

Chapter 467

(House Bill 1402)

AN ACT concerning

Public Safety – Preemployment Polygraph Examinations for Correctional Officer Applicants

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

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

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–702
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Correctional Services

3–215.

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

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

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

- (i) Commissioner;
- (ii) Deputy Commissioner;
- (iii) Assistant Commissioner;
- (iv) industries general manager;
- (v) warden;
- (vi) facility administrator; and
- (vii) assistant warden.

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

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

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

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

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

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

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

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

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

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

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

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

Article – Labor and Employment

3-702.

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

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

(2) the State;

(3) a county; and

(4) a municipal corporation in the State.

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

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

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

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

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

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

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

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

(vi) as a correctional officer of:

1. the Baltimore City Jail;
2. the Baltimore County Detention Center;
3. the Cecil County Detention Center;
4. the Charles County Detention Center;
5. the Frederick County Adult Detention Center;
6. the Harford County Detention Center; or
7. the St. Mary's County Detention Center.

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

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

(i) as a correctional officer; or

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, May 4, 2010.