

# HOUSE BILL 595

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8lr1310

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By: **Delegates Mathias and Conway**

Introduced and read first time: January 31, 2008

Assigned to: Environmental Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 25, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Worcester County – Office of the State’s Attorney**

3 FOR the purpose of altering certain personnel policies of the Office of the State’s  
4 Attorney of Worcester County; altering the salary of the State’s Attorney;  
5 providing that certain salaries, compensation, employee benefits, and expenses  
6 of the Office be subject to the annual budget process and approval of the county  
7 commissioners; specifying that employees of the Office are not employees of the  
8 county; altering the number of special investigators the State’s Attorney may  
9 appoint; authorizing the State’s Attorney to hire certain employees under  
10 certain circumstances; requiring that employees of the Office receive certain  
11 benefits and are under the control of the State’s Attorney; specifying that the  
12 State’s Attorney perform certain supervisory functions for certain employees;  
13 authorizing the State’s Attorney to adopt certain office practices and  
14 procedures; specifying that certain employees may be disciplined or terminated  
15 for cause only; requiring that certain employees remain in their positions and  
16 be considered rehired when a new State’s Attorney takes office or at the  
17 beginning of a new term of office; authorizing the county commissioners to  
18 provide in-kind support to the State’s Attorney for personnel matters; and  
19 generally relating to the Office of the State’s Attorney of Worcester County.

20 BY repealing and reenacting, with amendments,  
21 Article – Criminal Procedure  
22 Section 15-424  
23 Annotated Code of Maryland  
24 (2001 Volume and 2007 Supplement)

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### 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.



1 (As enacted by Chapter \_\_\_ (S.B. 37) of the Acts of the General Assembly of  
2 2008)

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

5 **Article – Criminal Procedure**

6 15–424.

7 (a) This section applies only in Worcester County.

8 (b) (1) Subject to paragraph (2) of this subsection, the State’s Attorney’s  
9 salary is 90% of the salary of a judge of the District Court of Maryland.

10 (2) By enacting an ordinance before the election filing deadline for the  
11 next term of office for the State’s Attorney, the county commissioners may set the  
12 salary at an amount exceeding 90% of the salary of a judge of the District Court of  
13 Maryland.

14 **(3) (I) ALL OTHER SALARIES, COMPENSATION, EMPLOYEE**  
15 **BENEFITS, AND EXPENSES OF THE OFFICE OF THE STATE’S ATTORNEY ARE**  
16 **SUBJECT TO THE ANNUAL BUDGET PROCESS AND APPROVAL OF THE COUNTY**  
17 **COMMISSIONERS IN ACCORDANCE WITH THE BUDGET AND FISCAL POLICIES**  
18 **AND PURCHASING LAWS OF THE COUNTY.**

19 **(II) PROCESSING THE PAYROLL OF THE OFFICE OF THE**  
20 **STATE’S ATTORNEY AS PART OF THE PAYROLL OF THE COUNTY DOES NOT MAKE**  
21 **EMPLOYEES OF THE OFFICE OF THE STATE’S ATTORNEY THE EMPLOYEES OF**  
22 **THE COUNTY.**

23 (c) (1) [(i)] The State’s Attorney may appoint the number of full–time  
24 or part–time deputy State’s Attorneys and assistant State’s Attorneys that the county  
25 commissioners approve.

26 [(ii)](2) The deputy and assistant State’s Attorneys appointed  
27 under subparagraph (i) of this paragraph shall:

28 [1.](I) serve at the pleasure of the State’s Attorney;  
29 and

30 [2.](II) have the same legal powers as the State’s  
31 Attorney to present cases to the grand jury, represent the State in criminal  
32 proceedings, and perform necessary duties in relation to the grand jury and operation  
33 of the office **THAT THE STATE’S ATTORNEY REQUIRES.**

1 [(iii) The county commissioners shall approve the compensation  
2 of the deputy and assistant State's Attorneys.

3 (2) (i) In addition to the assistant State's Attorney appointed  
4 under paragraph (1) of this subsection, with the approval of the resident circuit court  
5 judge of the county, the State's Attorney may appoint two members of the Bar of  
6 Worcester County as assistant State's Attorneys.

7 (ii) One assistant State's Attorney appointed under this  
8 paragraph shall receive a salary set by the Board of County Commissioners that may  
9 not be less than \$16,000, including any state or federal funds provided for the position.

10 (iii) The other assistant State's Attorney appointed under this  
11 paragraph shall receive a salary that may not be less than \$12,000, including any  
12 State or federal funds provided for the position.

13 (3) (i) In addition to the assistant State's Attorneys appointed  
14 under paragraphs (1) and (2) of this subsection, with the prior approval of the resident  
15 circuit court judge of the county and the Board of County Commissioners, the State's  
16 Attorney may appoint additional assistant State's Attorneys as the State's Attorney  
17 considers necessary.

