

# HOUSE BILL 85

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CF 71r1453

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By: **Delegates Simmons, G. Clagett, Jones, McIntosh, and Vallario**

Introduced and read first time: January 22, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Legislative Inquiries and Examinations**

3 FOR the purpose of clarifying that the Legislative Policy Committee may delegate its  
4 authority to issue subpoenas, administer oaths, and take other related actions  
5 to any committee created by the Legislative Policy Committee; providing certain  
6 venue and procedures for certain legislative committees that have the power to  
7 issue subpoenas whenever those committees seek to take legal action to obtain  
8 compliance with a subpoena or to compel testimony; providing that the  
9 provisions of law that establish a code of fair procedures for the operation of a  
10 legislative investigating committee do not limit the authority of a committee or  
11 subcommittee of the General Assembly to exercise the power to administer  
12 oaths or subpoena witnesses and records as otherwise authorized by law;  
13 repealing a prohibition on the filming, televising, or broadcasting, in whole or in  
14 part, of certain hearings; providing for procedures and venue with respect to  
15 the filing of a petition for an order directing compliance with a subpoena or  
16 compelling testimony; providing that the party whose conduct necessitated the  
17 filing of the petition has a certain number of days to respond to the petition;  
18 providing that a response by the party whose conduct necessitated the petition  
19 is the party's sole remedy for objecting to a subpoena and prohibiting that party  
20 from filing a motion to quash or a petition for an injunction with respect to the  
21 subpoena; requiring proceedings to enforce compliance with a subpoena issued  
22 by a legislative committee to be handled by the court in a certain manner;  
23 prohibiting the introduction of additional evidence in any hearing in a  
24 proceeding on a petition to comply with a subpoena or to compel testimony;  
25 requiring the court, under certain circumstances, to order the party whose  
26 conduct necessitated the petition to pay the petitioner reasonable expenses,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 including attorney's fees; providing for a certain exception; providing that a  
2 party to a proceeding to enforce compliance with a subpoena may appeal the  
3 decision of the court only in a certain manner; and generally relating to  
4 legislative inquiries and examinations.

5 BY repealing and reenacting, with amendments,  
6 Article – State Government  
7 Section 2–407, 2–408, 2–507, 2–807, 2–1104, 2–1602, and 2–1609(c)  
8 Annotated Code of Maryland  
9 (2004 Replacement Volume and 2006 Supplement)

10 BY adding to  
11 Article – State Government  
12 Section 2–1802  
13 Annotated Code of Maryland  
14 (2004 Replacement Volume and 2006 Supplement)

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

17 **Article – State Government**

18 2–407.

19 (a) The Committee has the following functions:

20 (1) to review the work of the standing committees;

21 (2) to collect information about the government and general welfare of  
22 the State;

23 (3) to study the operation of and recommend changes in the  
24 Constitution, statutes, and common law of the State;

25 (4) to study the rules and procedures of the Senate and the House and  
26 recommend changes that would improve and expedite the consideration of legislation  
27 by the General Assembly;

28 (5) to coordinate and supervise generally the work of the General  
29 Assembly when it is not in session;

1           (6) to prepare or endorse a legislative program that includes the bills,  
2 resolutions, or other recommendations of the Committee that are to be presented to  
3 the General Assembly at its next session; and

4           (7) to carry out its powers and duties under the Maryland Program  
5 Evaluation Act.

6           (b) To carry out its functions, the Committee:

7           (1) shall receive, from any source, suggestions for legislation or  
8 investigation;

9           (2) may hold a hearing on any matter;

10           (3) may appoint a special committee **AND DELEGATE TO THAT**  
11 **COMMITTEE THE AUTHORITY SPECIFIED IN § 2-408 OF THIS SUBTITLE;**

12           (4) may refer a matter for study and report to any of its special  
13 committees or any committee of the General Assembly;

14           (5) shall consider the reports of standing, statutory, and special  
15 committees;

16           (6) may have any bill or resolution prepared to carry out its  
17 recommendations; and

18           (7) when the General Assembly is not in session:

19           (i) may accept a gift or grant of money from a person or public  
20 agency for any purpose that relates to the activities of the Legislative Policy  
21 Committee or of any other standing, statutory, or special committee; and

22           (ii) may spend the money for that purpose, in accordance with  
23 the State budget.

24 2-408.

25           (a) In carrying out any of its functions or powers, the Committee may:

26           (1) issue subpoenas;

27           (2) compel the attendance of witnesses;

1                   (3)     compel the production of any papers, books, accounts, documents,  
2 and testimony;

3                   (4)     administer oaths; and

4                   (5)     cause the depositions of witnesses, who reside in or outside of the  
5 State, to be taken in the manner provided by law for taking depositions in a civil case.

