

HOUSE BILL 615

E2

6lr2906

By: **Delegates Anderson, Cluster, Conaway, Moon, and Vallario**

Introduced and read first time: February 4, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Evidence – Exclusionary Rule**

3 FOR the purpose of prohibiting a court from receiving into evidence in a criminal
4 proceeding any evidence obtained in a certain manner; prohibiting a court from
5 recognizing certain exceptions to the exclusionary rule; prohibiting a court from
6 reviewing probable cause for the issuance of a search warrant by a certain standard;
7 providing that each criminal defendant has standing to pursue a certain motion or
8 exclude certain evidence; prohibiting a court from admitting evidence in violation of
9 a certain right; prohibiting a court from limiting the scope of the exclusionary rule
10 to certain evidence; defining certain terms; and generally relating to evidence.

11 BY adding to

12 Article – Courts and Judicial Proceedings

13 Section 10–923

14 Annotated Code of Maryland

15 (2013 Replacement Volume and 2015 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 **10–923.**

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (2) “ATTENUATION” RETAINS ITS JUDICIALLY DETERMINED
23 MEANING.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(3) “EXCLUSIONARY RULE” RETAINS ITS JUDICIALLY DETERMINED**
2 **MEANING.**

3 **(4) “GOOD FAITH” RETAINS ITS JUDICIALLY DETERMINED MEANING.**

4 **(5) “HEARSAY” RETAINS ITS JUDICIALLY DETERMINED MEANING.**

5 **(6) “INEVITABLE DISCOVERY” RETAINS ITS JUDICIALLY**
6 **DETERMINED MEANING.**

7 **(7) “REASONABLE EXPECTATION OF PRIVACY” RETAINS ITS**
8 **JUDICIALLY DETERMINED MEANING.**

9 **(8) “STANDING” RETAINS ITS JUDICIALLY DETERMINED MEANING.**

10 **(B) A COURT MAY NOT RECEIVE INTO EVIDENCE IN A CRIMINAL**
11 **PROCEEDING ANY EVIDENCE DIRECTLY OR INDIRECTLY OBTAINED IN VIOLATION OF**
12 **THE MARYLAND DECLARATION OF RIGHTS OR THE MARYLAND CONSTITUTION OR**
13 **LAWS OF MARYLAND.**

14 **(C) A COURT MAY NOT RECOGNIZE AN EXCEPTION TO THE EXCLUSIONARY**
15 **RULE FOR:**

16 **(1) GOOD FAITH EXERCISED BY POLICE OR OTHER GOVERNMENTAL**
17 **AGENTS IN OBTAINING EVIDENCE;**

18 **(2) THE DOCTRINE OF INEVITABLE DISCOVERY;**

19 **(3) THE DOCTRINE OF ATTENUATION;**

20 **(4) A CRIMINAL DEFENDANT’S LACK OF STANDING; OR**

21 **(5) A CRIMINAL DEFENDANT’S LACK OF A REASONABLE**
22 **EXPECTATION OF PRIVACY.**

23 **(D) A COURT MAY NOT REVIEW PROBABLE CAUSE FOR THE ISSUANCE OF A**
24 **SEARCH WARRANT BY ANY STANDARD OTHER THAN DE NOVO REVIEW.**

25 **(E) EACH CRIMINAL DEFENDANT HAS STANDING TO PURSUE A MOTION TO**
26 **SUPPRESS EVIDENCE OR EXCLUDE ILLEGALLY OR UNCONSTITUTIONALLY**
27 **OBTAINED EVIDENCE.**

1 **(F) A COURT MAY NOT ADMIT EVIDENCE IN VIOLATION OF A DEFENDANT’S**
2 **RIGHT TO CONFRONT AND CROSS-EXAMINE WITNESSES AGAINST THE DEFENDANT.**

3 **(G) A COURT MAY NOT LIMIT THE SCOPE OF THE EXCLUSIONARY RULE TO:**

4 **(1) HEARSAY THAT IS TESTIMONIAL;**

5 **(2) HEARSAY THAT IS SWORN, CERTIFIED, OR SOLEMN; OR**

6 **(3) FORMALIZED TESTIMONIAL MATERIALS.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2016.