

# SENATE BILL 807

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0lr3210  
CF HB 1575

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By: **Senators Hettleman and Elfreth**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure – Victims of Sexually Assaultive Behavior – Waivers of**  
3 **Rights – Prohibition**

4 FOR the purpose of prohibiting a ~~criminal justice unit~~ law enforcement agency from  
5 presenting certain victims of sexually assaultive behavior with certain forms ~~or~~  
6 ~~seeking certain verbal agreements~~ under certain conditions; ~~prohibiting certain~~  
7 ~~evidence from being introduced in certain court proceedings;~~ authorizing certain  
8 victims affected by a violation of this Act to bring an action for certain relief;  
9 requiring ~~criminal justice units~~ law enforcement agencies to adopt and submit  
10 policies for enforcing this Act; defining certain terms; ~~providing for the application~~  
11 ~~of this Act;~~ and generally relating to victims of sexually assaultive behavior.

12 BY adding to

13 Article – Criminal Procedure

14 Section 11–929

15 Annotated Code of Maryland

16 (2018 Replacement Volume and 2019 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Criminal Procedure**

20 **11–929.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
2 INDICATED.

3 (2) ~~“CRIMINAL JUSTICE UNIT” HAS THE MEANING STATED IN §~~  
4 ~~10-201 OF THIS ARTICLE~~ LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED  
5 IN § 3-201(D) OF THE PUBLIC SAFETY ARTICLE.

6 (3) “SEXUALLY ASSAULTIVE BEHAVIOR” HAS THE MEANING STATED  
7 IN § 10-923 OF THE COURTS ARTICLE.

8 (4) “VICTIM” MEANS ANY PERSON SUSPECTED TO HAVE BEEN  
9 SUBJECTED TO SEXUALLY ASSAULTIVE BEHAVIOR OR WHO CLAIMS TO HAVE BEEN  
10 SUBJECTED TO SEXUALLY ASSAULTIVE BEHAVIOR.

11 (B) IN AN INTERACTION WITH A VICTIM, A ~~CRIMINAL JUSTICE UNIT~~ LAW  
12 ENFORCEMENT AGENCY MAY NOT PRESENT TO THE VICTIM A FORM PURPORTING  
13 TO:

14 (1) RELIEVE THE ~~CRIMINAL JUSTICE UNIT~~ LAW ENFORCEMENT  
15 AGENCY OF AN OBLIGATION TO THE VICTIM;

16 (2) PRECLUDE OR DEFINE THE SCOPE OF AN INVESTIGATION BY THE  
17 ~~CRIMINAL JUSTICE UNIT~~ LAW ENFORCEMENT AGENCY INTO AN ACT ALLEGEDLY  
18 COMMITTED AGAINST THE VICTIM;

19 (3) PREVENT OR LIMIT A PROSECUTION OF AN ACT ALLEGEDLY  
20 COMMITTED AGAINST THE VICTIM; OR

21 (4) LIMIT A PRIVATE RIGHT OF ACTION OF THE VICTIM PERTAINING  
22 TO AN ACT ALLEGEDLY COMMITTED AGAINST THE VICTIM OR THE VICTIM’S  
23 INTERACTION WITH THE ~~CRIMINAL JUSTICE UNIT~~ LAW ENFORCEMENT AGENCY.

24 (C) ~~IN AN INTERACTION WITH A VICTIM, A CRIMINAL JUSTICE UNIT MAY NOT~~  
25 ~~SEEK A VERBAL AGREEMENT WITH THE VICTIM THAT WOULD HAVE A PURPORTED~~  
26 ~~EFFECT IDENTIFIED IN SUBSECTION (B) OF THIS SECTION.~~

27 (D) (C) ~~THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS~~  
28 ~~SECTION APPLY EVEN IF THE FORM OR VERBAL AGREEMENT IS REQUESTED BY THE~~  
29 ~~VICTIM~~ IF A VICTIM REQUESTS THAT THE SCOPE OF AN INVESTIGATION BE LIMITED  
30 OR THAT AN INVESTIGATION BE TEMPORARILY OR PERMANENTLY SUSPENDED, THE  
31 LAW ENFORCEMENT AGENCY SHALL:

32 (1) THOROUGHLY DOCUMENT THE REQUEST; AND

1           **(2) FOLLOW UP WITH THE VICTIM IN ACCORDANCE WITH PRACTICES**  
 2 **RECOMMENDED BY THE MARYLAND POLICE TRAINING AND STANDARDS**  
 3 **COMMISSION.**

4           ~~**(E) A FORM OR VERBAL AGREEMENT IDENTIFIED UNDER SUBSECTIONS (B)**~~  
 5 ~~**AND (C) OF THIS SECTION WHICH IS SIGNED OR AGREED TO BY A VICTIM MAY NOT BE**~~  
 6 ~~**ENFORCED OR USED AS EVIDENCE IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE**~~  
 7 ~~**PROCEEDING.**~~

8           ~~**(F) (D)**~~ IF A ~~**CRIMINAL JUSTICE UNIT**~~ **LAW ENFORCEMENT AGENCY**  
 9 VIOLATES THIS SECTION, AN AFFECTED VICTIM MAY BRING AN ACTION SEEKING  
 10 INJUNCTIVE OR DECLARATORY RELIEF.

11           ~~**(G) (E)**~~ **(1) ON OR BEFORE JANUARY 1, 2021, EACH ~~CRIMINAL JUSTICE~~**  
 12 **UNIT LAW ENFORCEMENT AGENCY** IN THE STATE SHALL ADOPT A POLICY TO  
 13 ENFORCE THE PROVISIONS OF THIS SECTION.

14           **(2) ON OR BEFORE JANUARY 15, 2021, EACH ~~CRIMINAL JUSTICE UNIT~~**  
 15 **LAW ENFORCEMENT AGENCY** SHALL PROVIDE A COPY OF THE POLICY REQUIRED  
 16 UNDER THIS SUBSECTION TO THE MARYLAND SEXUAL ASSAULT EVIDENCE KIT  
 17 POLICY AND FUNDING COMMITTEE.

18           ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to~~  
 19 ~~apply retroactively and shall be applied to and interpreted to affect any interaction between~~  
 20 ~~a criminal justice unit and an alleged or suspected victim of sexually assaultive behavior~~  
 21 ~~occurring before the effective date of this Act.~~

22           SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 23 October 1, 2020.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.