

**CITY OF BALTIMORE
COUNCIL BILL 13-0140R
(Resolution)**

Introduced by: Councilmembers Clarke and Mosby, President Young, Councilmembers Henry, Middleton, Scott, Stokes, Branch, Reisinger, Curran, Kraft
Introduced and read first time: December 5, 2013
Assigned to: Public Safety Committee

A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Request for State Action – Admission of Prior Assault Evidence in Sexual Assault**
3 **Prosecutions**

4 FOR the purpose of calling for the State of Maryland to adopt a new evidentiary standard in
5 sexual assault cases that would allow for the introduction of relevant prior conduct evidence
6 against perpetrators, just as current law allows for the introduction of some prior conduct
7 evidence against victims.

8 **Recitals**

9 Sexual assault cases involve some of our society's most heinous crimes and are often among
10 the most difficult to successfully prosecute. This is especially true when a case turns on a
11 question of whether an accuser's version of what happened is more creditable than the story told
12 by the accused.

13 The special features of sexual assault cases, where the accused and accuser may be the only
14 witnesses and physical evidence is often not conclusive as to whether or not the contact was
15 consensual, require a different balancing of the factors affecting the admissibility of evidence that
16 could bear on the all-important credibility question than is called for in a simple assault case.
17 Recognizing this, Maryland criminal law has special evidentiary rules relating to admissibility of
18 sexual conduct evidence against the alleged victim of a sexual assault that take these special
19 circumstances into account.

20 However, prosecutors seeking to introduce similar conduct evidence against an alleged
21 perpetrator, for instance - evidence of past sexual assaults - are forced to operate under the same
22 rules that would apply to a garden variety fist-fight. This unbalanced approach often raises a
23 hurdle too high for prosecutors to clear and creates a deeply inequitable situation where sexual
24 conduct evidence can be introduced to impeach a victim of sexual assault, but not a perpetrator.
25 Far too often rapists go free because of this biased inequity.

26 Justice demands that a way out of this situation be found through modification of Maryland
27 law. Other jurisdictions have succeeded in balancing the evidentiary rules.

28 Adopting this balanced approach would ensure that both the prosecution and defense would
29 have opportunities to support their version of what happened by presenting evidence of other
30 relevant conduct. Continuing under the current flawed system is simply unfair and deprives

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike out~~ indicates matter deleted by amendment.

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1 jurors of the opportunity to learn all the information relevant to their decisions, allowing sexual
2 assault victims to be victimized all over again by the criminal justice system and rapists to be
3 freed to strike again.

4 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the
5 Council calls for the State of Maryland to adopt a new evidentiary standard in sexual assault
6 cases that would allow for the introduction of relevant prior conduct evidence against
7 perpetrators, just as current law allows for the introduction of some prior conduct evidence
8 against victims.

9 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Governor, the
10 Honorable Chairs and Members of the Baltimore City House and Senate Delegations to the
11 Maryland General Assembly, the President of the Maryland Senate, the Maryland House
12 Speaker, the Mayor, and the Mayor's Legislative Liaison to the City Council.