 49.

#### **Senate Bill 49 – Closing the Remaining Loopholes – Sexual Abuse by Persons in Authority**

Maryland has gradually amended its laws to protect teenagers from sexual abuse and exploitation by persons in authority. Senate Bill 49 closes the remaining loophole.

This area of the code is complicated. A person with care and custody of a minor (a person under 18) or who is supervising the minor is prohibited from having sex with the minor. Criminal Law §3-602. A law specifically addressing conduct by a "person in authority" is contained in §3-308, defined as a person at least 21 years old; employed by or under contract with a public or private preschool, elementary school, or secondary school; and who because of the person's position or occupation, exercises supervision over a minor who attends the school. Section 3-308 goes on to specify that this includes a principal, vice principal, teacher, coach, or school counselor at a public or private preschool, elementary school, or secondary school. There are also "statutory rape" laws prohibiting sex with minors based on their age, with 14 the age of consent for "sexual contact" (fondling) and 16 the age of consent for acts involving penetration or oral sex. On top of all of that, §3-709 prohibits "sextortion" using a wide range of threats, including threats of emotional distress.

Still, there continues to be loopholes which allow persons in authority to engage in sexual activities with teenagers with impunity (either 14-17 year olds or 16-17 year olds, depending on the activity). These include volunteers, such as Boy Scout leaders; instructors at extracurricular activities, such as gymnastics training facilities; and day care providers. SB49 closes these remaining loopholes.

Children who are sexually abused often have anxiety, poor self-esteem, dysfunctional relationships, eating disorders, and post-traumatic stress syndrome (PTSD). Wilson, D. & Severson, M. "Long-term Health Outcomes of Child Sexual Abuse," American Nurse Today (October 2012). When a teen is sexually exploited by a person in authority, the harm does not vary based on the perpetrator's employment status or location. Maryland should recognize the inherent power imbalance between teens and persons in authority and close the remaining loopholes in our laws.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to report favorably on Senate Bill 49**

# **SB 49\_mgoldstein\_fav 2022.pdf**

Uploaded by: Mathew Goldstein

Position: FAV



Secular Maryland

secularmaryland@tutanota.com

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January 19, 2022

The Honorable William C. Smith Jr.  
Judicial Proceedings Committee  
2 East Miller Senate Office Building  
Annapolis, MD 21401-1991

Re: FAVORABLE SB0049 Criminal Law - Person in a Position of Authority - Sexual Offenses  
With a Minor

Chairman and Members of the Committee:

This bill modifies Criminal Law §3-308 to broaden the definition of who qualifies as a person in a position of authority. There is no proper justification for restricting the definition of a person in a position of authority to employees of schools for the purpose of applying a three year maximum imprisonment sentence against sexual offenders who target minors. There are multiple different contexts where adults assume the role of person in a position of authority vis-a-vis minors. This law should apply to all of those contexts. Please vote for this bill.

**rgarner\_TESTIMONY IN SUPPORT OF BILL SB0049.pdf**

Uploaded by: Robert Garner

Position: FAV

**TESTIMONY IN SUPPORT OF BILL SB0049 - FAVORABLE**  
**Criminal Law - Person in a Position of Authority - Sexual Offenses With a Minor**

TO: Chair Smith, Vice Chair Waldstreicher,  
and members of the Judicial Proceedings  
Committee

FROM: Robert Garner  
2606 Bennies Hill Rd.  
Middletown, MD 21769

Jan 19, 2022

Greetings,

Under current Maryland law – I was surprised to learn recently – the state limits its definition of a person in a position of authority with respect to sex crimes involving children.

As I was aghast to learn, if the child is above a certain age, a crime has occurred only if the authority figure is a teacher at a public or private school. This is by no means the only type of authority figure who could influence or interact with a child.

Growing up, I'm sad to say I knew of several peers who were exploited by adults in positions of privilege or power (though I did not learn about these interactions until much later); church or youth group leaders, scout leaders, private tutors: These individuals are as much teachers as the classroom instructors already specified in law – and they should be held to no lesser a standard.

As I mentioned, I was shocked to learn these sorts of positions are not already written into statute. I respectfully urge the committee to issue a favorable report for SB0049 and help Maryland close a glaring loophole with respect to protecting our children and prosecuting those who abuse their positions of mentorship.

