

HOUSE BILL 1402

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By: **Delegates Conway, G. Clagett, DeBoy, Bates, Eckardt, Elmore, Haddaway, Mathias, Proctor, Sophocleus, and Wood**
Introduced and read first time: February 18, 2010
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Preemployment Polygraph Examinations for Correctional**
3 **Officer Applicants**

4 FOR the purpose of requiring an individual to pass a polygraph examination before
5 the individual may be appointed to serve as a correctional officer in a
6 correctional facility; requiring the Commissioner of Correction to adopt certain
7 regulations governing the administration of polygraph examinations required
8 under this Act; providing an exemption for an applicant for employment as a
9 correctional officer of a State or local correctional facility from a certain
10 prohibition against requiring a polygraph examination as a condition of
11 employment; making stylistic and conforming changes; and generally relating to
12 polygraph examinations for correctional officer applicants.

13 BY repealing and reenacting, with amendments,
14 Article – Correctional Services
15 Section 3–215
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2009 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Labor and Employment
20 Section 3–702
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2009 Supplement)

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

25 **Article – Correctional Services**

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



1 3-215.

2 (a) In accordance with the State budget, the Division may appoint officers
3 and other employees as necessary to operate the Division and its units efficiently and
4 effectively.

5 (b) (1) Except as otherwise provided in this subtitle, all officers and other
6 employees of the Division shall be appointed and removed in accordance with the
7 provisions of the State Personnel and Pensions Article.

8 (2) The following positions are in the executive service, the
9 management service, or are special appointments of the skilled service or the
10 professional service in the State Personnel Management System:

- 11 (i) Commissioner;
- 12 (ii) Deputy Commissioner;
- 13 (iii) Assistant Commissioner;
- 14 (iv) industries general manager;
- 15 (v) warden;
- 16 (vi) facility administrator; and
- 17 (vii) assistant warden.

18 (3) (i) The warden of a correctional facility is the appointing officer
19 for the officers and other employees of that facility.

20 (ii) The Commissioner is the appointing officer for the other
21 officers and employees in the Division.

22 (c) The Division may provide a dwelling for a warden.

23 (d) A warden may not receive any compensation or perquisite other than:

24 (1) the compensation and reimbursement provided under subsection
25 (e) of this section; and

26 (2) if provided under subsection (c) of this section, a dwelling.

27 (e) (1) Officers and other employees are entitled to:

28 (i) compensation as provided in the State budget; and

1 (ii) reimbursement for expenses in accordance with the
2 Standard State Travel Regulations.

3 (2) Officers and other employees working 40 hours or more per week
4 in a correctional facility are entitled to one free meal per shift as provided in the State
5 budget.

6 **(F) (1) BEFORE AN INDIVIDUAL MAY BE APPOINTED TO SERVE AS A**
7 **CORRECTIONAL OFFICER IN A CORRECTIONAL FACILITY, THE INDIVIDUAL MUST**
8 **PASS A POLYGRAPH EXAMINATION.**

9 **(2) THE COMMISSIONER SHALL ADOPT REGULATIONS**
10 **GOVERNING THE ADMINISTRATION OF THE POLYGRAPH EXAMINATION**
11 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

12 **Article – Labor and Employment**

13 3–702.

14 (a) In this section, “employer” means:

15 (1) a person engaged in a business, industry, profession, trade, or
16 other enterprise in the State;

17 (2) the State;

18 (3) a county; and

19 (4) a municipal corporation in the State.

20 (b) (1) This section does not apply to the federal government or any of its
21 units.

22 (2) This section does not apply to an individual who is an employee of
23 or applies for assignment to the Internal Investigative Unit of the Department of
24 Public Safety and Correctional Services.

25 (3) This section does not apply to an individual who applies for
26 employment or is employed:

27 (i) as a law enforcement officer, as defined in § 3–101 of the
28 Public Safety Article;

29 (ii) as an employee of a law enforcement agency of the State, a
30 county, or a municipal corporation;

1 (iii) as a communications officer of the Calvert County Control
2 Center;

3 (iv) as a correctional officer of the Calvert County Detention
4 Center or in any other capacity that involves direct personal contact with an inmate in
5 the Detention Center;

6 (v) as a correctional officer of the Washington County Detention
7 Center or in any other capacity that involves direct personal contact with an inmate in
8 the Center; or

9 (vi) as a correctional officer of:

- 10 1. the Baltimore City Jail;
- 11 2. the Baltimore County Detention Center;
- 12 3. the Cecil County Detention Center;
- 13 4. the Charles County Detention Center;
- 14 5. the Frederick County Adult Detention Center;
- 15 6. the Harford County Detention Center; or
- 16 7. the St. Mary's County Detention Center.

17 (4) This section does not apply to an applicant for employment as a
18 correctional officer [with the Department of Corrections for Prince George's County]
19 **OF A STATE OR LOCAL CORRECTIONAL FACILITY.**

20 (5) This section does not apply to an applicant for employment with
21 either the Anne Arundel County Department of Detention Facilities or the Caroline
22 County Department of Corrections[:

23 (i) as a correctional officer; or

24 (ii) in any [other] capacity that involves direct contact with an
25 inmate in either the Anne Arundel County Department of Detention Facilities or the
26 Caroline County Department of Corrections.

27 (c) An employer may not require or demand, as a condition of employment,
28 prospective employment, or continued employment, that an individual submit to or
29 take a [lie detector] **POLYGRAPH EXAMINATION** or similar test.

30 (d) (1) Each application for employment shall set out, in bold-faced upper
31 case type, the following notice:

1 “Under Maryland law, an employer may not require or demand, as a condition
2 of employment, prospective employment, or continued employment, that an individual
3 submit to or take a [lie detector] **POLYGRAPH EXAMINATION** or similar test. An
4 employer who violates this law is guilty of a misdemeanor and subject to a fine not
5 exceeding \$100.”

6 (2) Each application shall provide a space for an applicant to sign an
7 acknowledgment of the notice required under this subsection.

8 (e) An applicant shall sign the acknowledgment of the notice required under
9 subsection (d) of this section.

10 (f) If an employer violates subsection (c) or (d) of this section, an applicant
11 for employment or prospective employment or an employee may submit to the
12 Commissioner a written complaint.

13 (g) (1) Whenever the Commissioner determines that this section has been
14 violated, the Commissioner may:

15 (i) try to resolve any issue involved in the violation informally
16 by mediation; or

17 (ii) ask the Attorney General to bring an action on behalf of the
18 applicant or employee.

19 (2) The Attorney General may bring an action under this section in
20 the county where the violation allegedly occurred, for injunctive relief, damages, or
21 other relief.

22 (h) An employer who violates any provision of this section is guilty of a
23 misdemeanor and on conviction is subject to a fine not exceeding \$100.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2010.