

HOUSE BILL 248

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E2

2002 Regular Session  
2lr0550  
CF 2lr0378

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By: **Delegates Grosfeld, Barkley, Cole, Goldwater, Kagan, Kopp, and Menes**  
Introduced and read first time: January 21, 2002  
Assigned to: Judiciary

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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 requiring an alleged victim of certain  
5 offenses to submit to a polygraph examination under certain circumstances;  
6 providing a certain exception for alleged victims who request to take a polygraph  
7 examination or who previously made a certain false statement, report, or  
8 complaint regarding certain sexual offenses; defining certain terms; and  
9 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 2001 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 (2001 Volume)

21 BY adding to  
22 Article - Criminal Procedure  
23 Section 2-106.1  
24 Annotated Code of Maryland  
25 (2001 Volume)

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

1

**Article 27 - Crimes and Punishments**

2 727.

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

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

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 Maryland Transit Administration Police Force,  
12 Maryland Port Administration Police Force, or Maryland Transportation Authority  
13 Police Force;

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

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

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

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

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

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

25 (13) an authorized employee of the Field Enforcement Division of the  
26 Comptroller's Office;

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

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

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

31 (17) a member of the WMATA Metro Transit Police, subject to the  
32 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;

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

6 (20) a member of the Department of Labor, Licensing, and Regulation  
7 Police Force.

8 2-104.

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

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

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

14 2-106.1.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
16 INDICATED.

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

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

19 (II) A FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN §  
20 2-104(A) OF THIS SUBTITLE; OR

21 (III) A LAW ENFORCEMENT OFFICER AS DEFINED IN ARTICLE 27, §  
22 727(B) OF THE CODE.

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

26 (4) "SEXUAL OFFENSE" MEANS A VIOLATION OF §§ 3-303 THROUGH 3-308  
27 OF THE CRIMINAL LAW ARTICLE.

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

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

- 1           (1)       REQUESTS TO TAKE A POLYGRAPH EXAMINATION; OR
- 2           (2)       HAS PREVIOUSLY MADE A FALSE STATEMENT, REPORT, OR
- 3 COMPLAINT IN VIOLATION OF § 9-401 OF THE CRIMINAL LAW ARTICLE REGARDING A
- 4 VIOLATION OF §§ 3-303 THROUGH 3-308 OF THE CRIMINAL LAW ARTICLE.

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

6 October 1, 2002.