

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 794 (Senator McFadden)(Co-Chairman, Joint Audit Committee)
Judicial Proceedings

Office of Attorney General - Subpoena Power

This bill authorizes the Attorney General, to further an ongoing criminal investigation based on an audit performed by the Office of Legislative Audits, to issue a subpoena to a person to compel testimony or require the production of telephone, business, governmental, or corporate records or documents. The subpoena must be served in the same manner as a subpoena issued by a circuit court. If a person fails to obey a lawfully served subpoena, the Attorney General may report the disobedience and provide a copy of the subpoena and proof of service to the circuit court of the county in which the subpoena was served.

Fiscal Summary

State Effect: Assuming that the person required to produce documents would bear any production costs, the bill would not materially affect the operations or finances of the Office of the Attorney General.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Constitution, the Attorney General must investigate, commence, and prosecute or defend a criminal action in which the General Assembly, by law or resolution, or the Governor has directed the Attorney General to investigate,

commence, and prosecute or defend. The Attorney General does not have specific statutory authority to issue a subpoena in a criminal investigation.

In the course of any examination, investigation, or hearing conducted under the Maryland Consumer Protection Act, the Attorney General may subpoena witnesses, administer oaths, examine an individual under oath, and compel production of records, books, papers, contracts, and other documents. Information obtained through such a subpoena is not admissible in a later criminal proceeding against the person who provides the evidence.

Additional Information

Prior Introductions: None.

Cross File: HB 900 (Delegate Rosenberg) (Co-Chairman, Joint Audit Committee) - Judiciary.

Information Source(s): Department of Legislative Services (Office of Legislative Audits), Office of the Attorney General

Fiscal Note History: First Reader - February 27, 2002
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