

SENATE BILL 5

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SB 298/03 - JPR

2004 Regular Session
4lr0381
CF 4lr0427

(PRE-FILED)

By: **Senator McFadden (Chairman, Joint Audit Committee)**

Requested: August 4, 2003

Introduced and read first time: January 14, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Attorney General - Prosecution of Criminal Offenses Reported by the Office**
3 **of Legislative Audits**

4 FOR the purpose of repealing a requirement that the Legislative Auditor report
5 certain alleged violations of law by a unit of State government or other body that
6 is audited or reviewed by the Office of the Legislative Auditor under certain
7 circumstances; repealing a requirement that the Attorney General respond to
8 certain persons regarding certain actions taken by the Attorney General based
9 on a certain report by the Legislative Auditor; authorizing the Legislative
10 Auditor to report to the Attorney General any alleged criminal violation by a
11 person discovered during the course of an audit or review; requiring the
12 Attorney General to keep a certain report of an alleged criminal violation
13 confidential under certain circumstances; authorizing the Attorney General to
14 investigate and prosecute any alleged criminal violation reported by the
15 Legislative Auditor under certain circumstances; authorizing the Attorney
16 General to exercise all the powers and duties of a State's Attorney to investigate
17 and prosecute certain alleged criminal violations under certain circumstances;
18 creating an exception to certain confidentiality requirements of the Legislative
19 Auditor under certain circumstances; and generally relating to the authority of
20 the Attorney General to investigate and prosecute certain alleged criminal
21 violations reported by the Legislative Auditor under certain circumstances.

22 BY repealing

23 Article - State Government
24 Section 2-1225
25 Annotated Code of Maryland
26 (1999 Replacement Volume and 2003 Supplement)

27 BY adding to

28 Article - State Government
29 Section 2-1225
30 Annotated Code of Maryland
31 (1999 Replacement Volume and 2003 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - State Government
3 Section 2-1226
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2003 Supplement)

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

8 **Article - State Government**

9 [2-1225.

10 (a) (1) In addition to the report under § 2-1224 of this subtitle, the
11 Legislative Auditor shall report an apparent violation of any law on use of State funds
12 by the unit of the State government or other body that is audited or reviewed.

13 (2) A report under this subsection shall be submitted to:

14 (i) the Joint Audit Committee;

15 (ii) the Executive Director;

16 (iii) the unit or body that is the subject of the report; and

17 (iv) the Office of the Attorney General.

18 (b) (1) The Legislative Auditor shall report to the Attorney General and an
19 appropriate State's Attorney an apparent default to the State for any money by an
20 officer or employee who is subject to audit or review.

21 (2) A report under this subsection shall ask the Attorney General and
22 State's Attorney to take appropriate action.

23 (c) (1) The Office of the Attorney General shall respond, in writing, to a
24 report received from the Legislative Auditor under this section.

25 (2) The response of the Attorney General shall include what actions, if
26 any, were taken as a result of the findings of the Legislative Auditor.

27 (3) The response of the Attorney General shall be submitted to:

28 (i) the Joint Audit Committee;

29 (ii) the Executive Director;

30 (iii) the unit or body that is the subject of the report; and

31 (iv) the Legislative Auditor.]

1 2-1225.

2 (A) IF THE LEGISLATIVE AUDITOR DISCOVERS ANY ALLEGED CRIMINAL
3 VIOLATION BY A PERSON DURING THE COURSE OF AN AUDIT OR REVIEW, THE
4 LEGISLATIVE AUDITOR MAY REPORT THE ALLEGED VIOLATION TO THE ATTORNEY
5 GENERAL.

6 (B) UNLESS THE ATTORNEY GENERAL DECIDES TO PROSECUTE AN ALLEGED
7 CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS SECTION, THE
8 ATTORNEY GENERAL SHALL KEEP THE REPORT OF THE LEGISLATIVE AUDITOR
9 UNDER SUBSECTION (A) OF THIS SECTION CONFIDENTIAL.

10 (C) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE ANY
11 ALLEGED CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS
12 SECTION AND HAS ALL THE POWERS AND DUTIES OF A STATE'S ATTORNEY,
13 INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY OR BALTIMORE CITY, TO
14 INVESTIGATE AND PROSECUTE THE ALLEGED VIOLATION.

15 2-1226.

16 (a) Except as provided in § 2-1225 OF THIS SUBTITLE AND subsection (b) of this
17 section, information that an employee of the Office of Legislative Audits obtains
18 during an audit or review:

19 (1) is confidential; and

20 (2) may not be disclosed except to another employee of the Office of
21 Legislative Audits.

22 (b) The Legislative Auditor may authorize the disclosure of information
23 obtained during an audit or review only to the following:

24 (1) another employee of the Department, with the approval of the
25 Executive Director;

26 (2) federal, State, or local officials, or their auditors, who provide
27 evidence to the Legislative Auditor that they are performing investigations, studies,
28 or audits related to that same audit or review and who provide justification for the
29 specific information requested; or

30 (3) the Joint Audit Committee, if necessary to assist the Committee in
31 reviewing a report issued by the Legislative Auditor.

32 (c) [If] EXCEPT AS PROVIDED IN § 2-1225 OF THIS SUBTITLE, IF information
33 that an employee obtains during an audit or review also is confidential under another
34 law, the employee or the Legislative Auditor may not include in a report or otherwise
35 use the information in any manner that discloses the identity of any person who is the
36 subject of the confidential information.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2004.