

# HOUSE BILL 424

P1

8lr1597

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By: **Delegates Shank and Dumais**

Introduced and read first time: January 28, 2008

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2008

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## CHAPTER \_\_\_\_\_

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 a~~  
6 subpoena for the production of certain records or documents for a certain  
7 purpose; specifying the manner of service of a subpoena, the rights of a person  
8 served with a certain subpoena, and the requirements the State Prosecutor  
9 must meet when a subpoena is served; authorizing the State Prosecutor to  
10 report the failure of a person to obey a subpoena to a certain circuit court;  
11 authorizing a court to grant certain relief under certain circumstances; and  
12 generally relating to the State Prosecutor.

13 BY repealing and reenacting, with amendments,

14 Article – Criminal Procedure

15 Section 14–110

16 Annotated Code of Maryland

17 (2001 Volume and 2007 Supplement)

18 (As enacted by Chapter \_\_\_ (S.B. 37) of the Acts of the General Assembly of  
19 2008)

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

### 22 **Article – Criminal Procedure**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 14-110.

2 (A) The State Prosecutor ~~MAY ISSUE SUBPOENAS FOR THE ATTENDANCE~~  
3 ~~OF WITNESSES AND THE PRODUCTION OF EVIDENCE AND~~ has all the powers and  
4 duties of a State's Attorney, including the use of a grand jury in any county, when the  
5 State Prosecutor:

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

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

8 (B) (1) **FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING**  
9 **CRIMINAL INVESTIGATION UNDER § 14-107 OF THIS TITLE, THE STATE**  
10 **PROSECUTOR MAY ISSUE A SUBPOENA TO A PERSON TO PRODUCE TELEPHONE,**  
11 **BUSINESS, GOVERNMENTAL, OR CORPORATE RECORDS OR DOCUMENTS.**

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

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

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

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

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

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.