

# HOUSE BILL 797

D1, E2  
SB 1102/10 – JPR

11r2402  
CF SB 33

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By: **Delegates McConkey, Cluster, Dwyer, and Kipke**  
Introduced and read first time: February 11, 2011  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Officers of the Court – Criminal Offenses – Reporting and Investigation**

3 FOR the purpose of requiring the Commission on Judicial Disabilities and the  
4 Attorney Grievance Commission to refer certain matters to the Office of the  
5 State Prosecutor under certain circumstances if there are reasonable grounds to  
6 believe that an officer of the court may have committed a criminal offense;  
7 requiring certain evidence to be made available to the Office of the State  
8 Prosecutor; authorizing the State Prosecutor to investigate a criminal offense  
9 alleged to have been committed by an officer of the court; and generally relating  
10 to criminal offenses committed by officers of the court.

11 BY adding to

12 Article – Courts and Judicial Proceedings  
13 Section 13–404; and 13–701 to be under the new subtitle “Subtitle 7.  
14 Miscellaneous”  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Criminal Procedure  
19 Section 14–107  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2010 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 **13–404.**

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



1 (A) IF THE COMMISSION, WHILE CONSIDERING A COMPLAINT, FINDS  
 2 THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT AN OFFICER OF  
 3 THE COURT MAY HAVE COMMITTED A CRIMINAL OFFENSE, THE COMMISSION  
 4 PROMPTLY SHALL REFER THE MATTER TO THE OFFICE OF THE STATE  
 5 PROSECUTOR FOR INVESTIGATION.

6 (B) THE COMMISSION SHALL MAKE AVAILABLE TO THE OFFICE OF THE  
 7 STATE PROSECUTOR ALL PERTINENT EVIDENCE UNDER ITS CONTROL.

8 SUBTITLE 7. MISCELLANEOUS.

9 13-701.

10 (A) IF THE ATTORNEY GRIEVANCE COMMISSION, WHILE CONSIDERING  
 11 A COMPLAINT, FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE  
 12 THAT AN OFFICER OF THE COURT MAY HAVE COMMITTED A CRIMINAL OFFENSE,  
 13 THE COMMISSION PROMPTLY SHALL REFER THE MATTER TO THE OFFICE OF  
 14 THE STATE PROSECUTOR FOR INVESTIGATION.

15 (B) THE COMMISSION SHALL MAKE AVAILABLE TO THE OFFICE OF THE  
 16 STATE PROSECUTOR ALL PERTINENT EVIDENCE UNDER ITS CONTROL.

17 Article – Criminal Procedure

18 14-107.

19 (a) (1) Except as provided in paragraph (2) of this subsection, the State  
 20 Prosecutor may investigate:

21 (i) a criminal offense under the State election laws;

22 (ii) a criminal offense under the State Public Ethics Law;

23 (iii) a violation of the State bribery laws in which an official or  
 24 employee of the State, a political subdivision of the State, or a bicounty or multicounty  
 25 unit of the State was the offeror, offeree, or intended offeror or offeree of a bribe;

26 (iv) an offense constituting criminal malfeasance, misfeasance,  
 27 or nonfeasance in office committed by an officer or employee of the State, of a political  
 28 subdivision of the State, or of a bicounty or multicounty unit of the State; [and]

29 (v) a violation of the State extortion, perjury, or obstruction of  
 30 justice laws related to an activity described in this paragraph; AND

1                   **(VI) A CRIMINAL OFFENSE ALLEGED TO HAVE BEEN**  
2 **COMMITTED BY AN OFFICER OF THE COURT.**

3                   (2)    The State Prosecutor may not investigate an offense alleged to  
4 have been committed by the State Prosecutor or a member of the State Prosecutor's  
5 staff.

6                   (3)    The State Prosecutor may investigate an alleged offense under  
7 paragraph (1) of this subsection on the State Prosecutor's own initiative or on request  
8 of:

9                               (i)    the Governor;

10                              (ii)   the Attorney General;

11                              (iii)  the General Assembly;

12                              (iv)   the State Ethics Commission; or

13                              (v)   a State's Attorney.

14                   (4)    An individual who is advised by the State Prosecutor that the  
15 individual is under investigation under paragraph (1)(iv) of this subsection may  
16 release this information to the public, as well as any results of the investigation that  
17 pertain to the individual.

18                   (b)    On request of the Governor, the Attorney General, the General Assembly,  
19 or a State's Attorney, the State Prosecutor may investigate criminal activity that is  
20 committed:

21                              (1)    partly in the State and partly in another jurisdiction; or

22                              (2)    in more than one political subdivision of the State.

23                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2011.