6           (b)     **(1)**    If a person fails to comply with a subpoena issued under this  
7 section or fails to testify on any matter on which the person lawfully may be  
8 interrogated, on petition of a member of the Committee, a circuit court may pass an  
9 order directing compliance with the subpoena or compelling testimony and may  
10 enforce the order by proceedings for contempt.

11                   **(2)    VENUE AND PROCEDURES FOR A PROCEEDING UNDER**  
12 **PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A**  
13 **SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN § 2-1802 OF THIS**  
14 **TITLE.**

15           (c)     False swearing by a witness before the Committee is perjury.  
16 2-507.

17           (a)     In carrying out any of its functions or powers, the Committee may:

18                   (1)     issue subpoenas;

19                   (2)     compel the attendance of witnesses;

20                   (3)     compel the production of any papers, books, accounts, documents,  
21 and testimony;

22                   (4)     administer oaths; and

23                   (5)     cause the depositions of witnesses, who reside in or outside of the  
24 State, to be taken in the manner provided by law for taking depositions in a civil case.

25           (b)     **(1)**    If a person fails to comply with a subpoena issued under this  
26 section or fails to testify on any matter on which the person lawfully may be  
27 interrogated, on petition of a member of the Committee, a circuit court may pass an

1 order directing compliance with the subpoena or compelling testimony and may  
2 enforce the order by proceedings for contempt.

3 **(2) VENUE AND PROCEDURES FOR A PROCEEDING UNDER**  
4 **PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A**  
5 **SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN § 2-1802 OF THIS**  
6 **TITLE.**

7 2-807.

8 (a) In carrying out any of its functions or powers, the Committee may:

9 (1) issue subpoenas;

10 (2) compel the attendance of witnesses;

11 (3) compel the production of any papers, books, accounts, documents,  
12 and testimony;

13 (4) administer oaths; and

14 (5) cause the depositions of witnesses, who reside in or outside of the  
15 State, to be taken in the manner provided by law for taking depositions in a civil case.

16 (b) **(1)** If a person fails to comply with a subpoena issued under this  
17 section or fails to testify on any matter on which the person lawfully may be  
18 interrogated, on petition of a member of the Committee, a circuit court may pass an  
19 order directing compliance with the subpoena or compelling testimony and may  
20 enforce the order by proceedings for contempt.

21 **(2) VENUE AND PROCEDURES FOR A PROCEEDING UNDER**  
22 **PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A**  
23 **SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN § 2-1802 OF THIS**  
24 **TITLE.**

25 2-1104.

26 (a) With the prior approval of the Legislative Policy Committee, a standing  
27 committee, in carrying out any of its functions or powers, may:

28 (1) issue subpoenas;

- 1           (2)    compel the attendance of witnesses;
- 2           (3)    compel the production of any papers, books, accounts, documents,  
3 and testimony;
- 4           (4)    administer oaths; and
- 5           (5)    cause the depositions of witnesses, who reside in or outside of the  
6 State, to be taken in the manner provided by law for taking depositions in a civil case.

7           (b)    **(1)**    If a person fails to comply with a subpoena issued under this  
8 section or fails to testify on any matter on which the person lawfully may be  
9 interrogated, on petition of a member of the standing committee, a circuit court may  
10 pass an order directing compliance with the subpoena or compelling testimony and  
11 may enforce the order by proceedings for contempt.

12                   **(2)    VENUE AND PROCEDURES FOR A PROCEEDING UNDER**  
13 **PARAGRAPH (1) OF THIS SUBSECTION TO DIRECT COMPLIANCE WITH A**  
14 **SUBPOENA OR COMPEL TESTIMONY ARE AS PROVIDED IN § 2-1802 OF THIS**  
15 **TITLE.**

16           (c)    False swearing by a witness before a standing committee is perjury.  
17 2-1602.

18           (a)    This subtitle establishes a code of fair procedures for the operation of an  
19 investigating committee so that it may hold hearings and otherwise properly carry out  
20 its powers and duties fairly, impartially, and consistently with:

21                   (1)    the constitutional rights of a person who is involved in a  
22 proceeding of the investigating committee; and

23                   (2)    the public good.

24           (b)    This subtitle does not limit the acquisition of information or evidence by  
25 an investigating committee through a lawful means other than as provided in this  
26 subtitle.

27                   **(C)    THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A COMMITTEE**  
28 **OF THE GENERAL ASSEMBLY OR ANY SUBCOMMITTEE OF A COMMITTEE OF THE**  
29 **GENERAL ASSEMBLY TO EXERCISE THE POWER TO ADMINISTER OATHS AND**  
30 **SUBPOENA WITNESSES AND RECORDS AS OTHERWISE AUTHORIZED BY LAW.**

1 2-1609.

