

SENATE BILL 810

E1
SB 893/12 – JPR

3lr0372

By: **Senators Jones–Rodwell and DeGrange**
Introduced and read first time: February 1, 2013
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Coaches – Sexual Contact with Minors – Prohibition**

3 FOR the purpose of prohibiting a certain coach from engaging in a sexual act, sexual
4 contact, or vaginal intercourse with a minor under certain circumstances;
5 providing for a certain statute of limitations for the prosecution of a violation of
6 this Act; defining a certain term; and generally relating to a sexual offense
7 involving a coach and a minor under certain circumstances.

8 BY repealing and reenacting, without amendments,
9 Article – Criminal Law
10 Section 3–307
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 3–308
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Courts and Judicial Proceedings
20 Section 5–106(z)
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2012 Supplement)

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

25 **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) (1) In this section[,"person"] **THE FOLLOWING WORDS HAVE THE**
30 **MEANINGS INDICATED.**

31 (2) **“COACH” MEANS A PERSON WHO:**

1 **(I) IS AT LEAST 18 YEARS OLD;**

2 **(II) IS EMPLOYED OR VOLUNTEERS FULL TIME OR**
3 **PART TIME AT:**

4 **1. AN ORGANIZATION EXEMPT FROM TAXATION**
5 **UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;**

6 **2. A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY;**

7 **3. A PUBLIC OR PRIVATE SCHOOL; OR**

8 **4. A RECREATION CENTER; AND**

9 **(III) BECAUSE OF THE PERSON’S POSITION, ADVISES A**
10 **MINOR WHO PARTICIPATES ON A SPORTS TEAM, IN AN EXTRACURRICULAR**
11 **ACTIVITY, OR IN A RECREATIONAL ACTIVITY.**

12 **(3) (I) “PERSON in a position of authority”[:**

13 **(1)] means a person who:**

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

15 **[(ii)] 2. is employed as a full-time permanent employee by a**
16 **public or private preschool, elementary school, or secondary school; and**

17 **[(iii)] 3. because of the person’s position or occupation,**
18 **exercises supervision over a minor who attends the school[; and].**

19 **[(2)] (II) “PERSON IN A POSITION OF AUTHORITY” includes a**
20 **principal, vice principal, teacher, or school counselor at a public or private preschool,**
21 **elementary school, or secondary school.**

22 **(b) A person may not engage in:**

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

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

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

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

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

9 **(D) (1) EXCEPT AS PROVIDED IN § 3–307(A)(4) OF THIS SUBTITLE OR**
 10 **SUBSECTION (B)(2) OF THIS SECTION, A COACH MAY NOT ENGAGE IN A SEXUAL**
 11 **ACT OR SEXUAL CONTACT WITH A MINOR WHO, AT THE TIME OF THE SEXUAL ACT**
 12 **OR SEXUAL CONTACT, PARTICIPATES ON A SPORTS TEAM, IN AN**
 13 **EXTRACURRICULAR ACTIVITY, OR IN A RECREATIONAL ACTIVITY THAT THE**
 14 **COACH ADVISES.**

15 **(2) EXCEPT AS PROVIDED IN § 3–307(A)(5) OF THIS SUBTITLE OR**
 16 **SUBSECTION (B)(3) OF THIS SECTION, A COACH MAY NOT ENGAGE IN VAGINAL**
 17 **INTERCOURSE WITH A MINOR WHO, AT THE TIME OF THE VAGINAL**
 18 **INTERCOURSE, PARTICIPATES ON A SPORTS TEAM, IN AN EXTRACURRICULAR**
 19 **ACTIVITY, OR IN A RECREATIONAL ACTIVITY THAT THE COACH ADVISES.**

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

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

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

31 **Article – Courts and Judicial Proceedings**

32 5–106.

33 (z) A prosecution for a misdemeanor offense under § 3–308(c) **OR (D)** or, if
 34 the victim was a minor at the time of the offense, § 3–308(b)(1) of the Criminal Law
 35 Article shall be instituted within 3 years after the offense was committed.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.