

SENATE BILL 177

E1, E4
SB 755/23 – JPR

(PRE-FILED)

4lr0671
CF HB 302

By: **Senator Muse**

Requested: September 21, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2024

CHAPTER _____

1 AN ACT concerning

2 **Law Enforcement Officers, Correctional Employees, and Court-Ordered**
3 **Services Providers – Prohibition on Sexual Activity – Penalties and Registry**

4 FOR the purpose of altering ~~penalties~~ the prohibition against certain sex acts between a
5 law enforcement officer and certain individuals; altering the penalty relating to
6 sexual contact between a law enforcement officer, ~~correctional employee, or~~
7 ~~court-ordered services provider and certain individuals under certain~~
8 ~~circumstances; and a person in the custody of the officer; requiring a person convicted~~
9 of a certain offense to register on a certain sex offender registry; and generally
10 relating to sexual offenses.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 3–314
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 11–701(o)(1)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, without amendments,

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.



Article – Criminal Procedure
Section 11–704(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

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

Article – Criminal Law

3–314.

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

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

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

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

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

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

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

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

(5) “Law enforcement officer” has the meaning stated in § 1–101 of the
Public Safety Article.

(b) (1) This subsection applies to:

(i) a correctional employee;

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

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

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

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

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

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

(e) (1) Except as provided in paragraph (2) of this subsection, a law enforcement officer may not engage in sexual contact, vaginal intercourse, or a sexual act with a person:

(i) who is a victim, witness, or suspect in an open AND ACTIVE investigation that the law enforcement officer is conducting, supervising, or assisting with if the law enforcement officer knew or should have known that the person is a victim, witness, or suspect in the investigation;

(ii) requesting assistance from or responding to the law enforcement officer in the course of the law enforcement officer's official duties; or

(iii) in the custody of the law enforcement officer.

(2) Paragraph (1)(i) and (ii) of this subsection does not apply if the law enforcement officer:

(i) had a prior existing legal sexual relationship with the person; and

(ii) did not act under the color or pretense of office or under color of official right when seeking consent to the vaginal intercourse, sexual act, or sexual contact.

(f) (1) A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who violates this section is guilty of a ~~[misdemeanor]~~ ~~FELONY~~ and on conviction is subject to imprisonment not exceeding ~~{3} 10~~ years or a fine not exceeding \$3,000 or both.

(2) A PERSON WHO VIOLATES PARAGRAPH (1)(III) OF THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO

IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$3,000 OR BOTH.

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

Article – Criminal Procedure

11–701.

(o) “Tier I sex offender” means a person who has been convicted of:

(1) conspiring to commit, attempting to commit, or committing a violation of § 3–308 ~~OR § 3–314~~ **§ 3–314(E)(1)(III)** of the Criminal Law Article;

11–704.

(a) A person shall register with the person’s supervising authority if the person is:

(1) a tier I sex offender;

(2) a tier II sex offender;

(3) a tier III sex offender; or

(4) a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government, and who is not a resident of this State, and who enters this State:

(i) to begin residing or to habitually live;

(ii) to carry on employment;

(iii) to attend a public or private educational institution, including a secondary school, trade or professional institution, or institution of higher education, as a full-time or part-time student; or

(iv) as a transient.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.