

SENATE BILL 41

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P3

2004 Regular Session
4r0068

(PRE-FILED)

By: **Chairman, Judicial Proceedings Committee (By Request -
Departmental - Public Safety and Correctional Services)**

Requested: November 3, 2003

Introduced and read first time: January 14, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Public Safety and Correctional Services - Use of Lie Detector**
3 **or Similar Test for Employment Purposes**

4 FOR the purpose of altering the application of certain provisions of law relating to lie
5 detector or similar test for individuals who are employees of or applicants for
6 assignment to the Internal Investigative Unit of the Department of Public
7 Safety and Correctional Services; and generally relating to the use of lie detector
8 or similar test for employment purposes.

9 BY repealing and reenacting, with amendments,
10 Article - Labor and Employment
11 Section 3-702
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2003 Supplement)

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

16 **Article - Labor and Employment**

17 3-702.

18 (a) In this section, "employer" means:

19 (1) a person engaged in a business, industry, profession, trade, or other
20 enterprise in the State;

21 (2) the State;

22 (3) a county; and

23 (4) a municipal corporation in the State.

1 (b) (1) This section does not apply to the federal government or any of its
2 units.

3 (2) [This section does not apply to an individual who is an employee of
4 the Division of Correction and applies for assignment or is assigned to the special
5 internal investigative unit that the Commissioner of Correction expressly
6 authorizes.] THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO IS AN
7 EMPLOYEE OF OR APPLIES FOR ASSIGNMENT TO THE INTERNAL INVESTIGATIVE
8 UNIT OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

9 (3) This section does not apply to an individual who applies for
10 employment or is employed:

11 (i) as a law enforcement officer, as defined in § 3-101 of the Public
12 Safety Article;

13 (ii) as an employee of a law enforcement agency of the State, a
14 county, or a municipal corporation;

15 (iii) as a communications officer of the Calvert County Control
16 Center;

17 (iv) as a correctional officer of the Calvert County Detention Center
18 or in any other capacity that involves direct personal contact with an inmate in the
19 Detention Center;

20 (v) as a correctional officer of the Washington County Detention
21 Center or in any other capacity that involves direct personal contact with an inmate
22 in the Center; or

23 (vi) as a correctional officer of:

24 1. the Baltimore City Jail;

25 2. the Baltimore County Detention Center;

26 3. the Cecil County Detention Center;

27 4. the Charles County Detention Center;

28 5. the Frederick County Adult Detention Center;

29 6. the Harford County Detention Center; or

30 7. the St. Mary's County Detention Center.

31 (4) This section does not apply to an applicant for employment as a
32 correctional officer with the Department of Corrections for Prince George's County.

1 (c) An employer may not require or demand, as a condition of employment,
2 prospective employment, or continued employment, that an individual submit to or
3 take a lie detector or similar test.

4 (d) (1) Each application for employment shall set out, in bold-faced upper
5 case type, the following notice:

6 "Under Maryland law, an employer may not require or demand, as a condition of
7 employment, prospective employment, or continued employment, that an individual
8 submit to or take a lie detector or similar test. An employer who violates this law is
9 guilty of a misdemeanor and subject to a fine not exceeding \$100."

10 (2) Each application shall provide a space for an applicant to sign an
11 acknowledgment of the notice required under this subsection.

12 (e) An applicant shall sign the acknowledgment of the notice required under
13 subsection (d) of this section.

14 (f) If an employer violates subsection (c) or (d) of this section, an applicant for
15 employment or prospective employment or an employee may submit to the
16 Commissioner a written complaint.

17 (g) (1) Whenever the Commissioner determines that this section has been
18 violated, the Commissioner may:

19 (i) try to resolve any issue involved in the violation informally by
20 mediation; or

21 (ii) ask the Attorney General to bring an action on behalf of the
22 applicant or employee.

23 (2) The Attorney General may bring an action under this section in the
24 county where the violation allegedly occurred, for injunctive relief, damages, or other
25 relief.

26 (h) An employer who violates any provision of this section is guilty of a
27 misdemeanor and on conviction is subject to a fine not exceeding \$100.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2004.