

SENATE BILL 212

Unofficial Copy
E2

2002 Regular Session
2r1382
CF 2r1446

By: **Senator Sfikas**

Introduced and read first time: January 18, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

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; and
6 generally relating to a prohibition against admitting in a prosecution reputation
7 and opinion evidence relating to a victim's chastity or prior sexual activity.

8 BY repealing and reenacting, with amendments,

9 Article - Criminal Law

10 Section 3-317

11 Annotated Code of Maryland

12 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
13 2002)

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

16 **Article - Criminal Law**

17 3-317.

18 (a) Evidence relating to a victim's reputation for chastity OR PRIOR SEXUAL
19 ACTIVITY and opinion evidence relating to a victim's chastity OR PRIOR SEXUAL
20 ACTIVITY may not be admitted in a prosecution for [rape, a sexual offense in the first
21 or second degree, attempted rape, or an attempted sexual offense in the first or
22 second degree]:

23 (1) A CRIME SPECIFIED UNDER THIS SUBTITLE OR A LESSER
24 INCLUDED CRIME; OR

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

27 (b) Evidence of a specific instance of a victim's prior sexual conduct may be
28 admitted in a prosecution [for rape, a sexual offense in the first or second degree,

1 attempted rape, or an attempted sexual offense in the first or second degree]
2 DESCRIBED IN SUBSECTION (A) OF THIS SECTION only if the judge finds that:

3 (1) the evidence is relevant;

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

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

7 (4) the evidence:

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

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

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

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

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

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

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