
By: **Senators Kelley, Britt, Conway, Forehand, Grosfeld, Hollinger, Hughes,
Jones, Kramer, Lawlah, Pinsky, Ruben, and Stone**

Introduced and read first time: January 20, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenses - Polygraph Examination of Alleged Victims - Prohibited**

3 FOR the purpose of prohibiting certain persons involved in an investigation or
4 prosecution of certain sexual offenses from requesting or requiring an alleged
5 victim of certain offenses to submit to a polygraph examination under certain
6 circumstances; providing a certain exception for alleged victims who request to
7 take a polygraph examination or who previously made a certain false statement,
8 report, or complaint regarding certain sexual offenses; defining certain terms;
9 and generally relating to certain polygraph examinations of alleged victims of
10 certain sexual offenses under certain circumstances.

11 BY repealing and reenacting, without amendments,
12 Article - Criminal Procedure
13 Section 2-101(c) and 2-104(a)
14 Annotated Code of Maryland
15 (2001 Volume and 2004 Supplement)

16 BY adding to
17 Article - Criminal Procedure
18 Section 2-106.1
19 Annotated Code of Maryland
20 (2001 Volume and 2004 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Public Safety
23 Section 3-101(e)
24 Annotated Code of Maryland
25 (2003 Volume and 2004 Supplement)

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

1

Article - Criminal Procedure

2 2-101.

3 (c) "Police officer" means a person who in an official capacity is authorized by
4 law to make arrests and is:

5 (1) a member of the Department of State Police;

6 (2) a member of the Police Department of Baltimore City;

7 (3) a member of the Baltimore City School Police Force;

8 (4) a member of the police department, bureau, or force of a county;

9 (5) a member of the police department, bureau, or force of a municipal
10 corporation;

11 (6) a member of the Maryland Transit Administration Police Force,
12 Maryland Port Administration Police Force, or Maryland Transportation Authority
13 Police Force;

14 (7) a member of the University of Maryland Police Force or Morgan State
15 University Police Force;

16 (8) a special police officer who is appointed to enforce the law and
17 maintain order on or protect property of the State or any of its units;

18 (9) a member of the Department of General Services security force;

19 (10) the sheriff of a county whose usual duties include the making of
20 arrests;

21 (11) a regularly employed deputy sheriff of a county who is compensated
22 by the county and whose usual duties include the making of arrests;

23 (12) a member of the Natural Resources Police Force of the Department of
24 Natural Resources;

25 (13) an authorized employee of the Field Enforcement Division of the
26 Comptroller's Office;

27 (14) a member of the Maryland-National Capital Park and Planning
28 Commission Park Police;

29 (15) a member of the Housing Authority of Baltimore City Police Force;

30 (16) a member of the Crofton Police Department;

31 (17) a member of the WMATA Metro Transit Police, subject to the
32 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan

1 Area Transit Authority Compact, which is codified at § 10-204 of the Transportation
2 Article;

3 (18) a member of the Internal Investigative Unit of the Department;

4 (19) a member of the State Forest and Park Service Police Force of the
5 Department of Natural Resources;

6 (20) a member of the Department of Labor, Licensing, and Regulation
7 Police Force; or

8 (21) a member of the Washington Suburban Sanitary Commission Police
9 Force.

10 2-104.

11 (a) In this section, "federal law enforcement officer" means an officer who
12 may:

13 (1) make an arrest with or without a warrant for violations of the United
14 States Code; and

15 (2) carry firearms in the performance of the officer's duties.

16 2-106.1.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "LAW ENFORCEMENT OFFICER" MEANS A PERSON WHO IS:

20 (I) A POLICE OFFICER AS DEFINED IN § 2-101(C) OF THIS SUBTITLE;

21 (II) A FEDERAL LAW ENFORCEMENT OFFICER AS DEFINED IN §
22 2-104(A) OF THIS SUBTITLE; OR

23 (III) A LAW ENFORCEMENT OFFICER AS DEFINED IN § 3-101(E) OF
24 THE PUBLIC SAFETY ARTICLE.

25 (3) "POLYGRAPH EXAMINATION" MEANS ANY TYPE OF MECHANICAL OR
26 ELECTRICAL TEST OR SYSTEM USED TO EXAMINE, TEST, OR QUESTION AN
27 INDIVIDUAL TO DETERMINE THE VERACITY OF THE RESPONSES OF THE INDIVIDUAL.

28 (4) "SEXUAL OFFENSE" MEANS A VIOLATION OF §§ 3-303 THROUGH 3-312
29 OF THE CRIMINAL LAW ARTICLE.

30 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A STATE'S
31 ATTORNEY, LAW ENFORCEMENT OFFICER, OR ANY OTHER PERSON INVOLVED IN AN
32 INVESTIGATION OR PROSECUTION OF A SEXUAL OFFENSE MAY NOT REQUEST OR
33 REQUIRE THAT THE ALLEGED VICTIM OF THE OFFENSE SUBMIT TO A POLYGRAPH
34 EXAMINATION.

1 (C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY IF
2 AN ALLEGED VICTIM OF A SEXUAL OFFENSE:

3 (1) REQUESTS TO TAKE A POLYGRAPH EXAMINATION; OR

4 (2) HAS PREVIOUSLY MADE A FALSE STATEMENT, REPORT, OR
5 COMPLAINT IN VIOLATION OF § 9-501 OF THE CRIMINAL LAW ARTICLE REGARDING
6 AN ALLEGED VIOLATION OF A SEXUAL OFFENSE.

7 **Article - Public Safety**

8 3-101.

9 (e) (1) "Law enforcement officer" means an individual who:

10 (i) in an official capacity is authorized by law to make arrests; and

11 (ii) is a member of one of the following law enforcement agencies:

12 1. the Department of State Police;

13 2. the Police Department of Baltimore City;

14 3. the Baltimore City School Police Force;

15 4. the Baltimore City Watershed Police Force;

16 5. the police department, bureau, or force of a county;

17 6. the police department, bureau, or force of a municipal
18 corporation;

19 7. the office of the sheriff of a county;

20 8. the police department, bureau, or force of a bicounty
21 agency;

22 9. the Maryland Transportation Authority Police;

23 10. the police forces of the Department of Transportation;

24 11. the police forces of the Department of Natural Resources;

25 12. the Field Enforcement Division of the Comptroller's
26 Office;

27 13. the Housing Authority of Baltimore City Police Force;

28 14. the Crofton Police Department;

- 1
2 Hygiene;
- 3
4
5 Regulation;
- 6
7
8
15. the police force of the Department of Health and Mental
16. the police force of the Department of General Services;
17. the police force of the Department of Labor, Licensing, and
18. the police forces of the University System of Maryland;
19. the police force of Morgan State University; or
20. the office of State Fire Marshal.

9 (2) "Law enforcement officer" does not include:

10 (i) an individual who serves at the pleasure of the Police
11 Commissioner of Baltimore City;

12 (ii) an individual who serves at the pleasure of the appointing
13 authority of a charter county;

14 (iii) the police chief of a municipal corporation;

15 (iv) an officer who is in probationary status on initial entry into the
16 law enforcement agency except if an allegation of brutality in the execution of the
17 officer's duties is made; or

18 (v) a Montgomery County fire and explosive investigator as defined
19 in § 2-208.1 of the Criminal Procedure Article.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2005.