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By: **Senators Bromwell, Lawlah, Roesser, Kelley, Jacobs, Ruben, Hollinger,  
Forehand, Hoffman, Conway, Neall, and Ferguson**

Introduced and read first time: February 5, 1999

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenses - Polygraph Examination of Victims - Prohibited**

3 FOR the purpose of prohibiting certain persons involved in an investigation or  
4 prosecution of certain sexual offenses from requesting or requiring an alleged  
5 victim of certain offenses to submit to a polygraph examination under certain  
6 circumstances; providing a certain exception for alleged victims who request to  
7 take a polygraph examination or who previously made a certain false statement,  
8 report, or complaint regarding certain sexual offenses; defining certain terms;  
9 and generally relating to certain polygraph examinations of alleged victims of  
10 certain sexual offenses under certain circumstances.

11 BY adding to  
12 Article 27 - Crimes and Punishments  
13 Section 464H  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1998 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article 27 - Crimes and Punishments  
18 Section 594B(g) and (h) and 727(b)  
19 Annotated Code of Maryland  
20 (1996 Replacement Volume and 1998 Supplement)

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

23 **Article 27 - Crimes and Punishments**

24 464H.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
26 INDICATED.

27 (2) "LAW ENFORCEMENT OFFICER" MEANS A PERSON WHO IS:

1 (I) A POLICE OFFICER AS DEFINED IN § 594B(G) OF THIS ARTICLE;

2 (II) A FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN §  
3 594B(H) OF THIS ARTICLE; OR

4 (III) A LAW ENFORCEMENT OFFICER AS DEFINED IN § 727(B) OF THIS  
5 ARTICLE.

6 (3) "POLYGRAPH EXAMINATION" MEANS ANY TYPE OF MECHANICAL OR  
7 ELECTRICAL TEST OR SYSTEM USED TO EXAMINE, TEST, OR QUESTION AN  
8 INDIVIDUAL TO DETERMINE THE VERACITY OF THE RESPONSES OF THE INDIVIDUAL.

9 (4) "SEXUAL OFFENSE" MEANS A VIOLATION OF §§ 462 THROUGH 464C OF  
10 THIS ARTICLE.

11 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A STATE'S  
12 ATTORNEY, LAW ENFORCEMENT OFFICER, OR ANY OTHER PERSON INVOLVED IN AN  
13 INVESTIGATION OR PROSECUTION OF A SEXUAL OFFENSE MAY NOT REQUEST OR  
14 REQUIRE THAT THE ALLEGED VICTIM OF THE OFFENSE SUBMIT TO A POLYGRAPH  
15 EXAMINATION.

16 (C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY IF  
17 AN ALLEGED VICTIM OF A SEXUAL OFFENSE:

18 (1) REQUESTS TO TAKE A POLYGRAPH EXAMINATION; OR

19 (2) HAS PREVIOUSLY MADE A FALSE STATEMENT, REPORT, OR  
20 COMPLAINT IN VIOLATION OF § 150 OF THIS ARTICLE REGARDING A VIOLATION OF §§  
21 462 THROUGH 464C OF THIS ARTICLE.

22 594B.

23 (g) For purposes of this section, the term "police officer" means any person  
24 who, in an official capacity, is authorized by law to make arrests and who is:

25 (1) A member of the Department of State Police;

26 (2) A member of the Baltimore City Police Department;

27 (3) A member of the Baltimore City School Police Force;

28 (4) A member of the police department, bureau, or force of any county;

29 (5) A member of the police department, bureau, or force of any  
30 incorporated city or town, except Baltimore City, which is a "qualifying municipality",  
31 as defined in § 66(a)(7) and § 69 of Article 88B of this Code;

32 (6) A member of the Mass Transit Administration Police Force, or the  
33 Maryland Port Administration Police Force of the Department of Transportation or  
34 the Maryland Transportation Authority Police Force;

1 (7) A member of the University of Maryland or Morgan State University  
2 Police Force;

3 (8) Appointed, or given the powers of, a special policeman employed and  
4 compensated by the State for the enforcement of law and the maintenance of order on  
5 property of the State or of any of its agencies, or for the protection of such property,  
6 and includes a member of the Department of General Services security force;

7 (9) The sheriff of any county and whose usual duties include the making  
8 of arrests;

9 (10) A regularly employed deputy sheriff of any county and who is  
10 compensated by the county and whose usual duties include the making of arrests;

11 (11) A member of the Natural Resources Police of the Department of  
12 Natural Resources;

13 (12) A member of the Investigative Services Unit of the Comptroller's  
14 Office;

15 (13) A member of the Maryland-National Capital Park and Planning  
16 Commission Park Police;

17 (14) Housing Authority of Baltimore City Police Force;

18 (15) A member of the Crofton Police Department;

19 (16) A member of the WMATA Metro Transit Police, subject to the  
20 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan  
21 Area Transit Authority Compact, § 10-204 of the Transportation Article; or

22 (17) Subject to subsections (i) and (l)(7) of this section, the State Fire  
23 Marshal or a full-time investigative and inspection assistant of the Office of the State  
24 Fire Marshal.

25 (h) (1) (i) In this subsection the following words have the meanings  
26 indicated.

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

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

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

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

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

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

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

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

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

11 (iv) An emergency exists.

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

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

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

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

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

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

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

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

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

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

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

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

8                   (ii)     A federal law enforcement officer acting under this subsection  
9 shall have the immunity from liability described under § 5-611 of the Courts Article.  
10 727.

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

14           (1)     The Department of State Police;

15           (2)     The Baltimore City Police Department;

16           (3)     The Baltimore City School Police Force;

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

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

20           (6)     The office of the sheriff of any county or Baltimore City;

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

23           (8)     The police forces of the Department of Transportation;

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

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

26           (11)    Housing Authority of Baltimore City Police Force;

27           (12)    The Crofton Police Department;

28           (13)    The police officers of the Department of Health and Mental Hygiene;

29           (14)    The police officers of the Department of General Services;

30           (15)    The police officers of the Department of Labor, Licensing, and  
31 Regulation; or

1                   (16)     The State Fire Marshal or a full-time investigative and inspection  
2 assistant of the Office of the State Fire Marshal.

3     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 1999.