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TO: The Honorable William C. Smith, Jr., Chair, Judicial Proceedings Committee

FROM: Jer Welter, Assistant Attorney General
Deputy Division Chief for Legal Affairs, Criminal Appeals Division
Office of the Attorney General

RE: SB 755 – Law Enforcement Officers – Sexual Contact With Person in
Custody – Penalty (Support with Sponsor Amendments)

The Office of Attorney General supports Senate Bill 755 with the sponsor amendments proposed by Senator Muse.

The bill would raise the maximum penalty, from a 3-year misdemeanor to a 10-year felony, for law enforcement officers, correctional officers, and other correctional personnel engaging in sexual conduct (vaginal intercourse, sexual acts, or sexual contact) with a person in the officer's custody or who is a victim, witness, suspect, person requesting the officer's assistance in the course of the officer's duties, or person under supervision. *See* § 3-314 of the Criminal Law Article.

We support increasing the potential penalties for sexual conduct by officers with persons in their custody or with whom they are interacting in their official duties. With the sponsor amendments, the bill would do so by raising the penalty for the § 3-314 offense, classifying it as a felony, and subjecting it to Tier I sex offender registration when committed against an adult victim (the offense when committed against a minor victim is already subject to Tier II or Tier III registration, depending on whether the victim is over or under 14 years of age; the bill does not alter those provisions).

This legislation is an appropriate measure to hold accountable officers who violate the public trust and victimize the persons in their custody or supervision, and we urge a favorable report with the sponsor amendments.

cc: Committee Members

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us