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TO: The Honorable Joselyn Pena-Melnyk  
Chair, Health and Government Operations Committee

FROM: Tiffany Johnson Clark  
Chief, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 669 – State Government – Attorney General – Publication of  
Documents – **Support with Amendments**

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The Office of Attorney General respectfully urges this Committee to report favorably with amendments on Senate Bill 669. The proposed amendments would conform this bill to House Bill 1158, which already passed the House.

Maryland Defense Act

The Maryland Defense Act authorizes the Attorney General to protect the State and its residents against harmful actions by the federal government. The Attorney General has brought a full spectrum of actions relating to environmental, health, economic, public safety, civil rights, and other policy arenas in which the federal government attempted to discriminate against and inflict harm upon Marylanders. The Maryland Defense Act has enabled the State to be vigilant in holding the government accountable when its actions violate the constitutional and statutory protections that safeguard the rights and well-being of Marylanders. This law has proven to be an important tool in helping the State ensure that the federal government acts in the best interests of Marylanders.

Over the past three years, activities related to the Maryland Defense Act have significantly decreased; however, the operation effort needed to complete the annual report summarizing Maryland Defense Act cases has not decreased. OAG estimates that producing the annual report takes approximately 80 hours of staff time per year across multiple divisions of the OAG. Additionally, the OAG has been bringing suits under the Maryland Defense Act for around six years. That means there are six years of data that illustrate that the OAG is properly using its authority under the Maryland Defense Act to protect the State and its residents. The Senate version of the bill re-instated the reporting requirement for the Maryland Defense Act, but the OAG would urge an amendment to conform the Senate version to House Bill 1158, which eliminated the requirement to file a report under the Defense Act.

#### Annual Report and Official Opinions Publication Requirement

Section 6-108 of the State Government Article requires the Attorney General to submit an annual report to the Governor describing the business and proceedings of the OAG and an itemized statement of the receipts and disbursements of the Attorney General during the preceding calendar and fiscal year, respectively. The Attorney General is also required to have published, in a bound volume, the opinions published by the OAG during the preceding calendar year and the annual report of the OAG for the preceding calendar year.

Senate Bill 669 removes the requirement that the Attorney General annually publish the opinions of the OAG issued and the annual report in a bound volume. We are in the 21<sup>st</sup> century, and the need to publish the OAG's annual reports in a bound volume is not the same as it was when the requirement was first established. In addition, the OAG currently publishes the official opinions of the Attorney General online, and the number of hits the website draws in terms of searches for OAG opinions far outweighs the number of requests for bound copies of the opinions. Although the OAG intends to continue periodically publishing bound volumes of its official opinions, the deletion of the express publication requirement will provide the Office with greater flexibility in terms of how many bound volumes to publish and how often to publish them, and will therefore save the State money.

OAG also requests additional amendments to Senate Bill 669 to conform this aspect of the bill to House Bill 1158. More specifically, the House version of the bill also removes the requirement that the annual report must provide an itemized statement of the receipts and disbursements of the Attorney General. This fiscal information is nearly identical to the information that is provided in the Maryland Operating Budget Books and is not appropriate to include in an annual report, as illustrated by the fact that this financial information is not required to be included in the annual reports required of Executive agencies or independent agencies in the State. The House version of the bill also requires the annual report to be submitted to the General Assembly under § 2-1257 of the State Government Article, so that there is an official record of the annual report having been submitted.

For the foregoing reasons, the Office of the Attorney General urges a favorable report with amendments on Senate Bill 669.

cc: Committee Members