

(H) ~~"CUSTODIAL EMPLOYEE" INCLUDES:~~

~~1. THE EMPLOYEES OF AN AGENT OR CONTRACTOR OF A UNIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;~~

~~2. A CORRECTIONAL ADMINISTRATOR, CORRECTIONAL OFFICER, CORRECTIONAL SUPERVISOR, CASE MANAGER, HEALTH CARE PROVIDER, AND SOCIAL WORKER; AND~~

~~3. ADMINISTRATIVE AND SUPPORT STAFF.~~

(2) ~~"CUSTODY" MEANS:~~

~~(I) PRETRIAL INCARCERATION OR HOME DETENTION; OR~~

~~(II) INCARCERATION UNDER A SENTENCE TO A STATE OR LOCAL CORRECTIONAL FACILITY, COMMUNITY ADULT REHABILITATION CENTER, OR HOME DETENTION.~~

~~(B) A PERSON IS GUILTY OF A SEXUAL OFFENSE IN THE THIRD DEGREE IF THE PERSON IS A CUSTODIAL EMPLOYEE AND ENGAGES IN VAGINAL INTERCOURSE, A SEXUAL ACT, OR SEXUAL CONTACT WITH A PERSON IN CUSTODY.~~

(2) "CORRECTIONAL EMPLOYEE" MEANS:

(I) A CORRECTIONAL OFFICER, AS DEFINED IN ARTICLE 41, § 4-301 OF THE CODE; OR

(II) A HEAD OR DEPUTY HEAD OF A CORRECTIONAL FACILITY, INCLUDING A SHERIFF, WARDEN, SUPERINTENDENT, OR ANY PERSON HAVING AN EQUIVALENT TITLE WHO IS APPOINTED OR EMPLOYED TO SUPERVISE A CORRECTIONAL FACILITY.

(3) "INMATE" MEANS A PERSON WHO IS INCARCERATED IN A STATE OR LOCAL CORRECTIONAL FACILITY OR A COMMUNITY ADULT REHABILITATION CENTER.

(B) A CORRECTIONAL EMPLOYEE MAY NOT ENGAGE IN VAGINAL INTERCOURSE OR A SEXUAL ACT WITH AN INMATE.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$3,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR BOTH.

~~(D) A SENTENCE IMPOSED FOR VIOLATION OF THIS SECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OTHER OFFENSE UNDER THIS SUBHEADING THAT IS BASED ON A USE OF FORCE OR LACK OF CONSENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1998.

Approved May 12, 1998.