

HOUSE BILL 1002

J1, P1

4lr2176

By: Chair, Health and Government Operations Committee (By Request – Office of the Attorney General) and Delegates Boyce, Harris, Lehman, ~~and Taveras~~ Taveras, Pena-Melnyk, Cullison, Alston, Bagnall, Bhandari, Hill, S. Johnson, Kaiser, Kerr, R. Lewis, Lopez, Martinez, Rosenberg, White Holland, and Woods

Introduced and read first time: February 5, 2024

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2024

CHAPTER _____

1 AN ACT concerning

2 ~~Maryland Department of Health~~ Office of the Attorney General – Investigative
3 Authority – Health Care Fraud

4 FOR the purpose of authorizing the ~~Office of the~~ Attorney General, a Deputy Attorney
5 General, or an Assistant Attorney General to issue a subpoena ~~persons or evidence,~~
6 ~~administer oaths, and take depositions and other testimony to investigate fraud,~~
7 ~~waste, abuse of Maryland Department of Health funds, or certain behavior in the~~
8 ~~Department; authorizing the Office to petition a court to compel compliance with a~~
9 ~~certain order or subpoena or testimony or the production of evidence under certain~~
10 ~~circumstances~~ to a person to produce certain materials, answer written
11 interrogatories, and give certain testimony in furtherance of a certain health care
12 fraud investigation; authorizing the Attorney General to report a failure to obey the
13 subpoena to the circuit court with jurisdiction over the matter; and generally relating
14 to the investigative authority of the Office of the Attorney General.

15 ~~BY repealing and reenacting, with amendments,~~
16 ~~Article – Health – General~~
17 ~~Section 2 – 503~~
18 ~~Annotated Code of Maryland~~
19 ~~(2023 Replacement Volume)~~

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.



BY adding to

Article – State Government
Section 6–901 to be under the new subtitle “Subtitle 9. Subpoenas”
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

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

~~Article – Health – General~~

~~2–503.~~

~~(a) The Inspector General:~~

~~(1) May investigate fraud, waste, abuse of departmental funds, and behavior in the Department that threatens public safety or demonstrates negligence, incompetence, or malfeasance;~~

~~(2) Shall cooperate with and coordinate investigative efforts with the Medicaid Fraud [Control] AND VULNERABLE VICTIMS Unit and where a preliminary investigation establishes a sufficient basis to warrant referral, shall refer such matters to the Medicaid Fraud [Control] AND VULNERABLE VICTIMS Unit; and~~

~~(3) Shall cooperate with and coordinate investigative efforts with departmental programs and other State and federal agencies to ensure a provider is not subject to duplicative audits.~~

~~(b) (1) The Inspector General [or], a designated Assistant Inspector General, OR THE OFFICE OF THE ATTORNEY GENERAL may subpoena any person or evidence, administer oaths, and take depositions and other testimony for the purpose of investigating fraud, waste, abuse of departmental funds, or behavior in the Department that threatens public safety or demonstrates negligence, incompetence, or malfeasance.~~

~~(2) If a person fails to comply with a lawful order or subpoena issued under this subsection, on petition of the Inspector General [or], a designated Assistant Inspector General, OR THE OFFICE OF THE ATTORNEY GENERAL, a court of competent jurisdiction may compel:~~

~~(i) Compliance with the order or subpoena; or~~

~~(ii) Testimony or the production of evidence.~~

~~(c) Within 30 business days after receiving a complaint or allegation, the Inspector General, the Compliance Officer, or a designated Assistant Inspector General shall respond to the individual who filed the complaint or allegation with:~~

~~(1) A preliminary indication of whether the Office of the Inspector General is able to investigate the complaint or allegation; and~~

~~(2) If the Office of the Inspector General is unable to investigate the complaint or allegation:~~

~~(i) The reason for not being able to investigate, unless providing the reason would have a negative impact on or jeopardize an investigation being conducted by the Office of the Inspector General, a managed care organization, another unit of government, or law enforcement; and~~

~~(ii) The contact information for the Office of Legislative Audits Fraud Hotline.~~

Article – State Government

SUBTITLE 9. SUBPOENAS.

6-901.

(A) THIS SECTION MAY NOT BE CONSTRUED TO ALLOW THE CONTRAVENTION, DENIAL, OR ABROGATION OF A PRIVILEGE OR RIGHT RECOGNIZED BY LAW.

(B) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING HEALTH CARE FRAUD INVESTIGATION UNDER THE MARYLAND FALSE HEALTH CLAIMS ACT OR OTHER CIVIL AUTHORITY, THE ATTORNEY GENERAL, A DEPUTY ATTORNEY GENERAL, OR AN ASSISTANT ATTORNEY GENERAL DESIGNATED IN WRITING BY THE ATTORNEY GENERAL MAY ISSUE IN ANY COURT IN THE STATE A SUBPOENA REQUIRING A PERSON TO:

(I) PRODUCE DOCUMENTARY MATERIAL FOR INSPECTION, COPYING, OR REPRODUCTION;

(II) ANSWER, UNDER OATH AND IN WRITING, WRITTEN INTERROGATORIES;

(III) GIVE SWORN ORAL TESTIMONY; OR

(IV) PROVIDE ANY COMBINATION OF ITEMS (I), (II), AND (III) OF THIS PARAGRAPH.

1 **(2) A SUBPOENA ISSUED UNDER PARAGRAPH (1) OF THIS**
2 **SUBSECTION MAY BE SERVED IN THE SAME MANNER AS A SUBPOENA ISSUED BY A**
3 **CIRCUIT COURT.**

4 **(C) (1) (I) IF A PERSON FAILS TO OBEY A LAWFULLY SERVED**
5 **SUBPOENA ISSUED UNDER SUBSECTION (B) OF THIS SECTION, THE ATTORNEY**
6 **GENERAL MAY REPORT A FAILURE TO OBEY THE SUBPOENA TO THE CIRCUIT COURT**
7 **WITH JURISDICTION OVER THE MATTER.**

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.