

SENATE BILL 718

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2004 Regular Session
4r1830
CF 4r0308

By: **Senators Forehand and Jimeno**
Introduced and read first time: February 6, 2004
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Evidence - Separate Act of Sexual Misconduct Involving a Minor -**
3 **Admissibility**

4 FOR the purpose of authorizing a court to admit evidence of a defendant's commission
5 of a certain separate act of sexual misconduct involving a minor in a prosecution
6 for certain sexual offenses involving a minor under certain circumstances;
7 requiring the State's Attorney to disclose to the defendant the State's intent to
8 offer the evidence within a certain time period before the trial unless the court
9 allows disclosure at a later time for good cause shown; specifying the content of
10 the disclosure to the defendant; prohibiting certain evidence from being referred
11 to in a statement to the jury or introduced at trial unless the court first holds a
12 closed hearing and determines that the evidence is admissible; requiring the
13 court to enter an order stating which evidence may be introduced under certain
14 circumstances; authorizing the court to reconsider a ruling excluding evidence
15 and hold an additional closed hearing if new information is discovered during
16 the trial that may make the evidence admissible; defining certain terms;
17 providing for the construction and application of this Act; and generally relating
18 to the admissibility of evidence in criminal proceedings.

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 10-916.1
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2003 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article - Criminal Law
26 Section 1-101(g)
27 Annotated Code of Maryland
28 (2002 Volume and 2003 Supplement)

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

1 UNLESS THE COURT FIRST HOLDS A CLOSED HEARING AND DETERMINES THAT THE
2 EVIDENCE IS ADMISSIBLE.

3 (2) IF THE COURT DETERMINES THAT ALL OR SOME OF THE EVIDENCE
4 IS ADMISSIBLE, THE COURT SHALL ENTER AN ORDER STATING WHICH EVIDENCE
5 MAY BE INTRODUCED.

6 (3) THE COURT MAY RECONSIDER A RULING EXCLUDING THE EVIDENCE
7 AND HOLD AN ADDITIONAL CLOSED HEARING IF NEW INFORMATION IS DISCOVERED
8 DURING THE COURSE OF THE TRIAL THAT MAY MAKE THE EVIDENCE ADMISSIBLE.

9 (E) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE ADMISSION OR
10 CONSIDERATION OF EVIDENCE UNDER ANY OTHER RULE OR PROVISION OF LAW.

11 **Article - Criminal Law**

12 1-101.

13 (g) "Minor" means an individual under the age of 18 years.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
15 construed to apply only prospectively and may not be applied or interpreted to have
16 any effect on or application to any prosecution commenced before the effective date of
17 this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2004.