

HOUSE BILL 196

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2003 Regular Session  
3r0961  
CF 3r1602

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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**

Introduced and read first time: January 29, 2003  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 25, 2003

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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 applying to sexual crimes against both males and females, the  
5 sexual abuse of a minor, the sexual abuse of a vulnerable adult, and lesser  
6 included crimes a prohibition against admitting in a prosecution reputation and  
7 opinion evidence relating to a victim's chastity or abstinence; applying to sexual  
8 crimes against both males and females, the sexual abuse of a minor, the sexual  
9 abuse of a vulnerable adult, and lesser included crimes an authorization for  
10 admitting in a prosecution under certain circumstances a specific instance of a  
11 victim's prior sexual conduct; making a technical change; and generally relating  
12 to admissibility of reputation and opinion evidence and evidence of prior sexual  
13 contact.

14 BY repealing and reenacting, with amendments,  
15 Article - Criminal Law  
16 Section 3-319  
17 Annotated Code of Maryland  
18 (2002 Volume)

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

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**Article - Criminal Law**

2 3-319.

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

7 (1) A CRIME SPECIFIED UNDER THIS SUBTITLE OR A LESSER INCLUDED  
8 CRIME; ~~OR~~

9 (2) THE SEXUAL ABUSE OF A MINOR UNDER ~~§ 3-601~~ § 3-602 OF THIS  
10 TITLE OR A LESSER INCLUDED CRIME; OR

11 (3) THE SEXUAL ABUSE OF A VULNERABLE ADULT UNDER § 3-604 OR §  
12 3-605 OF THIS TITLE OR A LESSER INCLUDED CRIME.

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

17 (1) the evidence is relevant;

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

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

21 (4) the evidence:

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

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

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

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

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

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

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