

SENATE BILL 797

D3

2lr2138

By: **Senators Frosh and Gladden**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Witnesses – Privileged Communications**
3 **Between Labor Organization and Member**

4 FOR the purpose of prohibiting a labor organization or an agent of a labor
5 organization from being compelled to disclose in certain proceedings certain
6 communications or information acquired from a member; providing certain
7 exceptions; prohibiting a certain inference from being drawn from a certain
8 refusal; providing that the provisions of federal or State labor law control under
9 certain circumstances; and generally relating to privileged communications.

10 BY adding to

11 Article – Courts and Judicial Proceedings

12 Section 9–124

13 Annotated Code of Maryland

14 (2006 Replacement Volume and 2011 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 **9–124.**

19 **(A) IN THIS SECTION, “LABOR ORGANIZATION” MEANS AN**
20 **ORGANIZATION THAT REPRESENTS OR SEEKS TO REPRESENT WORKERS FOR**
21 **THE PURPOSES OF COLLECTIVE BARGAINING.**

22 **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
23 **LABOR ORGANIZATION OR AN AGENT OF A LABOR ORGANIZATION MAY NOT BE**
24 **COMPELLED TO DISCLOSE, IN ANY COURT, ADMINISTRATIVE, ARBITRATION, OR**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 OTHER PROCEEDING, ANY COMMUNICATION OR INFORMATION AN AGENT OF
2 THE LABOR ORGANIZATION ACQUIRED FROM A MEMBER OF THE LABOR
3 ORGANIZATION IN THE COURSE OF THE AGENT'S PROFESSIONAL DUTIES OR
4 WHILE ACTING IN THE AGENT'S REPRESENTATIVE CAPACITY.

5 (C) A LABOR ORGANIZATION OR ITS AGENT MAY DISCLOSE A
6 COMMUNICATION OR INFORMATION DESCRIBED IN SUBSECTION (B) OF THIS
7 SECTION:

8 (1) TO THE EXTENT NECESSARY TO PREVENT THE COMMISSION
9 OF A CRIME THAT IS LIKELY TO RESULT IN A CLEAR, IMMINENT RISK OF
10 SERIOUS PHYSICAL INJURY TO OR DEATH OF ANOTHER INDIVIDUAL;

11 (2) IN ANY COURT, ADMINISTRATIVE, ARBITRATION, OR OTHER
12 PROCEEDING AGAINST:

13 (I) THE AGENT OF THE LABOR ORGANIZATION IN THE
14 AGENT'S PERSONAL OR OFFICIAL REPRESENTATIVE CAPACITY; OR

15 (II) THE LABOR ORGANIZATION, ANY AFFILIATED OR
16 SUBORDINATE BODY OF THE LABOR ORGANIZATION, OR ANY AGENT OF THE
17 LABOR ORGANIZATION OR ITS AFFILIATED OR SUBORDINATE BODY;

18 (3) IF THE LABOR ORGANIZATION HAS OBTAINED THE WRITTEN
19 OR ORAL CONSENT OF THE LABOR ORGANIZATION MEMBER;

20 (4) IF THE LABOR ORGANIZATION MEMBER IS DECEASED OR HAS
21 BEEN ADJUDICATED INCOMPETENT BY A COURT OF COMPETENT JURISDICTION
22 AND THE LABOR ORGANIZATION HAS OBTAINED THE WRITTEN OR ORAL
23 CONSENT OF THE PERSONAL REPRESENTATIVE OF THE MEMBER'S ESTATE OR
24 OF THE MEMBER'S GUARDIAN; OR

25 (5) WHEN REQUIRED BY COURT ORDER.

26 (D) AN ADVERSE INFERENCE MAY NOT BE DRAWN BASED ON THE
27 REFUSAL OF A LABOR ORGANIZATION OR AN AGENT OF A LABOR ORGANIZATION
28 TO DISCLOSE A COMMUNICATION OR ANY INFORMATION UNDER SUBSECTION
29 (C)(2) OF THIS SECTION.

30 (E) IN THE EVENT OF A CONFLICT BETWEEN THE APPLICATION OF THIS
31 SECTION AND ANY FEDERAL OR STATE LABOR LAW, THE PROVISIONS OF THE
32 FEDERAL OR STATE LAW SHALL CONTROL.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.