
By: **Delegate Vallario (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: January 26, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Bribery of a Public Official - Immunity**

3 FOR the purpose of establishing that a person who is compelled to testify for a certain
4 purpose has a certain immunity from prosecution; making this Act subject to a
5 certain contingency; and generally relating to bribery of a public official.

6 BY repealing and reenacting, without amendments,
7 Article - Courts and Judicial Proceedings
8 Section 9-123
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2005 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Criminal Law
13 Section 9-201
14 Annotated Code of Maryland
15 (2002 Volume and 2005 Supplement)

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

18 **Article - Courts and Judicial Proceedings**

19 9-123.

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

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

23 (3) "Prosecutor" means:

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

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

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

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

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

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

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

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

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

35 **Article - Criminal Law**

36 9-201.

37 (a) In this section, "public employee":

- 1 (1) means an officer or employee of:
- 2 (i) the State; or
- 3 (ii) a county, municipal corporation, bicounty or multicounty
4 agency, or other political subdivision of the State; and
- 5 (2) includes:
- 6 (i) an executive officer of the State;
- 7 (ii) a judge of the State;
- 8 (iii) a judicial officer of the State;
- 9 (iv) a member or officer of the General Assembly;
- 10 (v) a member of the police force of Baltimore City or the
11 Department of State Police; and
- 12 (vi) a member, officer, or executive officer of a municipal
13 corporation.
- 14 (b) A person may not bribe or attempt to bribe a public employee to influence
15 the public employee in the performance of an official duty of the public employee.
- 16 (c) A public employee may not demand or receive a bribe, fee, reward, or
17 testimonial to:
- 18 (1) influence the performance of the official duties of the public
19 employee; or
- 20 (2) neglect or fail to perform the official duties of the public employee.
- 21 (d) A person who violates this section is guilty of the misdemeanor of bribery
22 and on conviction:
- 23 (1) is subject to imprisonment for not less than 2 years and not exceeding
24 12 years or a fine not less than \$100 and not exceeding \$5,000 or both;
- 25 (2) may not vote; and
- 26 (3) may not hold an office of trust or profit in the State.
- 27 (e) A person who violates this section is subject to § 5-106(b) of the Courts
28 Article.
- 29 (f) [(1)] A person who violates this section:
- 30 [(i)] (1) is a competent witness; and

1 [(ii)] (2) [subject to paragraph (2) of this subsection,] may be
2 compelled to testify [against any person who may have violated this section] UNDER
3 § 9-123 OF THE COURTS ARTICLE.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on
8 the passage of Chapter ___ (6lr0867) of the Acts of the General Assembly of 2006, a
9 Constitutional Amendment, and its ratification by the voters of the State.

10 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
11 of Section 2 of this Act, this Act shall take effect June 1, 2006.