

HOUSE BILL 424

P1

8lr1597

By: **Delegates Shank and Dumais**

Introduced and read first time: January 28, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Office of the State Prosecutor – Subpoena Authority**

3 FOR the purpose of authorizing the State Prosecutor to issue subpoenas for the
4 attendance of witnesses and the production of evidence when the State
5 Prosecutor investigates or prosecutes a case under certain circumstances;
6 specifying the rights of a person served with a certain subpoena and the
7 requirements the State Prosecutor must meet when a subpoena is served;
8 authorizing the State Prosecutor to report the failure of a person to obey a
9 subpoena; authorizing a court to grant relief under certain circumstances; and
10 generally relating to the State Prosecutor.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 14–110
14 Annotated Code of Maryland
15 (2001 Volume and 2007 Supplement)
16 (As enacted by Chapter ___ (S.B. 37) of the Acts of the General Assembly of
17 2008)

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

20 **Article – Criminal Procedure**

21 14–110.

22 (A) The State Prosecutor **MAY ISSUE SUBPOENAS FOR THE ATTENDANCE**
23 **OF WITNESSES AND THE PRODUCTION OF EVIDENCE AND** has all the powers and
24 duties of a State’s Attorney, including the use of a grand jury in any county, when the
25 State Prosecutor:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) investigates a case under § 14–107 of this title; or

2 (2) prosecutes a case under § 14–109 of this title.

3 **(B) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING**
4 **CRIMINAL INVESTIGATION, THE STATE PROSECUTOR MAY ISSUE A SUBPOENA**
5 **TO A PERSON TO PRODUCE TELEPHONE, BUSINESS, GOVERNMENTAL, OR**
6 **CORPORATE RECORDS OR DOCUMENTS.**

7 **(2) THE SUBPOENA MAY BE SERVED IN THE SAME MANNER AS**
8 **ONE ISSUED BY A CIRCUIT COURT.**

9 **(C) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY**
10 **CONTACT WITH THE STATE PROSECUTOR MADE UNDER SUBSECTION (B) OF**
11 **THIS SECTION.**

12 **(2) THE STATE PROSECUTOR SHALL ADVISE A PERSON OF THE**
13 **RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.**

14 **(D) (1) (I) THE STATE PROSECUTOR IMMEDIATELY MAY REPORT**
15 **THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA UNDER**
16 **SUBSECTION (B) OF THIS SECTION TO THE CIRCUIT COURT OF THE COUNTY**
17 **HAVING JURISDICTION.**

18 **(II) THE STATE PROSECUTOR SHALL PROVIDE A COPY OF**
19 **THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.**

20 **(2) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO**
21 **ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA ISSUED UNDER SUBSECTION**
22 **(B) OF THIS SECTION HAS AN OPPORTUNITY TO BE HEARD AND REPRESENTED**
23 **BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.**

24 **(E) THIS SECTION DOES NOT ALLOW THE CONTRAVENTION, DENIAL, OR**
25 **ABROGATION OF A PRIVILEGE OR RIGHT RECOGNIZED BY LAW.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2008.