

HOUSE BILL 196

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2003 Regular Session
(31r0961)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Menes, Anderson, Barkley, Benson, Boschert, Bozman, Brown, Cadden, Cardin, Conroy, DeBoy, Doory, Dwyer, Eckardt, Frush, Gaines, Goldwater, Hutchins, James, Jameson, Kelley, Kelly, King, Kirk, Lee, Love, Madaleno, Marriott, Moe, Montgomery, Morhaim, Nathan-Pulliam, Niemann, Parker, Patterson, Petzold, Quinter, Ross, Simmons, Sophocleus, V. Turner, Vallario, and Zirkin**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Sexual Offenses - Reputation and Opinion Evidence and Evidence of Prior**
3 **Sexual Conduct - Admissibility**

4 FOR the purpose of *expanding the application to certain sexual offenses and* applying
5 to sexual crimes against both males and females, the sexual abuse of a minor,
6 the sexual abuse of a vulnerable adult, and lesser included crimes a prohibition
7 against admitting in a prosecution reputation and opinion evidence relating to a
8 victim's chastity or abstinence; *expanding the application to certain sexual*
9 *offenses and* applying to sexual crimes against both males and females, the
10 sexual abuse of a minor, the sexual abuse of a vulnerable adult, and lesser
11 included crimes an authorization for admitting in a prosecution under certain
12 circumstances a specific instance of a victim's prior sexual conduct; making a

1 technical change; and generally relating to admissibility of reputation and
 2 opinion evidence and evidence of certain prior sexual ~~contact~~ conduct.

3 BY repealing and reenacting, with amendments,
 4 Article - Criminal Law
 5 Section 3-319
 6 Annotated Code of Maryland
 7 (2002 Volume)

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

10 **Article - Criminal Law**

11 3-319.

12 (a) Evidence relating to a victim's reputation for chastity OR ABSTINENCE and
 13 opinion evidence relating to a victim's chastity OR ABSTINENCE may not be admitted
 14 in a prosecution for [rape, a sexual offense in the first or second degree, attempted
 15 rape, or an attempted sexual offense in the first or second degree]:

16 (1) A CRIME SPECIFIED UNDER THIS SUBTITLE OR A LESSER INCLUDED
 17 CRIME; ~~OR~~

18 (2) THE SEXUAL ABUSE OF A MINOR UNDER ~~§ 3-604~~ § 3-602 OF THIS
 19 TITLE OR A LESSER INCLUDED CRIME; OR

20 (3) THE SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 ~~OR~~ §
 21 ~~3-605~~ OF THIS TITLE OR A LESSER INCLUDED CRIME.

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

26 (1) the evidence is relevant;

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

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

30 (4) the evidence:

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

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

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

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

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

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect October 1, 2003.