



**Testimony for the House Judiciary Committee  
January 18, 2021**

**HB 411 Criminal Law - Law Enforcement Officers - Prohibition on  
Sexual Activity**

**FAVORABLE**

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The ACLU of Maryland supports HB 411, which expands the list of individuals a law enforcement officer is statutorily prohibited from engaging in a sexual act with to include a victim, witness, or suspect in an investigation during the course of an investigation that the law enforcement officer is conducting, supervising, or assisting with. In addition, the bill prohibits law enforcement from engaging in a sexual act with a person requesting assistance from or responding to the law enforcement officer in the course of the law enforcement officer's official duties.<sup>1</sup>

Police officers have an enormous amount of power when interacting with or detaining civilians. Their decisions could put someone behind bars for days, months, or years. Charging someone with a crime, even if they are not convicted, can impact a person's job prospects, housing status, and other critical aspects of their lives. Anyone who has ever interacted with a police officer understands this lopsided power dynamic. When police officers engage in sexual misconduct, they are taking advantage of this imbalance.<sup>2</sup>

The 2016 Department of Justice investigation of the Baltimore City Police Department revealed that "some police officers coerced members of a vulnerable population into having sex, particularly sex workers, in exchange for avoiding arrest, for cash, and even narcotics."<sup>3</sup> Police sexual misconduct is inflicted disproportionately on vulnerable members of society, including women of color, sex workers, drug users, immigrants, people with disabilities, LGBT people, and victims of domestic violence — which underscores the abuse of authority inherent in this type of abuse.

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<sup>1</sup> HB 764 Criminal Law- Law Enforcement Officers- Prohibition on Sexual Activity, Fiscal and Policy Note (2020).

<sup>2</sup> See NYPD Police Officers Union Wants to Keep Sexual Misconduct Under Wraps for a discussion of sexual assault perpetuated by the New York City Police Department, available at <https://www.aclu.org/blog/womens-rights/women-and-criminal-justice/nypd-police-officers-union-wants-keep-sexual>.

<sup>3</sup> Massie, V. (2016). Department of Justice: Baltimore cops "coerced sex in exchange for immunity from arrest." <https://www.vox.com/2016/8/10/12429214/baltimore-police-investigation-justice-department-sexual-misconduct>

Unfortunately, police sexual misconduct is alarmingly common. A recent survey of over 700 cases of sexual misconduct by law enforcement personnel nationally showed that, on average, a police officer is caught in an act of sexual misconduct at least every five days.<sup>4</sup> Another found that in just one year 618 officers were implicated in sexual misconduct, making it the second most commonly reported form of police misconduct after excessive use of force.<sup>5</sup> These numbers are also under-inclusive. We know that only one in three women report sexual assault generally, and those numbers are surely lower when victims are told to report the abuse to the very people who perpetrated it.<sup>6</sup>

In 2018, the Maryland General Assembly passed legislation to prohibit law enforcement officers from engaging in sexual acts with individuals in custody. HB 411 seeks to fix the gap in our current law by expanding the list of individuals law enforcement officers are prohibited from engaging in sexual acts with.

For the forgoing reasons the ACLU of Maryland urges a favorable report on HB 411.

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<sup>4</sup> Abusing the Law - The Buffalo News.  
<https://s3.amazonaws.com/bncore/projects/abusing-the-law/data.html>

<sup>5</sup> THE CATO INSTITUTE'S NATIONAL POLICE MISCONDUCT REPORTING PROJECT. (2013).

<sup>6</sup> The Criminal Justice System: Statistics | RAINN. (2020).  
<https://www.rainn.org/statistics/criminal-justice-system>

