

SENATE BILL 43

E4

(PRE-FILED)

11r0781
CF HB 411

By: **Senators Elfreth and Hettleman**

Requested: September 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 29, 2021

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Law Enforcement Officers – Prohibition on Sexual Activity**

3 FOR the purpose of prohibiting a law enforcement officer from engaging in certain sexual
4 acts, sexual contact, or vaginal intercourse with a certain person who is a victim,
5 witness, or suspect under certain circumstances or with a certain person requesting
6 assistance from or responding to the law enforcement officer under certain
7 circumstances; establishing a certain exception to the prohibition; and generally
8 relating to law enforcement officers.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 3–314
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2020 Supplement)

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

16 **Article – Criminal Law**

17 3–314.

18 (a) (1) In this section the following words have the meanings indicated.

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.



1 (2) (i) “Correctional employee” means a:

2 1. correctional officer, as defined in § 8–201 of the
3 Correctional Services Article; or

4 2. managing official or deputy managing official of a
5 correctional facility.

6 (ii) “Correctional employee” includes a sheriff, warden, or other
7 official who is appointed or employed to supervise a correctional facility.

8 (3) “Court–ordered services provider” means a person who provides
9 services to an individual who has been ordered by the court, the Division of Parole and
10 Probation, or the Department of Juvenile Services to obtain those services.

11 (4) (i) “Inmate” has the meaning stated in § 1–101 of this article.

12 (ii) “Inmate” includes an individual confined in a community adult
13 rehabilitation center.

14 (5) “Law enforcement officer” has the meaning stated in § 3–101 of the
15 Public Safety Article.

16 (b) (1) This subsection applies to:

17 (i) a correctional employee;

18 (ii) any other employee of the Department of Public Safety and
19 Correctional Services or a correctional facility;

20 (iii) an employee of a contractor providing goods or services to the
21 Department of Public Safety and Correctional Services or a correctional facility; and

22 (iv) any other individual working in a correctional facility, whether
23 on a paid or volunteer basis.

24 (2) A person described in paragraph (1) of this subsection may not engage
25 in sexual contact, vaginal intercourse, or a sexual act with an inmate.

26 (c) A person may not engage in sexual contact, vaginal intercourse, or a sexual
27 act with an individual confined in a child care institution licensed by the Department of
28 Juvenile Services, a detention center for juveniles, or a facility for juveniles listed in §
29 9–226(b) of the Human Services Article.

30 (d) A court–ordered services provider may not engage in sexual contact, vaginal
31 intercourse, or a sexual act with an individual ordered to obtain services while the order is
32 in effect.

1 (e) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
2 SUBSECTION, A law enforcement officer may not engage in sexual contact, vaginal
3 intercourse, or a sexual act with ~~fa person~~ [in the custody of the law enforcement officer]:

4 (I) WHO IS A VICTIM, WITNESS, OR SUSPECT IN AN OPEN
5 INVESTIGATION ~~DURING THE COURSE OF AN INVESTIGATION~~ THAT THE LAW
6 ENFORCEMENT OFFICER IS CONDUCTING, SUPERVISING, OR ASSISTING WITH IF THE
7 LAW ENFORCEMENT OFFICER KNEW OR SHOULD HAVE KNOWN THAT THE PERSON IS
8 A VICTIM, WITNESS, OR SUSPECT IN THE INVESTIGATION;

9 (II) ~~A PERSON~~ REQUESTING ASSISTANCE FROM OR RESPONDING
10 TO THE LAW ENFORCEMENT OFFICER IN THE COURSE OF THE LAW ENFORCEMENT
11 OFFICER'S OFFICIAL DUTIES; OR

12 (III) ~~A PERSON~~ IN THE CUSTODY OF THE LAW ENFORCEMENT
13 OFFICER.

14 (2) PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION DOES NOT
15 APPLY IF THE LAW ENFORCEMENT OFFICER HAD A PRIOR EXISTING LEGAL SEXUAL
16 RELATIONSHIP WITH THE PERSON, ~~UNLESS AN INTERIM, TEMPORARY, OR FINAL~~
17 ~~PROTECTIVE ORDER BETWEEN THE PARTIES IS IN EFFECT AT THE TIME OF THE~~
18 ~~SEXUAL CONTACT, VAGINAL INTERCOURSE, OR SEXUAL ACT.~~

19 (f) A person who violates this section is guilty of a misdemeanor and on conviction
20 is subject to imprisonment not exceeding 3 years or a fine not exceeding \$3,000 or both.

21 (g) A sentence imposed for a violation of this section may be separate from and
22 consecutive to or concurrent with a sentence for another crime under § 3-303, § 3-304, or
23 §§ 3-307 through 3-310 of this subtitle, or § 3-305, § 3-306, § 3-311, or § 3-312 of this
24 subtitle as the sections existed before October 1, 2017.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2021.