

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 424

(Delegates Shank and Dumais)

Judiciary

Judicial Proceedings

Office of the State Prosecutor - Subpoena Authority

This bill authorizes the State Prosecutor, for the limited purpose of furthering an ongoing criminal investigation, in a case within the State Prosecutor's jurisdiction, to issue a subpoena to produce specified records or documents.

Fiscal Summary

State Effect: Minimal decrease in expenditures for the Office of the State Prosecutor.

Local Effect: None. The bill would not materially impact circuit court operations.

Small Business Effect: None.

Analysis

Bill Summary: For the limited purpose of furthering an ongoing criminal investigation in a case within its jurisdiction, the State Prosecutor may issue a subpoena to a person to produce telephone, business, governmental, or corporate records or documents.

A subpoena to produce records or documents may be served in the same manner as a subpoena issued by the circuit courts. The bill specifies that an individual served with a subpoena must be advised of the right to counsel and may have an attorney present during any contact with the State Prosecutor. The bill requires the State Prosecutor to provide a copy of the subpoena and proof of service to the circuit court and allows the State Prosecutor to report a person who fails to obey a lawfully served subpoena to the circuit court having jurisdiction. The bill allows a court to grant appropriate relief after a

hearing has been conducted at which the person who allegedly failed to comply with a properly issued subpoena had an opportunity to be heard and represented by counsel.

Current Law: The State Prosecutor does not have any designated authority to issue subpoenas for the production of evidence.

Background: The Office of the State Prosecutor is an independent agency within the Executive Branch. The State Prosecutor investigates and prosecutes certain criminal offenses committed by public officials. The office conducts these investigations on its own initiative or at the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State's Attorney. OSP investigates the following types of cases: criminal offenses under the State election and conflict of interest laws; violations of the State bribery laws in which a public official or employee was offered or solicited a bribe; criminal malfeasance, misfeasance, or nonfeasance in office committed by a public officer or employee; all multijurisdictional offenses; and violations of State obstruction of justice, perjury, and extortion laws.

State Fiscal Effect: OSP advises this bill would improve administrative efficiency by eliminating the need to have staff members travel throughout the State for the limited purpose of having a subpoena signed. The fiscal 2009 budget allots only \$381 for automobile maintenance and repair and \$1,429 for gas and oil, a significant decrease from budgeted funds in the prior fiscal year. OSP predicts this bill would lead to a decrease in associated travel expenditures by at least several thousand dollars, enabling it to come closer to the appropriated funding.

Additional Information

Prior Introductions: None.

Cross File: SB 630 (Senator Jacobs) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), State Prosecutor's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2008
mcp/jr Revised - House Third Reader - March 31, 2008

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510