

HOUSE BILL 439

K3

3lr1270

By: **Frederick County Delegation**

Introduced and read first time: January 30, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Adult Detention Center – Polygraph Examinations of**
3 **Employees**

4 FOR the purpose of exempting individuals who apply for employment or are employed in
5 any capacity that involves direct personal contact with an inmate in the Frederick
6 County Adult Detention Center from the prohibition on employers requiring an
7 employee or a prospective employee to take a polygraph examination or similar test
8 as a condition of prospective or continued employment; and generally relating to
9 polygraph testing of employees of the Frederick County Adult Detention Center.

10 BY repealing and reenacting, with amendments,
11 Article – Labor and Employment
12 Section 3–702
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2022 Supplement)

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

17 **Article – Labor and Employment**

18 3–702.

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

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

22 (2) the State;

23 (3) a county; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(4) a municipal corporation in the State.

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

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

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

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

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

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

(iv) as a correctional officer of a State correctional facility;

(v) as an employee of a State correctional facility in any capacity that involves direct contact with an inmate in a State correctional facility;

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

(vii) as a correctional officer of the Carroll County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;

(viii) as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Center; [or]

(IX) AS A CORRECTIONAL OFFICER OF THE FREDERICK COUNTY ADULT DETENTION CENTER OR IN ANY CAPACITY THAT INVOLVES DIRECT PERSONAL CONTACT WITH AN INMATE IN THE CENTER; OR

[(ix)] (X) as a correctional officer of:

1. the Baltimore County Detention Center;

2. the Cecil County Detention Center;

- 1 3. the Charles County Detention Center;
- 2 4. [the Frederick County Adult Detention Center;
- 3 5.] the Harford County Detention Center; or
- 4 [6.] 5. the St. Mary's County Detention Center.

5 (4) This section does not apply to an applicant for employment as a
6 correctional officer of a local correctional facility.

7 (5) This section does not apply to an applicant for employment with either
8 the Anne Arundel County Department of Detention Facilities or the Caroline County
9 Department of Corrections in any capacity that involves direct contact with an inmate in
10 either the Anne Arundel County Department of Detention Facilities or the Caroline County
11 Department of Corrections.

12 (6) This section does not apply to an applicant for employment with the
13 Washington County Emergency Communications Center.

14 (7) This section does not apply to an applicant for employment:

15 (i) as a paramedic or an emergency medical technician with St.
16 Mary's County; or

17 (ii) with the St. Mary's County Emergency Communications Center.

18 (c) An employer may not require or demand, as a condition of employment,
19 prospective employment, or continued employment, that an individual submit to or take a
20 polygraph examination or similar test.

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

23 "Under Maryland law, an employer may not require or demand, as a condition of
24 employment, prospective employment, or continued employment, that an individual submit
25 to or take a polygraph examination or similar test. An employer who violates this law is
26 guilty of a misdemeanor and subject to a fine not exceeding \$100."

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

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

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

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

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

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

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2023.