

HOUSE BILL 1304

E4

4lr2531

By: **Delegates Carter, Anderson, Glenn, and B. Robinson**

Introduced and read first time: February 7, 2014

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights – Interrogation Right to Counsel –**
3 **Suspension Period and Appointment**

4 FOR the purpose of repealing a certain provision of law authorizing an interrogation of
5 a law enforcement officer to be suspended until the officer can obtain
6 representation; requiring a certain representative for a law enforcement officer
7 to be appointed by a certain entity under certain circumstances; requiring a
8 representative appointed under this Act to represent the law enforcement
9 officer at all times during the investigation unless the representative is replaced
10 or the officer waives the right to counsel; and generally relating to the right to
11 counsel during an interrogation under the Law Enforcement Officers' Bill of
12 Rights.

13 BY repealing and reenacting, with amendments,
14 Article – Public Safety
15 Section 3–104(j)
16 Annotated Code of Maryland
17 (2011 Replacement Volume and 2013 Supplement)

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

20 **Article – Public Safety**

21 3–104.

22 (j) (1) (i) **[On] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, ON** request, the law enforcement officer under interrogation has the
24 right to be represented by counsel or another responsible representative of the law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 enforcement officer's choice who shall be present and available for consultation at all
2 times during the interrogation.

3 (ii) The law enforcement officer may waive the right described
4 in subparagraph (i) of this paragraph.

5 [(2) (i) The interrogation shall be suspended for a period not
6 exceeding 10 days until representation is obtained.

7 (ii) Within that 10-day period, the chief for good cause shown
8 may extend the period for obtaining representation.]

9 (2) (I) IF THE COUNSEL OR REPRESENTATIVE CHOSEN BY THE
10 LAW ENFORCEMENT OFFICER UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION IS
11 NOT AVAILABLE FOR AN IMMEDIATE INTERROGATION OF THE LAW
12 ENFORCEMENT OFFICER, A REPRESENTATIVE FOR THE OFFICER SHALL BE
13 APPOINTED BY:

14 1. IF THE LAW ENFORCEMENT AGENCY OR THE
15 AGENCY'S SUPERIOR GOVERNMENTAL AUTHORITY HAS RECOGNIZED AND
16 CERTIFIED AN EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE, THE
17 COLLECTIVE BARGAINING REPRESENTATIVE; OR

18 2. THE CHIEF OF THE LAW ENFORCEMENT AGENCY.

19 (II) A REPRESENTATIVE APPOINTED UNDER
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REPRESENT THE LAW
21 ENFORCEMENT OFFICER AT ALL TIMES DURING THE INVESTIGATION UNLESS:

22 1. THE REPRESENTATIVE IS REPLACED WITH
23 ANOTHER REPRESENTATIVE CHOSEN BY THE OFFICER; OR

24 2. THE OFFICER WAIVES THE RIGHT TO COUNSEL
25 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

26 (3) During the interrogation, the law enforcement officer's counsel or
27 representative may:

28 (i) request a recess at any time to consult with the law
29 enforcement officer;

30 (ii) object to any question posed; and

31 (iii) state on the record outside the presence of the law
32 enforcement officer the reason for the objection.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2014.