

# SENATE BILL 735

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By: **Senator Zirkin**

Introduced and read first time: February 13, 2015

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Office of the Public Defender – Eligibility – Requirements**

3 FOR the purpose of requiring the Office of the Public Defender to investigate the financial  
4 status of each applicant; requiring the Office to require a certain applicant to execute  
5 and deliver certain requests or authorizations that are needed in order to evaluate  
6 eligibility for services of the Office; requiring the Office to submit certain requests to  
7 the Department of Labor, Licensing, and Regulation and the Comptroller for certain  
8 information; authorizing the exchange of certain information by electronic format  
9 approved by a certain agency; and generally relating to the Office of the Public  
10 Defender.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Procedure  
13 Section 16–210  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume and 2014 Supplement)

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

18 **Article – Criminal Procedure**

19 16–210.

20 (a) An individual may apply for services of the Office as an indigent individual, if  
21 the individual states in writing under oath or affirmation that the individual, without  
22 undue financial hardship, cannot provide the full payment of an attorney and all other  
23 necessary expenses of representation in proceedings listed under § 16–204(b) of this  
24 subtitle.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) For an individual whose assets and net annual income are less than 100  
2 percent of the federal poverty guidelines, eligibility for services of the Office may be  
3 determined without an assessment regarding the need of the applicant.

4 (c) (1) For an individual whose assets and net annual income equal or exceed  
5 100 percent of the federal poverty guidelines, eligibility for the services of the Office shall  
6 be determined by the need of the applicant.

7 (2) Need shall be measured according to the financial ability of the  
8 applicant to engage and compensate a competent private attorney and to provide all other  
9 necessary expenses of representation.

10 (3) Financial ability shall be determined by:

11 (i) the nature, extent, and liquidity of assets;

12 (ii) the disposable net income of the applicant;

13 (iii) the nature of the offense;

14 (iv) the length and complexity of the proceedings;

15 (v) the effort and skill required to gather pertinent information; and

16 (vi) any other foreseeable expense.

17 (4) If eligibility cannot be determined before the Office or a panel attorney  
18 begins representation, the Office may represent an applicant provisionally.

19 (5) If the Office subsequently determines that an applicant is ineligible:

20 (i) the Office shall inform the applicant; and

21 (ii) the applicant shall be required to engage the applicant's own  
22 attorney and reimburse the Office for the cost of the representation provided.

23 (d) (1) The Office shall investigate the financial status of [an] EACH applicant  
24 [when the circumstances warrant].

25 (2) The Office [may] SHALL:

26 (i) require an applicant to execute and deliver written requests or  
27 authorizations that are necessary under law to provide the Office with access to confidential  
28 records of public or private sources that are needed to evaluate eligibility; and

29 (ii) on request, obtain information without charge from a public  
30 record office or other unit of the State, county, or municipal corporation.

1                   (3)   (i)    The Office [may] **SHALL** submit requests to the Department of  
2 Labor, Licensing, and Regulation and the Comptroller for information regarding the  
3 employment status and income of applicants.

4                   (ii)   Each request shall be accompanied by an authorization for  
5 release of information that is:

6                               1.    in a form acceptable to the agency to which the request is  
7 submitted; and

8                               2.    signed by the applicant.

9                   (iii)   The Department of Labor, Licensing, and Regulation and the  
10 Comptroller shall comply with requests for information made by the Office under this  
11 paragraph.

12                   (iv)   Requests and responsive information may be exchanged by  
13 facsimile transmission **OR AN ELECTRONIC FORMAT APPROVED BY THE AGENCY TO**  
14 **WHICH THE REQUEST IS SUBMITTED.**

15                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2015.