

# SENATE BILL 460

E1

(4lr1984)

## ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senators Raskin, Forehand, and King**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Person in a Position of Authority – Sexual Offenses With a**  
3 **Minor**

4 FOR the purpose of altering ~~a certain prohibition against a certain~~ the definition of  
5 “person in a position of authority” ~~from~~ for purposes of a certain prohibition  
6 against engaging in certain conduct to prohibit a certain person in a position of  
7 authority from engaging in sexual contact, a sexual act, or vaginal intercourse  
8 with a certain minor ~~who is at least a certain number of years younger than the~~  
9 ~~person in a position of authority and who the person in a position of authority~~  
10 ~~knows is or was enrolled or participating in the institution, program, or activity~~  
11 ~~at which the person in a position of authority works; defining a certain term;~~  
12 ~~making a certain conforming change; providing a certain statute of limitations~~  
13 ~~for a violation of this Act; providing penalties for a violation of this Act;~~  
14 ~~providing that a violation of this Act may not be considered a lesser included~~  
15 ~~offense of another crime, with a certain exception; providing that a prosecution~~

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



~~under this Act does not preclude a certain other prosecution to repeal a requirement that the person be a full-time permanent employee of a school; and generally relating to persons in a position of authority and sexual offenses.~~

~~BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5-106(z)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2013 Supplement)~~

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

~~BY adding to  
Article – Criminal Law  
Section 3-325  
Annotated Code of Maryland  
(2012 Replacement Volume and 2013 Supplement)~~

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

~~Article – Courts and Judicial Proceedings~~

~~5-106.~~

~~(z) A prosecution for a misdemeanor offense under [§ 3-308(e)] § 3-325 or, if the victim was a minor at the time of the offense, § 3-308(b)(1) of the Criminal Law Article shall be instituted within 3 years after the offense was committed.~~

**Article – Criminal Law**

3-308.

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

(1) means a person who:

(i) is at least 21 years old;

(ii) is employed ~~as a full-time permanent employee~~ by **OR UNDER CONTRACT WITH** a public or private preschool, elementary school, or secondary school; and

1 (iii) because of the person's position or occupation, exercises  
2 supervision over a minor who attends the school; and

3 (2) includes a principal, vice principal, teacher, COACH, or school  
4 counselor at a public or private preschool, elementary school, or secondary school.†

5 ~~[(b)] (A)~~ A person may not engage in:

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

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

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

13 ~~[(c)]~~ (1) Except as provided in § 3-307(a)(4) of this subtitle or subsection  
14 (b)(2) of this section, a person in a position of authority may not engage in a sexual act  
15 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a  
16 student enrolled at a school where the person in a position of authority is employed.

17 (2) Except as provided in § 3-307(a)(5) of this subtitle or subsection  
18 (b)(3) of this section, a person in a position of authority may not engage in vaginal  
19 intercourse with a minor who, at the time of the vaginal intercourse, is a student  
20 enrolled at a school where the person in a position of authority is employed.†

21 ~~[(d)] (B)~~ (1) Except as provided in paragraph (2) of this subsection, a  
22 person who violates this section is guilty of the misdemeanor of sexual offense in the  
23 fourth degree and on conviction is subject to imprisonment not exceeding 1 year or a  
24 fine not exceeding \$1,000 or both.

25 (2) (i) On conviction of a violation of this section, a person who has  
26 been convicted on a prior occasion not arising from the same incident of a violation of  
27 §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to  
28 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

32 ~~3-325.~~

1           ~~(A) (1) IN THIS SECTION, "PERSON IN A POSITION OF AUTHORITY"~~  
2 ~~MEANS A PERSON WHO:~~

3                   ~~(I) IS AT LEAST 21 YEARS OLD; AND~~

4                   ~~(II) WORKS AT:~~

5                           ~~1. A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY~~  
6 ~~SCHOOL, OR SECONDARY SCHOOL; OR~~

7                           ~~2. A SPORTS OR RECREATIONAL FACILITY OR~~  
8 ~~PROGRAM.~~

9           ~~(2) "PERSON IN A POSITION OF AUTHORITY" INCLUDES AN~~  
10 ~~INDIVIDUAL WHO:~~

11                   ~~(I) IS A VOLUNTEER WITH, UNDER CONTRACT WITH, OR A~~  
12 ~~PAID EMPLOYEE OF AN INSTITUTION, A PROGRAM, OR AN ACTIVITY DESCRIBED~~  
13 ~~IN PARAGRAPH (1)(I) OF THIS SUBSECTION AND WHO, IN THAT CAPACITY,~~  
14 ~~DIRECTS OR SUPERVISES MINORS ENROLLED OR PARTICIPATING IN THE~~  
15 ~~INSTITUTION, PROGRAM, OR ACTIVITY; OR~~

16                   ~~(II) SUPERVISES ONE OR MORE PERSONS IN A POSITION OF~~  
17 ~~AUTHORITY WITHIN THE INSTITUTION, PROGRAM, OR ACTIVITY.~~

18           ~~(B) A PERSON IN A POSITION OF AUTHORITY MAY NOT ENGAGE IN~~  
19 ~~SEXUAL CONTACT, A SEXUAL ACT, OR VAGINAL INTERCOURSE WITH A MINOR~~  
20 ~~WHO IS AT LEAST 7 YEARS YOUNGER THAN THE PERSON IN A POSITION OF~~  
21 ~~AUTHORITY AND WHO THE PERSON IN A POSITION OF AUTHORITY KNOWS:~~

22                   ~~(1) IS ENROLLED OR PARTICIPATING IN THE INSTITUTION,~~  
23 ~~PROGRAM, OR ACTIVITY AT WHICH THE PERSON IN A POSITION OF AUTHORITY~~  
24 ~~WORKS; OR~~

25                   ~~(2) WAS PREVIOUSLY ENROLLED OR PARTICIPATING IN THE~~  
26 ~~INSTITUTION, PROGRAM, OR ACTIVITY AT THE SAME TIME THE PERSON IN A~~  
27 ~~POSITION OF AUTHORITY WAS WORKING AT THE INSTITUTION, PROGRAM, OR~~  
28 ~~ACTIVITY.~~

29           ~~(C) (1) UNLESS SPECIFICALLY CHARGED BY THE STATE, A~~  
30 ~~VIOLATION OF THIS SECTION MAY NOT BE CONSIDERED A LESSER INCLUDED~~  
31 ~~OFFENSE OF ANOTHER CRIME.~~

1           ~~(2) A PROSECUTION OF A VIOLATION OF THIS SECTION DOES NOT~~  
2 ~~PRECLUDE A PROSECUTION UNDER § 3-602 OF THIS TITLE.~~

3           ~~(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~  
4 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT~~  
5 ~~EXCEEDING 5 YEARS.~~

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.