18 (ii) The salary of an assistant State's Attorney appointed under  
19 this paragraph shall be set and approved by the Board of County Commissioners.]

20 (d) [(1)] If authorized by an ordinance enacted by the county  
21 commissioners, the State's Attorney may appoint [two] special investigators who:

22 [(i)](1) shall serve at the pleasure of the State's Attorney;  
23 **AND**

24 [(ii)](2) shall perform work as directed by and under the  
25 supervision of the State's Attorney[; and

26 (iii) subject to paragraph (2) of this subsection, shall receive a  
27 salary determined by the county commissioners.

28 (2) The salary of one special investigator appointed under paragraph  
29 (1) of this subsection may not be less than \$12,000, including any State or federal  
30 funds provided for the position].

31 (e) [(1)] The State's Attorney shall serve full time and may not engage in  
32 the private practice of law.

33 [(2) (i) The assistant State's Attorney appointed under subsection  
34 (c)(2)(ii) of this section shall serve full time and may not engage in the private practice  
35 of law.

1 (ii) The assistant State's Attorney appointed under subsection  
2 (c)(2)(iii) of this section may engage in the private practice of law.

3 (3) A special investigator appointed under subsection (d) of this  
4 section shall serve full time and may not engage in other employment.]

5 **(F) ON APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S**  
6 **ATTORNEY MAY HIRE THE CLERICAL, SECRETARIAL, AND OFFICE EMPLOYEES**  
7 **THAT THE STATE'S ATTORNEY DETERMINES ARE NEEDED.**

8 **(G) ALL EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY,**  
9 **INCLUDING DEPUTY STATE'S ATTORNEYS, ASSISTANT STATE'S ATTORNEYS,**  
10 **INVESTIGATORS, CLERICAL WORKERS, SECRETARIES, AND OFFICE EMPLOYEES:**

11 **(1) ARE EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY**  
12 **AND NOT OF THE COUNTY COMMISSIONERS;**

13 **(2) SHALL RECEIVE THE SAME INSURANCE, RETIREMENT, AND**  
14 **LEAVE BENEFITS AS COUNTY EMPLOYEES; AND**

15 **(3) ARE UNDER THE CONTROL OF THE STATE'S ATTORNEY,**  
16 **SUBJECT TO THIS SECTION AND THE PERSONNEL RULES AND REGULATIONS**  
17 **THAT THE COUNTY COMMISSIONERS ADOPT BY RESOLUTION FOR COUNTY**  
18 **EMPLOYEES.**

19 **(H) THE STATE'S ATTORNEY SHALL PERFORM THE APPOINTMENT,**  
20 **DISCIPLINARY, TERMINATION, AND MANAGERIAL FUNCTIONS FOR ALL**  
21 **EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY WHO ARE COVERED BY**  
22 **THE PERSONNEL RULES AND REGULATIONS THAT THE COUNTY COMMISSIONERS**  
23 **ADOPT.**

24 **(I) THE STATE'S ATTORNEY MAY ADOPT OFFICE PRACTICES, MANUALS,**  
25 **RULES OF CONDUCT, AND OTHER PROCEDURES TO SERVE AS CONDITIONS OF**  
26 **EMPLOYMENT FOR EMPLOYEES OF THE OFFICE OF THE STATE'S ATTORNEY.**

27 **(J) (1) EXCEPT FOR MEMBERS OF THE STATE BAR WHO SERVE AS**  
28 **DEPUTY OR ASSISTANT STATE'S ATTORNEYS, EMPLOYEES OF THE OFFICE OF**  
29 **THE STATE'S ATTORNEY MAY BE DISCIPLINED OR TERMINATED FOR CAUSE**  
30 **ONLY IN ACCORDANCE WITH THIS SECTION AND THE PERSONNEL RULES AND**  
31 **REGULATIONS THAT THE COUNTY COMMISSIONERS ADOPT.**

32 **(2) WHEN A NEW STATE'S ATTORNEY TAKES OFFICE OR AT THE**  
33 **BEGINNING OF A NEW TERM OF A STATE'S ATTORNEY, ALL CLERICAL,**

1 SECRETARIAL, OFFICE, AND OTHER EMPLOYEES EXCEPT FOR DEPUTY AND  
2 ASSISTANT STATE'S ATTORNEYS SHALL REMAIN IN THEIR POSITIONS AND  
3 SHALL BE CONSIDERED REHIRED.

4 (K) ON REQUEST OF THE STATE'S ATTORNEY, THE COUNTY  
5 COMMISSIONERS MAY PROVIDE IN-KIND SUPPORT TO THE STATE'S ATTORNEY  
6 FOR PERSONNEL MATTERS.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2008.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.