

SENATE BILL 453

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2003 Regular Session
3r1602
CF 3r0961

By: **Senators Forehand, Currie, Giannetti, Grosfeld, Hollinger, Jimeno,
Kelley, Lawlah, Middleton, and Teitelbaum**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

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

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

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

20 **Article - Criminal Law**

21 3-319.

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

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

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

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

7 (1) the evidence is relevant;

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

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

11 (4) the evidence:

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

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

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

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

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

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

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