
By: **Delegates Montague, Doory, Grosfeld, Cole, Menes, Amedori, and Hutchins**

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Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Sexual Offenses - Reputation and Opinion Evidence - Admissibility**

3 FOR the purpose of applying to sexual crimes, the sexual abuse of a minor, and lesser
4 included crimes a prohibition against admitting in a prosecution reputation and
5 opinion evidence relating to a victim's chastity or ~~prior sexual activity~~
6 abstinence; and generally relating to a prohibition against admitting in a
7 prosecution reputation and opinion evidence relating to a victim's chastity or
8 ~~prior sexual activity~~ abstinence.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Law
11 Section 3-317
12 Annotated Code of Maryland
13 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
14 2002)

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

17 **Article - Criminal Law**

18 3-317.

19 (a) Evidence relating to a victim's reputation for chastity OR ~~PRIOR SEXUAL~~
20 ~~ACTIVITY~~ ABSTINENCE and opinion evidence relating to a victim's chastity OR ~~PRIOR~~
21 ~~SEXUAL ACTIVITY~~ ABSTINENCE may not be admitted in a prosecution for [rape, a

1 sexual offense in the first or second degree, attempted rape, or an attempted sexual
2 offense in the first or second degree];

3 (1) A CRIME SPECIFIED UNDER THIS SUBTITLE OR A LESSER
4 INCLUDED CRIME; OR

5 (2) THE SEXUAL ABUSE OF A MINOR UNDER § 3-601 OF THIS TITLE
6 OR A LESSER INCLUDED CRIME.

7 (b) Evidence of a specific instance of a victim's prior sexual conduct may be
8 admitted in a prosecution [for rape, a sexual offense in the first or second degree,
9 attempted rape, or an attempted sexual offense in the first or second degree]
10 DESCRIBED IN SUBSECTION (A) OF THIS SECTION only if the judge finds that:

11 (1) the evidence is relevant;

12 (2) the evidence is material to a fact in issue in the case;

13 (3) the inflammatory or prejudicial nature of the evidence does not
14 outweigh its probative value; and

15 (4) the evidence:

16 (i) is of the victim's past sexual conduct with the defendant;

17 (ii) is of a specific instance of sexual activity showing the source or
18 origin of semen, pregnancy, disease, or trauma;

19 (iii) supports a claim that the victim has an ulterior motive to
20 accuse the defendant of the crime; or

21 (iv) is offered for impeachment after the prosecutor has put the
22 victim's prior sexual conduct in issue.

23 (c) (1) Evidence described in subsection (a) or (b) of this section may not be
24 referred to in a statement to a jury or introduced in a trial unless the court has first
25 held a closed hearing under paragraph (2) of this subsection and determined that the
26 evidence is admissible.

27 (2) The court may reconsider a ruling excluding the evidence and hold an
28 additional closed hearing if new information is discovered during the course of the
29 trial that may make the evidence admissible.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2002.

