

# HOUSE BILL 1402

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By: **Delegates Conway, G. Clagett, DeBoy, Bates, Eckardt, Elmore, Haddaway, Mathias, Proctor, Sophocleus, and Wood**

Introduced and read first time: February 18, 2010

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – Preemployment Polygraph Examinations for Correctional**  
3 **Officer Applicants**

4 FOR the purpose of ~~requiring~~ authorizing the Division of Correction to require an  
5 individual to pass a polygraph examination before ~~the individual may be being~~  
6 appointed to serve as a correctional officer in a correctional facility; requiring  
7 the Commissioner of Correction to adopt certain regulations governing the  
8 administration of polygraph examinations ~~required~~ authorized under this Act;  
9 providing an exemption for an applicant for employment as a correctional officer  
10 of a State or local correctional facility from a certain prohibition against  
11 requiring a polygraph examination as a condition of employment; making  
12 stylistic and conforming changes; and generally relating to polygraph  
13 examinations for correctional officer applicants.

14 BY repealing and reenacting, with amendments,  
15 Article – Correctional Services  
16 Section 3–215  
17 Annotated Code of Maryland  
18 (2008 Replacement Volume and 2009 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Labor and Employment  
21 Section 3–702  
22 Annotated Code of Maryland

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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 (2008 Replacement Volume and 2009 Supplement)

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

4 **Article – Correctional Services**

5 3–215.

6 (a) In accordance with the State budget, the Division may appoint officers  
7 and other employees as necessary to operate the Division and its units efficiently and  
8 effectively.

9 (b) (1) Except as otherwise provided in this subtitle, all officers and other  
10 employees of the Division shall be appointed and removed in accordance with the  
11 provisions of the State Personnel and Pensions Article.

12 (2) The following positions are in the executive service, the  
13 management service, or are special appointments of the skilled service or the  
14 professional service in the State Personnel Management System:

- 15 (i) Commissioner;
- 16 (ii) Deputy Commissioner;
- 17 (iii) Assistant Commissioner;
- 18 (iv) industries general manager;
- 19 (v) warden;
- 20 (vi) facility administrator; and
- 21 (vii) assistant warden.

22 (3) (i) The warden of a correctional facility is the appointing officer  
23 for the officers and other employees of that facility.

24 (ii) The Commissioner is the appointing officer for the other  
25 officers and employees in the Division.

26 (c) The Division may provide a dwelling for a warden.

27 (d) A warden may not receive any compensation or perquisite other than:

28 (1) the compensation and reimbursement provided under subsection  
29 (e) of this section; and

1 (2) if provided under subsection (c) of this section, a dwelling.

2 (e) (1) Officers and other employees are entitled to:

3 (i) compensation as provided in the State budget; and

4 (ii) reimbursement for expenses in accordance with the  
5 Standard State Travel Regulations.

6 (2) Officers and other employees working 40 hours or more per week  
7 in a correctional facility are entitled to one free meal per shift as provided in the State  
8 budget.

9 (F) (1) ~~BEFORE AN INDIVIDUAL MAY BE~~ THE DIVISION MAY REQUIRE  
10 AN INDIVIDUAL TO PASS A POLYGRAPH EXAMINATION BEFORE BEING  
11 APPOINTED TO SERVE AS A CORRECTIONAL OFFICER IN A CORRECTIONAL  
12 FACILITY, THE INDIVIDUAL MUST PASS A POLYGRAPH EXAMINATION.

13 (2) THE COMMISSIONER SHALL ADOPT REGULATIONS  
14 GOVERNING THE ADMINISTRATION OF THE POLYGRAPH EXAMINATION  
15 REQUIRED AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

## 16 Article – Labor and Employment

17 3–702.

18 (a) In this section, “employer” means:

19 (1) a person engaged in a business, industry, profession, trade, or  
20 other enterprise in the State;

21 (2) the State;

22 (3) a county; and

23 (4) a municipal corporation in the State.

24 (b) (1) This section does not apply to the federal government or any of its  
25 units.

26 (2) This section does not apply to an individual who is an employee of  
27 or applies for assignment to the Internal Investigative Unit of the Department of  
28 Public Safety and Correctional Services.

29 (3) This section does not apply to an individual who applies for  
30 employment or is employed:

1 (i) as a law enforcement officer, as defined in § 3–101 of the  
2 Public Safety Article;

3 (ii) as an employee of a law enforcement agency of the State, a  
4 county, or a municipal corporation;

5 (iii) as a communications officer of the Calvert County Control  
6 Center;

7 (iv) as a correctional officer of the Calvert County Detention  
8 Center or in any other capacity that involves direct personal contact with an inmate in  
9 the Detention Center;

10 (v) as a correctional officer of the Washington County Detention  
11 Center or in any other capacity that involves direct personal contact with an inmate in  
12 the Center; or

13 (vi) as a correctional officer of:

14 1. the Baltimore City Jail;

15 2. the Baltimore County Detention Center;

16 3. the Cecil County Detention Center;

17 4. the Charles County Detention Center;

18 5. the Frederick County Adult Detention Center;

19 6. the Harford County Detention Center; or

20 7. the St. Mary's County Detention Center.

21 (4) This section does not apply to an applicant for employment as a  
22 correctional officer [with the Department of Corrections for Prince George's County]  
23 **OF A STATE OR LOCAL CORRECTIONAL FACILITY.**

24 (5) This section does not apply to an applicant for employment with  
25 either the Anne Arundel County Department of Detention Facilities or the Caroline  
26 County Department of Corrections[:

27 (i) as a correctional officer; or

28 (ii) in any [other] capacity that involves direct contact with an  
29 inmate in either the Anne Arundel County Department of Detention Facilities or the  
30 Caroline County Department of Corrections.

1 (c) An employer may not require or demand, as a condition of employment,  
2 prospective employment, or continued employment, that an individual submit to or  
3 take a [lie detector] **POLYGRAPH EXAMINATION** or similar test.

4 (d) (1) Each application for employment shall set out, in bold-faced upper  
5 case type, the following notice:

6 “Under Maryland law, an employer may not require or demand, as a condition  
7 of employment, prospective employment, or continued employment, that an individual  
8 submit to or take a [lie detector] **POLYGRAPH EXAMINATION** or similar test. An  
9 employer who violates this law is guilty of a misdemeanor and subject to a fine not  
10 exceeding \$100.”

11 (2) Each application shall provide a space for an applicant to sign an  
12 acknowledgment of the notice required under this subsection.

13 (e) An applicant shall sign the acknowledgment of the notice required under  
14 subsection (d) of this section.

15 (f) If an employer violates subsection (c) or (d) of this section, an applicant  
16 for employment or prospective employment or an employee may submit to the  
17 Commissioner a written complaint.

18 (g) (1) Whenever the Commissioner determines that this section has been  
19 violated, the Commissioner may:

20 (i) try to resolve any issue involved in the violation informally  
21 by mediation; or

22 (ii) ask the Attorney General to bring an action on behalf of the  
23 applicant or employee.

24 (2) The Attorney General may bring an action under this section in  
25 the county where the violation allegedly occurred, for injunctive relief, damages, or  
26 other relief.

27 (h) An employer who violates any provision of this section is guilty of a  
28 misdemeanor and on conviction is subject to a fine not exceeding \$100.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2010.