
By: Delegate Genn

Introduced and read first time: January 31, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **State Prosecutor - Witness Immunity - Compulsory Testimony**

3 FOR the purpose of altering a certain definition to include the State Prosecutor for
4 purposes of allowing the State Prosecutor to move to compel a witness to testify
5 under certain circumstances; and generally relating to witness immunity and
6 compelled testimony.

7 BY repealing and reenacting, with amendments,
8 Article - Courts and Judicial Proceedings
9 Section 9-123
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1995 Supplement)

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

14 **Article - Courts and Judicial Proceedings**

15 9-123.

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

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

19 (3) "Prosecutor" means:

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

21 (ii) A Deputy State's Attorney;

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

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

25 (V) THE STATE PROSECUTOR.

26 (b) (1) If a witness refuses, on the basis of the privilege against
27 self-incrimination, to testify or provide other information in a criminal prosecution or a

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

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

8 (c) If an individual has been, or may be, called to testify or provide other
9 information in a criminal prosecution or a proceeding before a grand jury of the State, the
10 court in which the proceeding is or may be held shall issue, on the request of the
11 prosecutor made in accordance with subsection (d) of this section, an order requiring the
12 individual to give testimony or provide other information which the individual has refused
13 to give or provide on the basis of the individual's privilege against self-incrimination. The
14 order shall have the effect provided under subsection (b) of this section.

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

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

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

22 (e) If a witness refuses to comply with an order issued under subsection (c) of this
23 section, on written motion of the prosecutor and on admission into evidence of the
24 transcript of the refusal, if the refusal was before a grand jury, the court shall treat the
25 refusal as a direct contempt, notwithstanding any law to the contrary, and proceed in
26 accordance with Subtitle P. of the Maryland Rules.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1996.