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By: **Senators Stone and Giannetti (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 2, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Bribery of a Public Official - Testimonial Immunity and**  
3 **Public Employees**

4 FOR the purpose of expanding the category of persons considered to be public  
5 employees for purposes of certain prohibitions against bribery; clarifying that a  
6 person who is compelled to testify for a certain purpose has a certain immunity  
7 from prosecution; defining a certain term; altering a certain definition; and  
8 generally relating to bribery of a public official.

9 BY repealing and reenacting, without amendments,  
10 Article - Courts and Judicial Proceedings  
11 Section 9-123  
12 Annotated Code of Maryland  
13 (2002 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Criminal Law  
16 Section 9-201  
17 Annotated Code of Maryland  
18 (2002 Volume and 2004 Supplement)

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

21 **Article - Courts and Judicial Proceedings**

22 9-123.

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

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

26 (3) "Prosecutor" means:

- 1 (i) The State's Attorney for a county;
- 2 (ii) A Deputy State's Attorney;
- 3 (iii) The Attorney General of the State; or
- 4 (iv) A Deputy Attorney General or designated Assistant Attorney
- 5 General.

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

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

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

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

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

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

31 (e) If a witness refuses to comply with an order issued under subsection (c) of  
32 this section, on written motion of the prosecutor and on admission into evidence of the  
33 transcript of the refusal, if the refusal was before a grand jury, the court shall treat  
34 the refusal as a direct contempt, notwithstanding any law to the contrary, and  
35 proceed in accordance with Title 15, Chapter 200 of the Maryland Rules.

1 **Article - Criminal Law**

2 9-201.

3 (a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "POLITICAL SUBDIVISION" INCLUDES A:

6 (I) COUNTY;

7 (II) MUNICIPAL CORPORATION;

8 (III) BICOUNTY OR MULTICOUNTY AGENCY;

9 (IV) COUNTY BOARD OF EDUCATION;

10 (V) PUBLIC AUTHORITY; OR

11 (VI) SPECIAL TAXING DISTRICT.

12 (3) (I) "[public] PUBLIC employee":

13 (1) means an officer or employee of:

14 [(i)] 1. the State; or

15 [(ii)] 2. a [county, municipal corporation, bicounty or multicounty  
16 agency, or other] political subdivision of the State; and

17 [(2)] (II) "PUBLIC EMPLOYEE" includes:

18 [(i)] 1. an executive officer of the State;

19 [(ii)] 2. a judge of the State;

20 [(iii)] 3. a judicial officer of the State;

21 [(iv)] 4. a member or officer of the General Assembly;

22 [(v)] 5. a member of the police force of Baltimore City or the  
23 Department of State Police; and24 [(vi)] 6. a member, officer, or executive officer of a [municipal  
25 corporation] POLITICAL SUBDIVISION.26 (b) A person may not bribe or attempt to bribe a public employee to influence  
27 the public employee in the performance of an official duty of the public employee.28 (c) A public employee may not demand or receive a bribe, fee, reward, or  
29 testimonial to:

1 (1) influence the performance of the official duties of the public  
2 employee; or

3 (2) neglect or fail to perform the official duties of the public employee.

4 (d) A person who violates this section is guilty of the misdemeanor of bribery  
5 and on conviction:

6 (1) is subject to imprisonment for not less than 2 years and not exceeding  
7 12 years or a fine not less than \$100 and not exceeding \$5,000 or both;

8 (2) may not vote; and

9 (3) may not hold an office of trust or profit in the State.

10 (e) A person who violates this section is subject to § 5-106(b) of the Courts  
11 Article.

12 (f) [(1)] A person who violates this section:

13 [(i)] (1) is a competent witness; and

14 [(ii)] (2) [subject to paragraph (2) of this subsection,] may be  
15 compelled to testify [against any person who may have violated this section] UNDER  
16 § 9-123 OF THE COURTS ARTICLE.

17 [(2)] A person compelled to testify for the State under paragraph (1) of this  
18 subsection is immune from prosecution for a crime about which the person was  
19 compelled to testify.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
21 effect October 1, 2005.