

HOUSE BILL 1402

J2, E2

2lr2189

By: **Delegates R. Jones, Shetty, Carr, Foley, Hill, Patterson, Proctor, and Solomon**
Introduced and read first time: February 17, 2022
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Practitioners – Sexual Abuse – Reporting and Statute of**
3 **Limitations**

4 FOR the purpose of altering the statute of limitations for prosecuting a certain sexual
5 offense if the offense is committed by a health care practitioner; requiring health
6 care practitioners who suspect or have reason to believe that a patient is being
7 sexually abused to notify certain individuals or the head of certain hospitals or
8 related institutions or the designee of the head of certain hospitals or relating
9 institutions in a certain manner and within a certain time frame; and generally
10 related to sexual abuse and health care practitioners.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 5–106(z)
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Criminal Law
18 Section 3–308(b)(1)
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2021 Supplement)

21 BY adding to
22 Article – Health Occupations
23 Section 1–227
24 Annotated Code of Maryland
25 (2021 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Courts and Judicial Proceedings

5–106.

(z) A prosecution for a misdemeanor offense [under § 3–308(c) 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 **FOR:**

**(1) AN OFFENSE UNDER § 3–308(C) OF THE CRIMINAL LAW ARTICLE;
OR**

(2) IF AT THE TIME OF THE OFFENSE, THE VICTIM WAS A MINOR OR THE DEFENDANT WAS A HEALTH CARE PRACTITIONER AS DEFINED IN § 1–301 OF THE HEALTH OCCUPATIONS ARTICLE, AN OFFENSE UNDER § 3–308(B)(1) OF THE CRIMINAL LAW ARTICLE.

Article – Criminal Law

3–308.

(b) A person may not engage in:

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

Article – Health Occupations

1–227.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

(3) (I) “SEXUAL ABUSE” MEANS CRUEL OR INHUMANE TREATMENT THAT CAUSES:

1. A SEXUAL ACT, AS DEFINED IN § 3–301 OF THE CRIMINAL LAW ARTICLE;

2. SEXUAL CONTACT, AS DEFINED IN § 3–301 OF THE CRIMINAL LAW ARTICLE; OR

1 **3. VAGINAL INTERCOURSE, AS DEFINED IN § 3-301 OF**
2 **THE CRIMINAL LAW ARTICLE.**

3 **(II) “SEXUAL ABUSE” DOES NOT INCLUDE THE PERFORMANCE**
4 **OF AN ACCEPTED MEDICAL PROCEDURE THAT A PHYSICIAN ORDERS IN A MANNER**
5 **THAT IS CONSISTENT WITH THE PROVISIONS OF TITLE 10, SUBTITLE 7 OF THE**
6 **HEALTH – GENERAL ARTICLE.**

7 **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING ANY**
8 **LAW ON PRIVILEGED COMMUNICATIONS, A HEALTH CARE PRACTITIONER ACTING IN**
9 **A PROFESSIONAL CAPACITY IN THE STATE WHO SUSPECTS OR HAS REASON TO**
10 **BELIEVE A PATIENT HAS BEEN SUBJECTED TO SEXUAL ABUSE SHALL NOTIFY:**

11 **(1) AS APPROPRIATE, THE PATIENT, THE PATIENT’S GUARDIAN, AND**
12 **THE PATIENT’S HEALTH CARE AGENT, AS DEFINED IN § 5-601 OF THE HEALTH –**
13 **GENERAL ARTICLE, OF THE SUSPECTED ABUSE; AND**

14 **(2) IF THE HEALTH CARE PRACTITIONER IS ACTING AS A STAFF**
15 **MEMBER OR UNDER CONTRACT AS A STAFF MEMBER OF A HOSPITAL OR RELATED**
16 **INSTITUTION, AS DEFINED IN § 19-301 OF THE HEALTH – GENERAL ARTICLE, THE**
17 **HEAD OF THE HOSPITAL OR RELATED INSTITUTION OR THE DESIGNEE OF THE HEAD**
18 **OF THE HOSPITAL OR RELATED INSTITUTION.**

19 **(C) NOTIFICATIONS MADE UNDER SUBSECTION (B) OF THIS SECTION SHALL:**

20 **(1) BE MADE:**

21 **(I) AS PROMPTLY AS POSSIBLE BY DIRECT COMMUNICATION;**
22 **AND**

23 **(II) WITHIN 24 HOURS, IN WRITING; AND**

24 **(2) INCLUDE, TO THE BEST OF THE HEALTH CARE PRACTITIONER’S**
25 **KNOWLEDGE:**

26 **(I) THE NATURE AND EXTENT OF THE SEXUAL ABUSE OF THE**
27 **PATIENT; AND**

28 **(II) THE IDENTITY OF ANY INDIVIDUAL RESPONSIBLE FOR THE**
29 **SEXUAL ABUSE.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2022.