

SENATE BILL 106

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2001 Regular Session  
11r0566

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By: **Senators Kelley, Hollinger, Hoffman, Bromwell, Collins, Conway,  
Currie, Della, Dorman, Dyson, Forehand, Hughes, Jacobs, Lawlah,  
McFadden, Mitchell, Ruben, and Sfikas**

Introduced and read first time: January 15, 2001

Assigned to: Judicial Proceedings

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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 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 repealing and reenacting, with amendments,  
12 Article 27 - Crimes and Punishments  
13 Section 727(b)  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 2000 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article - Criminal Procedure  
18 Section 2-101(c) and 2-104(a)  
19 Annotated Code of Maryland  
20 (As enacted by Chapter \_\_\_\_\_ (S.B.\_\_\_\_\_/H.B.\_\_\_\_\_) (11r0739) of the Acts of  
21 the General Assembly of 2001)

22 BY adding to  
23 Article - Criminal Procedure  
24 Section 2-106.1  
25 Annotated Code of Maryland  
26 (As enacted by Chapter \_\_\_\_\_ (S.B.\_\_\_\_\_/H.B.\_\_\_\_\_) (11r0739) of the Acts of  
27 the General Assembly of 2001)

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

3 **Article 27 - Crimes and Punishments**

4 727.

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

- 8 (1) The Department of State Police;
- 9 (2) The [Baltimore City] Police Department OF BALTIMORE CITY;
- 10 (3) The Baltimore City School Police Force;
- 11 (4) The police department, bureau, or force of any county;
- 12 (5) The police department, bureau, or force of any incorporated city or  
13 town;
- 14 (6) The office of the sheriff of any county or Baltimore City;
- 15 (7) The police department, bureau, or force of any bicounty agency;
- 16 (8) The Maryland Transportation Authority Police and the police forces  
17 of the Department of Transportation;
- 18 (9) The police officers of the Department of Natural Resources;
- 19 (10) The Investigative Services Unit of the Comptroller's Office;
- 20 (11) Housing Authority of Baltimore City Police Force;
- 21 (12) The Crofton Police Department;
- 22 (13) The police officers of the Department of Health and Mental Hygiene;
- 23 (14) The police officers of the Department of General Services;
- 24 (15) The police officers of the Department of Labor, Licensing, and  
25 Regulation;
- 26 (16) The State Fire Marshal or a full-time investigative and inspection  
27 assistant of the Office of the State Fire Marshal; or
- 28 (17) The police officers of the University System of Maryland.

1

**Article - Criminal Procedure**

2 2-101.

3 (c) "Police officer" means a person who in an official capacity is authorized by  
4 law to make arrests and is:

5 (1) a member of the Department of State Police;

6 (2) a member of the Police Department of Baltimore City;

7 (3) a member of the Baltimore City School Police Force;

8 (4) a member of the police department, bureau, or force of a county;

9 (5) a member of the police department, bureau, or force of a municipal  
10 corporation;

11 (6) a member of the Mass Transit Administration Police Force, Maryland  
12 Port Administration Police Force, or Maryland Transportation Authority Police Force;

13 (7) a member of the University of Maryland Police Force or Morgan State  
14 University Police Force;

15 (8) a special policeman who is appointed to enforce the law and maintain  
16 order on or protect property of the State or any of its units;

17 (9) a member of the Department of General Services security force;

18 (10) the sheriff of a county and whose usual duties include the making of  
19 arrests;

20 (11) a regularly employed deputy sheriff of a county who is compensated  
21 by the county and whose usual duties include the making of arrests;

22 (12) a member of the Natural Resources Police Force of the Department of  
23 Natural Resources;

24 (13) an authorized employee of the Investigative Services Unit of the  
25 Comptroller's Office;

26 (14) a member of the Maryland-National Capital Park and Planning  
27 Commission Park Police;

28 (15) a member of the Housing Authority of Baltimore City Police Force;

29 (16) a member of the Crofton Police Department;

30 (17) a member of the WMATA Metro Transit Police, subject to the  
31 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan

1 Area Transit Authority Compact, which is codified at § 10-204 of the Transportation  
2 Article;

3 (18) a member of the Internal Investigative Unit of the Department; or

4 (19) a member of the State Forest and Park Service Police Force of the  
5 Department of Natural Resources.

6 2-104.

7 (a) In this section, "federal law enforcement officer" means an officer who  
8 may:

9 (1) make an arrest with or without a warrant for violations of the United  
10 States Code; and

11 (2) carry firearms in the performance of the officer's duties.

12 2-106.1.

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

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

16 (I) A POLICE OFFICER AS DEFINED IN § 2-101(C) OF THIS ARTICLE;

17 (II) A FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN §  
18 2-104(A) OF THIS ARTICLE; OR

19 (III) A LAW ENFORCEMENT OFFICER AS DEFINED IN ARTICLE 27, §  
20 727(B) OF THE CODE.

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

24 (4) "SEXUAL OFFENSE" MEANS A VIOLATION OF ARTICLE 27, §§ 462  
25 THROUGH 464C OF THE CODE.

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

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

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

1                   (2)       HAS PREVIOUSLY MADE A FALSE STATEMENT, REPORT, OR  
2 COMPLAINT IN VIOLATION OF ARTICLE 27, § 150 OF THE CODE REGARDING A  
3 VIOLATION OF ARTICLE 27, §§ 462 THROUGH 464C OF THE CODE.

4       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2001.