Thank you for taking the time to consider my testimony.

Kind Regards,

Robert Garner



## **SB 49 Written Testimony.pdf**

Uploaded by: Scott Shellenberger

Position: FAV

**Bill Number: SB 49**

**Scott D. Shellenberger, State's Attorney for Baltimore County  
Support**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN SUPPORT OF SENATE BILL 49**  
**PERSON IN POSITION OF AUTHORITY – SEXUAL OFFENSES WITH MINOR**

I write in support of Senate Bill 49 that expands the definition of person in a position of authority with regard to sex offenses committed against minors.

Criminal Law § 3-308 has made unlawful sexual acts with a minor when committed by a "person in a position of authority," a crime. That statute limited those persons in a position of authority to those who work for schools.

The reality of this day and age is that our minor children often have contact with many adults who are not connected to a school but who oversee their sports teams, music groups, art groups, scout troops and the list can go on and on. These adults exercise as much authority over our children as school employees.

In Baltimore County we have had just such cases. A fencing coach – at a private fencing facility. The fencing coach offered to drive a 16 year old female home after practice was over. The parents agreed. He would drive her to a remote area where they would have sex and then drop her off at her house. He was found not guilty of sexual offenses. We could not use Criminal Law § 3-308 because he did not fall in the group of authorized persons and there was a debate about consent. Clearly the age difference and his position as her coach put him in a position of authority. Had he been a teacher, CR § 3-308 could have been applied.

Senate Bill 49 is a common sense approach to how those in authority in our children's lives should be held to the same standards as teachers when it comes to violations of trust.

I urge a favorable report.

## **SB49 - expanding def of person in position of auth**

Uploaded by: Wendy Lane

Position: FAV

# THE COALITION TO PROTECT MARYLAND'S CHILDREN

*Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure the budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and well-being.*

## Testimony before the Senate being heard in the Judicial Proceedings Committee **Senate Bill # 49: Criminal Law – Persons in a Position of Authority - Sexual Offenses With a Minor**

January 19, 2022

The Coalition to Protect Maryland's Children (CPMC) is a consortium of Maryland organizations and individuals formed in 1996 to promote meaningful child welfare reform. CPMC **supports** passage of **Senate Bill # 49: Criminal Law – Persons in a Position of Authority - Sexual Offenses With a Minor**.

There should not be any dispute that all parents want their children to be safe and free from sexual abuse or exploitation. Whether they are sending their child to school, recreational sports, music lessons, tutoring, scouting, camp, or a youth group, there is a reasonable expectation that the adult teacher, instructor, counselor or leader (a person in a position of authority) will not sexually abuse, assault or exploit their child either during that instruction or mentoring, or outside of those activities.

Several criminal statutes currently protect children. A law specifically addressing conduct by a “person in authority” is contained in §3-308, defined as a person at least 21 years old; employed by or under contract with a public or private preschool, elementary school, or secondary school; and who because of the person's position or occupation, exercises supervision over a minor who attends the school. Section 3-308 goes on to specify that this includes a principal, vice principal, teacher, coach, or school counselor at a public or private preschool, elementary school, or secondary school. Additional protections are provided by statutory rape laws, which prohibit sex with minors based on age for consent (14 for sexual contact, e.g., fondling; 16 for penetration or oral sex).

Unfortunately, there is currently no criminal penalty under Maryland law when instructors, coaches, counselors, teachers or other leaders outside of the school setting engage in sexual activities with their teenage students, campers, or players outside of formal activities. Because these persons in positions of authority are not employed by schools, there is no prohibition against sexual activities during times that they do not have a supervisory role over the teenager. SB49 would close this loophole by expanding the list of persons in positions of authority to childcare providers, tutors, teachers, coaches, counselors, who are not employed by or under contract with a public or private school. SB49 makes clear that it is unacceptable and criminal for a private violin teacher, a church youth group leader, a scout master, or a private travel team coach to engage in any sexual activities with teens that they are teaching or mentoring whether that supervisory activity is ongoing or has happened in the past.

For that reason we urge a *favorable* committee report on **Senate Bill # 49: Criminal Law – Persons in a Position of Authority - Sexual Offenses With a Minor**