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HB439–Polygraph Examinations of Employees

DATE: February 21, 2023
COMMITTEE: House Judiciary Committee
POSITION: Favorable/Support
FROM: Charles A. Jenkins, Sheriff of Frederick County Maryland

Thank you for your consideration of HB439–Polygraph Examinations of Employees. As the Sheriff of Frederick County in Frederick County Maryland, I urge the committee to give HB439 a FAVORABLE report.

I'm taking this opportunity to submit written testimony requesting full committee support for HB 439, allowing for polygraph testing of prospective county employees working within the Frederick County Adult Detention Center who are in direct contact with, or may have direct contact with inmates.

Currently, all correctional officers and some other Sheriff's Office employees at the detention working in direct contact with inmates must pass a polygraph examination as a condition of prospective or continued employment for that position. This requirement has been in place for decades.

This current legislation was proposed by Frederick County Government as the result of the one situation in 2022, when a then current county government maintenance employee was to be re-assigned to work within the detention center. The employee's job in facility maintenance required him to work within the secure area of the detention center within the inmate population daily.

This job assignment required the maintenance employee to submit and successfully pass a polygraph examination conducted by the Sheriff's Office. There was an objection by County Human Resources to the polygraph, citing it was unlawful to require the polygraph, which was and is the policy of the Frederick County Sheriff's Office. The employee eventually voluntarily submitted to the polygraph which he successfully passed. He is currently working at the detention center within the inmate population on a daily- basis as a facility maintenance technician.

It is my position that the polygraph examination is a necessary part of a broader overall background investigation to establish the truthfulness of an individual on a wide range of topics / issues. This is often critical in assisting the employer (the Sheriff's Office) in making the determination to hire that individual.

It is a fact that the polygraph examination is not admissible in a court of law however pre and post test are admissible. The polygraph (or lie detector) itself is recognized as a "Scientific truth detection tool", with the examination administered by a trained, certified, polygraph examiner. Testing combines interrogation with physiological measurements that include respirations, heart rate, blood pressure, and electrodermal response. It is a very reliable tool used to assist in determining the level of honesty and integrity in a person's character. The actual pre-test interview is also critical to obtain information into any potential criminal activity that may disqualify the person from being hired.

The topics addressed and tested on include prior illegal drug usage or sales, level of personal debt and finance issues, theft, sex crimes, domestic violence, or any other criminal activity.

Serious concerns and potential risks always on the radar inside the jail include:

- Attempts to bring in ANY contraband including illegal drugs, tobacco, weapons, cellphones, or devices into the detention center.
- Any employee who may be in deep personal debt, making that person vulnerable to any bribe, inside of the facility or outside of the facility, or any criminal influence by any inmate.
- Potential employees who may have criminal gang affiliations or affiliations with other criminal organizations that could influence actions or behavior.
- Any criminal activity, or past history that could influence or compromise the actions or behavior of the employee going forward. Most information of this type is gleaned through pre-polygraph interviews by the examiner.

I want to emphasize that the purpose of this legislation is ultimately to protect the security and integrity of the adult detention center and the insure the absolute safe care and custody of the inmates.

There has only been this one required polygraph and I believe that the polygraph examination this will be a rarely used tool offered only to certain Frederick County Government employees working within the adult detention center.

Thank you for your consideration of HB439. On behalf of Frederick County Government, I urge a FAVORABLE report.

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