

HOUSE BILL 1154

E2
SB 166/05 – JPR

9lr2213

By: **Delegates Montgomery, Carr, V. Clagett, Doory, Dumais, Frush, Howard, Jameson, Krysiak, Lee, Levy, Love, and Riley**
Introduced and read first time: February 13, 2009
Assigned to: Judiciary

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 (2008 Replacement Volume)

16 BY adding to
17 Article – Criminal Procedure
18 Section 2–106.1
19 Annotated Code of Maryland
20 (2008 Replacement Volume)

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 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

4 2–101.

5 (c) “Police officer” means a person who in an official capacity is authorized by
6 law to make arrests and is:

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

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

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

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

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

13 (6) a member of the Maryland Transit Administration Police Force or
14 Maryland Transportation Authority Police Force;

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

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

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

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

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

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

26 (13) an authorized employee of the Field Enforcement Bureau of the
27 Comptroller’s Office;

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

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

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

2 (17) a member of the WMATA Metro Transit Police, subject to the
3 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area
4 Transit Authority Compact, which is codified at § 10-204 of the Transportation
5 Article;

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

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

9 (20) a member of the Department of Labor, Licensing, and Regulation
10 Police Force;

11 (21) a member of the Washington Suburban Sanitary Commission
12 Police Force;

13 (22) a member of the Ocean Pines Police Department; or

14 (23) a member of the police force of the Baltimore City Community
15 College.

16 2-104.

17 (a) In this section, “federal law enforcement officer” means an officer who
18 may:

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

21 (2) carry firearms in the performance of the officer’s duties.

22 **2-106.1.**

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
24 MEANINGS INDICATED.

25 (2) “LAW ENFORCEMENT OFFICER” MEANS A PERSON WHO IS:

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

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

1 (III) A LAW ENFORCEMENT OFFICER AS DEFINED IN §
2 3-101(E) OF THE PUBLIC SAFETY ARTICLE.

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

7 (4) "SEXUAL OFFENSE" MEANS A VIOLATION OF TITLE 3,
8 SUBTITLE 3, § 3-601, § 3-602, § 3-604, OR § 3-605 OF THE CRIMINAL LAW
9 ARTICLE.

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

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

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

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

21 **Article - Public Safety**

22 3-101.

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

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

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

28 1. the Department of State Police;

29 2. the Police Department of Baltimore City;

30 3. the Baltimore City School Police Force;

- 1 4. the Baltimore City Watershed Police Force;
- 2 5. the police department, bureau, or force of a county;
- 3 6. the police department, bureau, or force of a municipal
- 4 corporation;
- 5 7. the office of the sheriff of a county;
- 6 8. the police department, bureau, or force of a bicounty
- 7 agency;
- 8 9. the Maryland Transportation Authority Police;
- 9 10. the police forces of the Department of Transportation;
- 10 11. the police forces of the Department of Natural
- 11 Resources;
- 12 12. the Field Enforcement Bureau of the Comptroller's
- 13 Office;
- 14 13. the Housing Authority of Baltimore City Police Force;
- 15 14. the Crofton Police Department;
- 16 15. the police force of the Department of Health and
- 17 Mental Hygiene;
- 18 16. the police force of the Department of General
- 19 Services;
- 20 17. the police force of the Department of Labor, Licensing,
- 21 and Regulation;
- 22 18. the police forces of the University System of
- 23 Maryland;
- 24 19. the police force of Morgan State University;
- 25 20. the office of State Fire Marshal;
- 26 21. the Ocean Pines Police Department; or
- 27 22. the police force of the Baltimore City Community
- 28 College.

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

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

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

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

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

9 (v) a Montgomery County fire and explosive investigator as
10 defined in § 2-208.1 of the Criminal Procedure Article;

11 (vi) an Anne Arundel County or City of Annapolis fire and
12 explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article;

13 (vii) a Prince George's County fire and explosive investigator as
14 defined in § 2-208.3 of the Criminal Procedure Article;

15 (viii) a Worcester County fire and explosive investigator as
16 defined in § 2-208.4 of the Criminal Procedure Article; or

17 (ix) a City of Hagerstown fire and explosive investigator as
18 defined in § 2-208.5 of the Criminal Procedure Article.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2009.