HOUSE BILL 364

D1 4lr1310

By: **Delegate Dumais**
Introduced and read first time: January 23, 2014
Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

State Prosecutor and Deputy State Prosecutor – Witness Immunity – Compulsory Testimony

FOR the purpose of altering the definition of "prosecutor" to include the State Prosecutor or Deputy State Prosecutor under provisions of law related to compulsory witness testimony and witness immunity under certain circumstances; making a stylistic change; and generally relating to immunity for witnesses in proceedings before a court or grand jury.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 9–123
Annotated Code of Maryland
(2013 Replacement Volume and 2013 Supplement)

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

Article – Courts and Judicial Proceedings

9–123.

(a) (1) In this section the following words have the meanings indicated.

(2) "Other information" includes any book, paper, document, record, recording, or other material.

(3) "Prosecutor" means:

(i) The State's Attorney for a county;

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

(ii) A Deputy State's Attorney;

(iii) The Attorney General of the State; **[**or**]**

(iv) A Deputy Attorney General or designated Assistant Attorney General**; OR**

(V) THE STATE PROSECUTOR OR DEPUTY STATE PROSECUTOR.

(b) (1) If a witness refuses, on the basis of the privilege against self–incrimination, to testify or provide other information in a criminal prosecution or a proceeding before a grand jury of the State, and the court issues an order to testify or provide other information under subsection (c) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self–incrimination.

(2) No testimony or other information compelled under the order, and no information directly or indirectly derived from the testimony or other information, may be used against the witness in any criminal case, except in a prosecution for perjury, obstruction of justice, or otherwise failing to comply with the order.

(c) **(1)** If an individual has been, or may be, called to testify or provide other information in a criminal prosecution or a proceeding before a grand jury of the State, the court in which the proceeding is or may be held shall issue, on the request of the prosecutor made in accordance with subsection (d) of this section, an order requiring the individual to give testimony or provide other information which the individual has refused to give or provide on the basis of the individual's privilege against self–incrimination.

(2) The order shall have the effect provided under subsection (b) of this section.

(d) If a prosecutor seeks to compel an individual to testify or provide other information, the prosecutor shall request, by written motion, the court to issue an order under subsection (c) of this section when the prosecutor determines that:

(1) The testimony or other information from the individual may be necessary to the public interest; and

(2) The individual has refused or is likely to refuse to testify or provide other information on the basis of the individual's privilege against self–incrimination.

(e) If a witness refuses to comply with an order issued under subsection (c) of this section, on written motion of the prosecutor and on admission into evidence of the transcript of the refusal, if the refusal was before a grand jury, the court shall treat

the refusal as a direct contempt, notwithstanding any law to the contrary, and proceed in accordance with Title 15, Chapter 200 of the Maryland Rules.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.