

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~~ Teitelbaum, Brochin, Frosh,
Garagiola, Green, and Jacobs**

Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 18, 2003

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
13 technical change; and generally relating to admissibility of reputation and
14 opinion evidence and evidence of certain prior sexual contact conduct.

15 BY repealing and reenacting, with amendments,
16 Article - Criminal Law
17 Section 3-319
18 Annotated Code of Maryland
19 (2002 Volume)

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

1

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 OF
12 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.