

SENATE BILL 155

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SB 640/99 - JPR

2000 Regular Session
0lr0340

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

Introduced and read first time: January 20, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of prohibiting certain persons involved in an investigation or
4 prosecution of certain sexual offenses from requiring the alleged victims of
5 certain offenses to submit to a polygraph examination under certain
6 circumstances; providing certain exceptions 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 offenses; making a certain stylistic
9 change; defining certain terms; and generally relating to certain polygraph
10 examinations of alleged victims of certain sexual offenses under certain
11 circumstances.

12 BY adding to
13 Article 27 - Crimes and Punishments
14 Section 464H
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article 27 - Crimes and Punishments
19 Section 594B(g) and (h)
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1999 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article 27 - Crimes and Punishments
24 Section 727(b)
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 1999 Supplement)

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

Article 27 - Crimes and Punishments

1
2 464H.

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

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

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

7 (II) A FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN §
8 594B(H) OF THIS ARTICLE; OR

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

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

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

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

20 (C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY IF:

21 (1) AN ALLEGED VICTIM OF A SEXUAL OFFENSE:

22 (I) REQUESTS TO TAKE A POLYGRAPH EXAMINATION; OR

23 (II) HAS PREVIOUSLY MADE A FALSE STATEMENT, REPORT, OR
24 COMPLAINT IN VIOLATION OF § 150 OF THIS ARTICLE REGARDING A VIOLATION OF §§
25 462 THROUGH 464C OF THIS ARTICLE; OR

26 (2) THE LAW ENFORCEMENT OFFICER INVESTIGATING THE OFFENSE
27 CAN REASONABLY ARTICULATE AND PRODUCE EVIDENCE TO SUSPECT THAT THE
28 VICTIM OF THE OFFENSE HAS SUPPLIED FALSE OR MISLEADING INFORMATION IN
29 VIOLATION OF § 150 OF THIS ARTICLE REGARDING FALSE STATEMENTS, REPORTS, OR
30 COMPLAINTS TO LAW ENFORCEMENT OFFICERS.

31 594B.

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

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

- 1 (2) A member of the Baltimore City Police Department;
- 2 (3) A member of the Baltimore City School Police Force;
- 3 (4) A member of the police department, bureau, or force of any county;
- 4 (5) A member of the police department, bureau, or force of any
5 incorporated city or town, except Baltimore City, which is a "qualifying municipality",
6 as defined in § 66(a)(7) and § 69 of Article 88B of this Code;
- 7 (6) A member of the Mass Transit Administration Police Force, or the
8 Maryland Port Administration Police Force of the Department of Transportation or
9 the Maryland Transportation Authority Police Force;
- 10 (7) A member of the University of Maryland or Morgan State University
11 Police Force;
- 12 (8) Appointed, or given the powers of, a special policeman employed and
13 compensated by the State for the enforcement of law and the maintenance of order on
14 property of the State or of any of its agencies, or for the protection of such property,
15 and includes a member of the Department of General Services security force;
- 16 (9) The sheriff of any county and whose usual duties include the making
17 of arrests;
- 18 (10) A regularly employed deputy sheriff of any county and who is
19 compensated by the county and whose usual duties include the making of arrests;
- 20 (11) A member of the Natural Resources Police of the Department of
21 Natural Resources;
- 22 (12) A member of the Investigative Services Unit of the Comptroller's
23 Office;
- 24 (13) A member of the Maryland-National Capital Park and Planning
25 Commission Park Police;
- 26 (14) A member of the Housing Authority of Baltimore City Police Force;
- 27 (15) A member of the Crofton Police Department;
- 28 (16) A member of the WMATA Metro Transit Police, subject to the
29 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan
30 Area Transit Authority Compact, § 10-204 of the Transportation Article;
- 31 (17) Subject to subsections (i) and (m)(7) of this section, the State Fire
32 Marshal or a full-time investigative and inspection assistant of the Office of the State
33 Fire Marshal; or
- 34 (18) A member of the internal investigative unit of the Department of
35 Public Safety and Correctional Services.

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

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

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

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

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

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

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

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

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

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

23 (iv) An emergency exists.

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

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

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

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

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

- 1 (8) The police forces of the Department of Transportation;
- 2 (9) The police officers of the Department of Natural Resources;
- 3 (10) The Investigative Services Unit of the Comptroller's Office;
- 4 (11) THE Housing Authority of Baltimore City Police Force;
- 5 (12) The Crofton Police Department;
- 6 (13) The police officers of the Department of Health and Mental Hygiene;
- 7 (14) The police officers of the Department of General Services;
- 8 (15) The police officers of the Department of Labor, Licensing, and
9 Regulation;
- 10 (16) The State Fire Marshal or a full-time investigative and inspection
11 assistant of the Office of the State Fire Marshal; or
- 12 (17) The police officers of the University System of Maryland.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2000.