

SENATE BILL 212

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2002 Regular Session  
2r1382  
CF 2r1446

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By: **Senator Sfikas**

Introduced and read first time: January 18, 2002

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 13, 2002

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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; 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]:

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

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

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

9 (1) the evidence is relevant;

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

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

13 (4) the evidence:

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

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

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

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

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

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

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