2 (c) [(1)] A hearing shall be public unless, by a majority vote of all of the  
3 members of the investigating committee, the investigating committee determines  
4 otherwise.

5 [(2)] A hearing may not be filmed, televised, or broadcast, in whole or in  
6 part.]

7 **2-1802.**

8 (A) **THIS SECTION APPLIES TO A PETITION FOR AN ORDER DIRECTING**  
9 **COMPLIANCE WITH A SUBPOENA OR COMPELLING TESTIMONY UNDER § 2-408,**  
10 **§ 2-507, § 2-807, OR § 2-1104 OF THIS TITLE.**

11 (B) **THE PETITION SHALL BE FILED IN THE CIRCUIT COURT FOR ANNE**  
12 **ARUNDEL COUNTY OR, AT THE ELECTION OF THE PETITIONER, IN ANY COUNTY**  
13 **IN WHICH VENUE WOULD BE APPROPRIATE UNDER § 6-201 OF THE COURTS**  
14 **ARTICLE.**

15 (C) (1) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**  
16 **PETITION SHALL SET FORTH THE QUESTIONS OR REQUESTS THAT WERE ASKED**  
17 **OR MADE OF THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION AND,**  
18 **IF ANY, THE ANSWERS OR OBJECTIONS PROVIDED OR RAISED BY THAT PARTY.**

19 (2) **THE PETITIONER MAY SATISFY THE PROVISIONS OF**  
20 **PARAGRAPH (1) OF THIS SUBSECTION BY ATTACHING THE RELEVANT PORTIONS**  
21 **OF A TRANSCRIPT TO THE PETITION.**

22 (3) **THE PETITIONER NEED NOT COMPLY WITH THE PROVISIONS**  
23 **OF PARAGRAPH (1) OF THIS SUBSECTION IF THERE HAS BEEN NO RESPONSE TO**  
24 **THE SUBPOENA.**

25 (D) **ANY RESPONSE TO THE PETITION SHALL BE FILED BY THE PARTY**  
26 **SERVED WITH THE PETITION WITHIN 15 DAYS AFTER BEING SERVED WITH THE**  
27 **PETITION, UNLESS THAT TIME PERIOD IS SHORTENED BY ORDER OF THE COURT.**

1           **(E) (1) A RESPONSE TO A PETITION FILED BY THE PARTY WHOSE**  
2 **CONDUCT NECESSITATED THE PETITION IS THE PARTY'S SOLE REMEDY FOR**  
3 **OBJECTING TO A SUBPOENA.**

4           **(2) THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION**  
5 **MAY NOT FILE A MOTION TO QUASH OR A PETITION FOR AN INJUNCTION WITH**  
6 **RESPECT TO THE SUBPOENA.**

7           **(F) (1) EXCEPT FOR CASES THAT THE COURT CONSIDERS TO**  
8 **REQUIRE A HIGHER PRIORITY, A PROCEEDING UNDER THIS SECTION,**  
9 **INCLUDING ANY SUBSEQUENT APPELLATE JUDICIAL REVIEW, SHALL:**

10                   **(I) TAKE PRECEDENCE ON THE COURT'S DOCKET;**

11                   **(II) BE HEARD AT THE EARLIEST PRACTICABLE DATE; AND**

12                   **(III) BE EXPEDITED IN EVERY WAY.**

13           **(2) IN ANY HEARING ON THE PETITION IN A PROCEEDING UNDER**  
14 **THIS SECTION, THE COURT MAY NOT ALLOW ANY ADDITIONAL EVIDENCE.**

15           **(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
16 **SUBSECTION, THE COURT, AFTER PROVIDING AN OPPORTUNITY FOR A HEARING,**  
17 **SHALL REQUIRE THE PARTY WHOSE CONDUCT NECESSITATED THE PETITION TO**  
18 **PAY THE PETITIONER THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S**  
19 **FEES, INCURRED IN OBTAINING THE COURT ORDER.**

20           **(2) THE PROVISIONS OF PARAGRAPH (1) DO NOT APPLY IF THE**  
21 **COURT FINDS THAT THE OPPOSITION TO THE PETITION WAS SUBSTANTIALLY**  
22 **JUSTIFIED OR THAT OTHER CIRCUMSTANCES WOULD RENDER AN INJUSTICE IF**  
23 **THE COURT REQUIRED THE PAYMENT OF EXPENSES TO THE PETITIONER.**

24           **(H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARTY TO A**  
25 **PROCEEDING UNDER THIS SECTION MAY APPEAL THE DECISION OF THE**  
26 **CIRCUIT COURT ONLY BY A PETITION TO THE COURT OF APPEALS FOR THE**  
27 **ISSUANCE OF A WRIT OF CERTIORARI.**

28           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29           October 1, 2007.