

HOUSE BILL 1439

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8lr1993
CF SB 870

By: **The Speaker (By Request – Office of the Attorney General) and Delegates
Anderson and Dumais**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Office of the Attorney General – Subpoena Power**

3 FOR the purpose of authorizing the Attorney General or a certain Deputy Attorney General
4 or the Director of the Criminal Division of the Office of the Attorney General to issue
5 a certain subpoena in any county in the State for a certain purpose; authorizing the
6 service of a certain subpoena in a certain manner; requiring the Attorney General or
7 a Deputy Attorney General or the Director to issue a certain notification to a certain
8 State’s Attorney; authorizing a certain person to have an attorney present at a
9 certain time; requiring the Attorney General to advise a certain person of the right
10 to counsel at a certain time; authorizing the Attorney General to report the failure
11 of a person to obey a certain subpoena to a certain circuit court; requiring the
12 Attorney General to provide a copy of a certain subpoena and proof of service to a
13 certain court; authorizing a certain court to grant certain relief after conducting a
14 certain hearing; providing that this Act does not allow the contravention, denial, or
15 abrogation of a certain privilege or right; and generally relating to the Office of the
16 Attorney General.

17 BY adding to

18 Article – State Government
19 Section 6–108.1
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2017 Supplement)

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

24 **Article – State Government**

25 **6–108.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING**
2 **CRIMINAL INVESTIGATION, THE ATTORNEY GENERAL OR A DEPUTY ATTORNEY**
3 **GENERAL OR THE DIRECTOR OF THE CRIMINAL DIVISION OF THE OFFICE MAY**
4 **ISSUE IN ANY COUNTY IN THE STATE A SUBPOENA TO A PERSON TO PRODUCE**
5 **TELEPHONE, BUSINESS, GOVERNMENT, OR CORPORATE RECORDS OR DOCUMENTS.**

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

8 **(3) IF A SUBPOENA IS ISSUED UNDER PARAGRAPH (1) OF THIS**
9 **SUBSECTION, THE ATTORNEY GENERAL, DEPUTY ATTORNEY GENERAL, OR THE**
10 **DIRECTOR OF THE CRIMINAL DIVISION OF THE OFFICE SHALL SEND A**
11 **CONFIDENTIAL NOTIFICATION TO THE STATE'S ATTORNEY OF THE COUNTY WHERE**
12 **THE SUBPOENA WAS ISSUED.**

13 **(B) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY**
14 **CONTACT MADE UNDER SUBSECTION (A) OF THIS SECTION WITH THE ATTORNEY**
15 **GENERAL OR AN AGENT OF THE ATTORNEY GENERAL.**

16 **(2) THE ATTORNEY GENERAL SHALL ADVISE A PERSON OF THE**
17 **RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.**

18 **(C) (1) (I) THE ATTORNEY GENERAL IMMEDIATELY MAY REPORT THE**
19 **FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA UNDER**
20 **SUBSECTION (A) OF THIS SECTION TO THE CIRCUIT COURT WITH JURISDICTION**
21 **OVER THE MATTER.**

22 **(II) THE ATTORNEY GENERAL SHALL PROVIDE A COPY OF THE**
23 **SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.**

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2018.