

SENATE BILL 720

E2

4lr2120

By: **Senators Brochin and Stone**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Prosecution for Sex Offense – Evidence of Prior Act**

3 FOR the purpose of establishing that, subject to certain requirements and limitations,
4 in prosecutions for certain sexual offenses evidence of another criminal act of
5 the defendant is admissible for any purpose; requiring the State’s Attorney to
6 disclose to the defendant the State’s intent to offer the evidence within a certain
7 time period before the trial unless the court allows disclosure at a later time for
8 good cause shown; specifying the content of the disclosure to the defendant;
9 prohibiting certain evidence from being referred to in a statement to the jury or
10 introduced at trial unless the court first holds a closed hearing and determines
11 that the evidence is admissible; requiring the court to enter an order stating
12 which evidence may be introduced under certain circumstances; authorizing the
13 court to reconsider a ruling excluding evidence and hold an additional closed
14 hearing if new information is discovered during the trial that may make the
15 evidence admissible; providing for the construction and application of this Act;
16 and generally relating to evidence in prosecutions for sexual offenses.

17 BY adding to

18 Article – Courts and Judicial Proceedings

19 Section 10–923

20 Annotated Code of Maryland

21 (2013 Replacement Volume and 2013 Supplement)

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

24 **Article – Courts and Judicial Proceedings**

25 **10–923.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) SUBJECT TO SUBSECTIONS (B) THROUGH (D) OF THIS SECTION, IN A**
2 **PROSECUTION FOR A VIOLATION OF § 3-602 OF THE CRIMINAL LAW ARTICLE**
3 **OR A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE,**
4 **EVIDENCE OF ANOTHER CRIMINAL ACT OF THE DEFENDANT IS ADMISSIBLE FOR**
5 **ANY PURPOSE.**

6 **(B) (1) IF THE STATE INTENDS TO OFFER EVIDENCE UNDER THIS**
7 **SECTION, THE STATE'S ATTORNEY SHALL DISCLOSE THE EVIDENCE TO THE**
8 **DEFENDANT AT LEAST 15 DAYS BEFORE THE SCHEDULED DATE OF TRIAL**
9 **UNLESS THE COURT ALLOWS DISCLOSURE AT A LATER TIME FOR GOOD CAUSE**
10 **SHOWN.**

11 **(2) THE DISCLOSURE SHALL INCLUDE STATEMENTS OF**
12 **WITNESSES OR A SUMMARY OF THE SUBSTANCE OF ANY TESTIMONY THAT THE**
13 **STATE EXPECTS TO OFFER.**

14 **(C) EVIDENCE DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS**
15 **ADMISSIBLE ONLY IF THE COURT:**

16 **(1) (I) IN A BENCH TRIAL, FINDS BY CLEAR AND CONVINCING**
17 **EVIDENCE THAT THE DEFENDANT COMMITTED THE SEPARATE ACT; OR**

18 **(II) IN A JURY TRIAL, FINDS THAT A REASONABLE JURY**
19 **COULD FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT**
20 **COMMITTED THE SEPARATE ACT; AND**

21 **(2) FINDS THAT THE PROBATIVE VALUE OF THE EVIDENCE IS NOT**
22 **SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE AGAINST**
23 **THE DEFENDANT.**

24 **(D) (1) EVIDENCE DESCRIBED IN SUBSECTION (A) OF THIS SECTION**
25 **MAY NOT BE REFERRED TO IN A STATEMENT TO A JURY OR INTRODUCED IN A**
26 **TRIAL UNLESS THE COURT FIRST HOLDS A CLOSED HEARING AND DETERMINES**
27 **THAT THE EVIDENCE IS ADMISSIBLE.**

28 **(2) IF THE COURT DETERMINES THAT ALL OR SOME OF THE**
29 **EVIDENCE IS ADMISSIBLE, THE COURT SHALL ENTER AN ORDER STATING WHICH**
30 **EVIDENCE MAY BE INTRODUCED.**

31 **(3) THE COURT MAY RECONSIDER A RULING EXCLUDING THE**
32 **EVIDENCE AND HOLD AN ADDITIONAL CLOSED HEARING IF NEW INFORMATION**
33 **IS DISCOVERED DURING THE COURSE OF THE TRIAL THAT MAY MAKE THE**
34 **EVIDENCE ADMISSIBLE.**

1 **(E) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE ADMISSION**
2 **OR CONSIDERATION OF EVIDENCE UNDER ANY OTHER RULE OR PROVISION OF**
3 **LAW.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply only prospectively and may not be applied or interpreted to have
6 any effect on or application to any prosecution commenced before the effective date of
7 this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2014.