
By: Senators Kelley, Lawlah, Forehand, Roesser, Van Hollen, Hollinger, and Teitelbaum

Introduced and read first time: January 29, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenses - Polygraph Examination**

3 FOR the purpose of prohibiting certain persons from requesting or requiring that the
4 victim of a sexual offense submit to a polygraph examination; prohibiting certain
5 persons from informing a victim of a sexual offense of the option of submitting to a
6 polygraph examination except under certain circumstances; defining certain terms;
7 and generally relating to sexual offenses and polygraph examinations.

8 BY renumbering

9 Article 27 - Crimes and Punishments
10 Section 465 1/2 and 465A, respectively
11 to be Section 465A and 466, respectively
12 Annotated Code of Maryland
13 (1992 Replacement Volume and 1995 Supplement)

14 BY adding to

15 Article 27 - Crimes and Punishments
16 Section 465B
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1995 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article 27 - Crimes and Punishments
21 Section 594B(h) and 727(b)
22 Annotated Code of Maryland
23 (1992 Replacement Volume and 1995 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That Section(s) 465 1/2 and 465A, respectively, of Article 27- Crimes and
26 Punishments of the Annotated Code of Maryland be renumbered to be Section(s) 465A
27 and 466, respectively.

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland

29 read as follows:

2

1 **Article 27 - Crimes and Punishments**

2 465B.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "LAW ENFORCEMENT OFFICER" MEANS:

6 (I) A PERSON LISTED IN § 727(B) OF THIS ARTICLE; OR

7 (II) A PERSON EXERCISING THE POWERS GRANTED UNDER §
8 594B(H) OF THIS ARTICLE.

9 (3) "POLYGRAPH EXAMINATION" MEANS ANY TYPE OF MECHANICAL
10 OR ELECTRICAL TEST THAT IS USED TO EXAMINE, TEST, OR QUESTION AN
11 INDIVIDUAL FOR THE PURPOSE OF DETERMINING TRUTHFULNESS.

12 (4) "SEXUAL OFFENSE" MEANS A VIOLATION OF ANY OF THE
13 PROVISIONS OF §§ 462 THROUGH 464B OF THIS ARTICLE.

14 (B) A STATE'S ATTORNEY OR LAW ENFORCEMENT OFFICER MAY NOT:

15 (1) REQUEST OR REQUIRE THAT THE VICTIM OF THE OFFENSE SUBMIT
16 TO A POLYGRAPH EXAMINATION; OR

17 (2) INFORM THE VICTIM OF THE OFFENSE OF THE OPTION OF
18 SUBMITTING TO A POLYGRAPH EXAMINATION.

19 594B.

20 (h) (1) (i) In this subsection the following words have the meanings
21 indicated.

22 (ii) "Emergency" means a sudden or unexpected happening or an
23 unforeseen combination of circumstances that calls for immediate action to protect the
24 health, safety, welfare, or property of an individual from actual or threatened harm or
25 from an unlawful act.

26 (iii) "Federal law enforcement officer" means an officer who is
27 empowered to effect an arrest with or without a warrant for violations of the United
28 States Code and who is authorized to carry firearms in the performance of the officer's
29 duties.

30 (2) Subject to the limitations provided in paragraph (3) of this subsection, a
31 federal law enforcement officer is granted:

32 (i) The powers of arrest as set forth in this section; and

33 (ii) The power to execute arrest and search and seizure warrants
34 issued under the laws of this State.

35 (3) A federal law enforcement officer may exercise the powers granted in
36 this subsection if:

3

1 (i) The officer is participating in a joint investigation with officials
2 from any State or local law enforcement agency;

3 (ii) The officer is rendering assistance to a police officer;

4 (iii) The officer is acting at the request of a local police officer or a
5 State Police officer; or

6 (iv) An emergency exists.

7 (4) When acting under the authority granted in this subsection, the
8 following notifications of an investigation or enforcement action shall be made:

9 (i) 1. When in an incorporated municipality, to the chief of police,
10 if any, or the chief's designee;

11 2. When in a county which has a county police department, to
12 the chief of police or the chief's designee;

13 3. When in a county without a police department, to the sheriff
14 or the sheriff's designee;

15 4. When in Baltimore City, to the Police Commissioner or the
16 Police Commissioner's designee;

17 5. When on any property owned, leased, operated by, or under
18 the control of the Department of Natural Resources, to the Secretary of Natural
19 Resources or the Secretary's designee; or

20 6. When on any property owned, leased, or operated by or
21 under the control of the Maryland Transportation Authority or the Maryland Port
22 Administration, to the respective chief of police or the chief's designee; and

23 (ii) Unless there is an agreement otherwise with the Department of
24 State Police, to the Department of State Police barrack commander or designee.

25 (5) When a federal law enforcement officer is acting under the authority
26 granted in paragraph (3)(i) of this subsection, the notification required under paragraph
27 (4) of this subsection shall be made at a reasonable time in advance.

28 (6) A federal law enforcement officer who exercises the powers set forth in
29 this subsection has the same legal status as a police officer of this State.

30 (7) Nothing in this subsection shall be construed to impose liability upon or
31 to require indemnification by the State of Maryland or any local subdivision for any act
32 performed by a federal law enforcement officer pursuant to this subsection.

33 (8) (i) Any federal law enforcement officer acting pursuant to this
34 subsection shall enjoy the same protections provided to police officers of this State as set
35 forth in § 2-608 of the Courts Article with regard to charging documents against police
36 officers.

37 (ii) A federal law enforcement officer acting under this subsection
38 shall have the immunity from liability described under § 5-327 of the Courts Article.

4

1 727.

2 (b) "Law enforcement officer" means any person who, in an official capacity, is
3 authorized by law to make arrests and who is a member of one of the following law
4 enforcement agencies:

5 (1) The Department of State Police;

6 (2) The Baltimore City police department;

7 (3) The Baltimore City School Police Force;

8 (4) The police department, bureau, or force of any county;

9 (5) The police department, bureau, or force of any incorporated city or
10 town;

11 (6) The office of the sheriff of any county;

12 (7) The police department, bureau, or force of any bicounty agency or the
13 University of Maryland;

14 (8) The Mass Transit Administration Police Force of the Department of
15 Transportation, the Maryland Transportation Authority Police Force, and the Maryland
16 Port Administration Police Force of the Department of Transportation;

17 (9) The police officers of the Department of Natural Resources;

18 (10) The Investigative Services Unit of the Comptroller's Office;

19 (11) Housing Authority of Baltimore City Police Force; or

20 (12) The Crofton Police Department.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 1996.