

HOUSE BILL 362

E1
HB 14/13 – JUD

4lr0692

By: **Delegates Arora and Simmons**
Introduced and read first time: January 23, 2014
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Part-Time School Employees, Contractors, and Coaches –**
3 **Sexual Contact With Minors Prohibited**

4 FOR the purpose of altering the definition of a “person in a position of authority”
5 relating to prohibiting an individual from engaging in a sexual act, sexual
6 contact, or vaginal intercourse with a minor under certain circumstances to
7 remove a limitation to full-time employees and to include certain employees of a
8 county department of recreation, certain contractors, certain persons employed
9 by or under contract with certain contractors, and certain coaches; prohibiting a
10 certain person from engaging in a sexual act, sexual conduct, or vaginal
11 intercourse with a minor whom the person is directly supervising in a county
12 department of recreation program; and generally relating to a sexual offense
13 involving a person in a position of authority and a minor under certain
14 circumstances.

15 BY repealing and reenacting, without amendments,
16 Article – Criminal Law
17 Section 3–307
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2013 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 3–308
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2013 Supplement)

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

27 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3–307.

2 (a) A person may not:

3 (1) (i) engage in sexual contact with another without the consent of
4 the other; and

5 (ii) 1. employ or display a dangerous weapon, or a physical
6 object that the victim reasonably believes is a dangerous weapon;

7 2. suffocate, strangle, disfigure, or inflict serious
8 physical injury on the victim or another in the course of committing the crime;

9 3. threaten, or place the victim in fear, that the victim,
10 or an individual known to the victim, imminently will be subject to death, suffocation,
11 strangulation, disfigurement, serious physical injury, or kidnapping; or

12 4. commit the crime while aided and abetted by another;

13 (2) engage in sexual contact with another if the victim is a mentally
14 defective individual, a mentally incapacitated individual, or a physically helpless
15 individual, and the person performing the act knows or reasonably should know the
16 victim is a mentally defective individual, a mentally incapacitated individual, or a
17 physically helpless individual;

18 (3) engage in sexual contact with another if the victim is under the age
19 of 14 years, and the person performing the sexual contact is at least 4 years older than
20 the victim;

21 (4) engage in a sexual act with another if the victim is 14 or 15 years
22 old, and the person performing the sexual act is at least 21 years old; or

23 (5) engage in vaginal intercourse with another if the victim is 14 or 15
24 years old, and the person performing the act is at least 21 years old.

25 (b) A person who violates this section is guilty of the felony of sexual offense
26 in the third degree and on conviction is subject to imprisonment not exceeding 10
27 years.

28 3–308.

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

30 (1) means:

31 (I) a person who:

1 [(i)] 1. is at least 21 years old;

2 [(ii)] 2. is employed [as a full-time permanent employee] by
3 **OR UNDER CONTRACT WITH:**

4 A. a public or private preschool, elementary school, or
5 secondary school; **OR**

6 B. **A CONTRACTOR OF A PUBLIC OR PRIVATE**
7 **PRESCHOOL, ELEMENTARY SCHOOL, OR SECONDARY SCHOOL; and**

8 [(iii)] 3. because of the person's position or occupation,
9 exercises supervision over a minor who attends the school; **OR**

10 (II) **A PERSON WHO:**

11 1. **IS AT LEAST 21 YEARS OLD;**

12 2. **IS EMPLOYED BY OR UNDER CONTRACT WITH:**

13 A. **A COUNTY DEPARTMENT OF RECREATION; OR**

14 B. **A CONTRACTOR OF A COUNTY DEPARTMENT OF**
15 **RECREATION; AND**

16 3. **BECAUSE OF THE PERSON'S POSITION OR**
17 **OCCUPATION, EXERCISES SUPERVISION OVER A MINOR WHO PARTICIPATES IN A**
18 **COUNTY DEPARTMENT OF RECREATION PROGRAM; and**

19 (2) includes a principal, vice principal, teacher, **COACH**, or school
20 counselor at a public or private preschool, elementary school, or secondary school.

21 (b) A person may not engage in:

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

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

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

1 (c) (1) (I) Except as provided in § 3-307(a)(4) of this subtitle or
2 subsection (b)(2) of this section, a person in a position of authority, **AS DEFINED IN**
3 **SUBSECTION (A)(1)(I) OF THIS SECTION**, may not engage in a sexual act or sexual
4 contact with a minor who, at the time of the sexual act or sexual contact, is a student
5 enrolled at a school where the person in a position of authority is employed.

6 (II) **EXCEPT AS PROVIDED IN § 3-307(A)(4) OF THIS**
7 **SUBTITLE OR SUBSECTION (B)(2) OF THIS SECTION, A PERSON IN A POSITION OF**
8 **AUTHORITY, AS DEFINED IN SUBSECTION (A)(1)(II) OF THIS SECTION, MAY NOT**
9 **ENGAGE IN A SEXUAL ACT OR SEXUAL CONTACT WITH A MINOR WHOM, AT THE**
10 **TIME OF THE SEXUAL ACT OR SEXUAL CONTACT, THE PERSON IN A POSITION OF**
11 **AUTHORITY IS DIRECTLY SUPERVISING IN A COUNTY DEPARTMENT OF**
12 **RECREATION PROGRAM.**

13 (2) (I) Except as provided in § 3-307(a)(5) of this subtitle or
14 subsection (b)(3) of this section, a person in a position of authority, **AS DEFINED IN**
15 **SUBSECTION (A)(1)(I) OF THIS SECTION**, may not engage in vaginal intercourse
16 with a minor who, at the time of the vaginal intercourse, is a student enrolled at a
17 school where the person in a position of authority is employed.

18 (II) **EXCEPT AS PROVIDED IN § 3-307(A)(5) OF THIS**
19 **SUBTITLE OR SUBSECTION (B)(3) OF THIS SECTION, A PERSON IN A POSITION OF**
20 **AUTHORITY, AS DEFINED IN SUBSECTION (A)(1)(II) OF THIS SECTION, MAY NOT**
21 **ENGAGE IN VAGINAL INTERCOURSE WITH A MINOR WHOM, AT THE TIME OF THE**
22 **SEXUAL ACT OR SEXUAL CONTACT, THE PERSON IN A POSITION OF AUTHORITY**
23 **IS DIRECTLY SUPERVISING IN A COUNTY DEPARTMENT OF RECREATION**
24 **PROGRAM.**

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

29 (2) (i) On conviction of a violation of this section, a person who has
30 been convicted on a prior occasion not arising from the same incident of a violation of
31 §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to
32 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2014.