

SENATE BILL 281

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9lr1620

By: **Senator Stone**

Introduced and read first time: January 27, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Sexual Offenses in the Third and Fourth Degrees - Age of**
3 **Victim**

4 FOR the purpose of altering the maximum age of a victim as an element of a sexual
5 offense in the third or fourth degree; and generally relating to sexual offenses in
6 the third and fourth degrees and the age of a victim.

7 BY repealing and reenacting, with amendments,
8 Article - Criminal Law
9 Section 3-307 and 3-308
10 Annotated Code of Maryland
11 (2002 Volume and 2008 Supplement)

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

14 **Article - Criminal Law**

15 3-307.

16 (a) A person may not:

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 (2) engage in sexual contact with another if the victim is a mentally
6 defective individual, a mentally incapacitated individual, or a physically helpless
7 individual, and the person performing the act knows or reasonably should know the
8 victim is a mentally defective individual, a mentally incapacitated individual, or a
9 physically helpless individual;

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

13 (4) engage in a sexual act with another if the victim is **A MINOR WHO**
14 **IS AT LEAST 14 [or 15] years old**, and the person performing the sexual act is at least
15 21 years old; or

16 (5) engage in vaginal intercourse with another if the victim is **A**
17 **MINOR WHO IS AT LEAST 14 [or 15] years old**, and the person performing the act is at
18 least 21 years old.

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

22 3–308.

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

24 (1) means a person who:

25 (i) is at least 21 years old;

26 (ii) is employed as a full–time permanent employee by a public
27 or private preschool, elementary school, or secondary school; and

28 (iii) because of the person’s position or occupation, exercises
29 supervision over a minor who attends the school; and

30 (2) includes a principal, vice principal, teacher, or school counselor at
31 a public or private preschool, elementary school, or secondary school.

32 (b) A person may not engage in:

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

2 (2) except as provided in § 3–307(a)(4) of this subtitle, a sexual act
3 with another if the victim is **A MINOR WHO IS AT LEAST 14 [or 15] years old**, and the
4 person performing the sexual act is at least 4 years older than the victim; or

5 (3) except as provided in § 3–307(a)(5) of this subtitle, vaginal
6 intercourse with another if the victim is **A MINOR WHO IS AT LEAST 14 [or 15] years**
7 old, and the person performing the act is at least 4 years older than the victim.

8 (c) (1) Except as provided in § 3–307(a)(4) of this subtitle or subsection
9 (b)(2) of this section, a person in a position of authority may not engage in a sexual act
10 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a
11 student enrolled at a school where the person in a position of authority is employed.

12 (2) Except as provided in § 3–307(a)(5) of this subtitle or subsection
13 (b)(3) of this section, a person in a position of authority may not engage in vaginal
14 intercourse with a minor who, at the time of the vaginal intercourse, is a student
15 enrolled at a school where the person in a position of authority is employed.

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

20 (2) (i) On conviction of a violation of this section, a person who has
21 been convicted on a prior occasion not arising from the same incident of a violation of
22 §§ 3–303 through 3–312 or § 3–315 of this subtitle or § 3–602 of this title is subject to
23 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2009.