

SENATE BILL 37

E2

8lr0773

(PRE-FILED)

By: **The President (By Request – Department of Legislative Services – Code Revision)**

Requested: September 26, 2007

Introduced and read first time: January 9, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 17, 2008

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure Article Additions**

3 FOR the purpose of adding three new titles to the Criminal Procedure Article of the
4 Annotated Code of Maryland, to be designated and known as “Title 14. Office of
5 the State Prosecutor”, “Title 15. Office of the State’s Attorney”, and “Title 16.
6 Office of the Public Defender”; revising, restating, and recodifying certain laws
7 applicable to the Office of the State Prosecutor, including laws concerning the
8 establishment of the Office, the eligibility of individuals to be nominated and
9 appointed to be the State Prosecutor, the establishment and membership of the
10 State Prosecutor Selection and Disabilities Commission, the filling of vacancies
11 in the Office, the reprimand or removal of the State Prosecutor, the general
12 powers and duties of the State Prosecutor, investigations, reports, and
13 prosecutions of the Office, the budget and staff of the Office, and meetings with
14 the Attorney General and State’s Attorneys; revising, restating, and recodifying
15 certain laws applicable to the Office of the State’s Attorney, including laws
16 concerning the duties of the State’s Attorney, the subpoena power in a criminal
17 investigation, and the appointment of an interim State’s Attorney, the
18 establishment of the State’s Attorneys’ Coordination Council, the establishment
19 of the Office of the State’s Attorneys’ Coordinator, the duties of the Coordinator,
20 and the salary, expenses, staffing, and other matters regarding the State’s
21 Attorneys for Allegany County, Anne Arundel County, Baltimore County,
22 Calvert County, Caroline County, Carroll County, Cecil County, Charles
23 County, Dorchester County, Frederick County, Garrett County, Harford County,
24 Howard County, Kent County, Montgomery County, Prince George’s County,

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 Queen Anne’s County, St. Mary’s County, Somerset County, Talbot County,
2 Washington County, Wicomico County, and Worcester County; revising,
3 restating, and recodifying certain laws applicable to the Office of the Public
4 Defender, including laws concerning the establishment of the Office of the
5 Public Defender, Office personnel, representation of indigent individuals,
6 termination of representation, representation in federal court, duties and
7 powers of the Public Defender, panel attorneys, privileged communications,
8 eligibility for services, reimbursement for services, liens, the Board of Trustees
9 of the Office of the Public Defender, regional advisory boards, reports of the
10 Public Defender, and appropriations; defining certain terms; providing for the
11 construction and application of this Act; providing for the continuity of certain
12 units and the terms of certain officials; providing for the continuity of the status
13 of certain transactions, employees, rights, duties, titles, interests, licenses,
14 registrations, certifications, and permits; and generally relating to laws of the
15 State relating to the Office of the State Prosecutor, the Office of the State’s
16 Attorney, and the Office of the Public Defender.

17 BY repealing

18 Article 10 – Legal Officials
19 In its entirety
20 Annotated Code of Maryland
21 (2005 Replacement Volume and 2007 Supplement)

22 BY repealing

23 Article 27A – Public Defender
24 In its entirety
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2007 Supplement)

27 BY repealing

28 Article – State Government
29 Section 9–1201 through 9–1213, inclusive, and the subtitle “Subtitle 12. Office
30 of the State Prosecutor”
31 Annotated Code of Maryland
32 (2004 Replacement Volume and 2007 Supplement)

33 BY adding to

34 Article – Criminal Procedure
35 Section 14–101 through 14–114, inclusive, and the new title “Title 14. Office of
36 the State Prosecutor”; 15–101 through 15–424, inclusive, and the various
37 subtitles to be under the new title “Title 15. Office of the State’s
38 Attorney”; and 16–101 through 16–403, inclusive, and the various
39 subtitles to be under the new title “Title 16. Office of the Public Defender”
40 Annotated Code of Maryland
41 (2001 Volume and 2007 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the following Section(s) of the Annotated Code of Maryland be
3 repealed:

4 Article 10
5 In its entirety

6 Article 27A
7 In its entirety

8 Article – State Government
9 Section 9–1201 through 9–1213, inclusive, and the subtitle “Subtitle 12. Office
10 of the State Prosecutor”

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
12 read as follows:

13 **Article – Criminal Procedure**

14 **TITLE 14. OFFICE OF THE STATE PROSECUTOR.**

15 **14–101. “COMMISSION” DEFINED.**

16 **IN THIS TITLE, “COMMISSION” MEANS THE STATE PROSECUTOR**
17 **SELECTION AND DISABILITIES COMMISSION.**

18 REVISOR’S NOTE: This section is new language added to provide a convenient
19 reference to the “State Prosecutor Selection and Disabilities
20 Commission”.

21 **14–102. OFFICE OF THE STATE PROSECUTOR.**

22 **(A) ESTABLISHED.**

23 **(1) THERE IS AN OFFICE OF THE STATE PROSECUTOR.**

24 **(2) THE OFFICE OF THE STATE PROSECUTOR IS AN**
25 **INDEPENDENT UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.**

26 **(B) ELIGIBILITY.**

27 **(1) AN INDIVIDUAL IS ELIGIBLE TO BE THE STATE PROSECUTOR**
28 **ONLY IF THE INDIVIDUAL:**

29 **(I) EXECUTES AN AFFIDAVIT THAT THE INDIVIDUAL WILL**
30 **NOT ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL**

1 OFFICE DURING THE PERIOD OF SERVICE AS THE STATE PROSECUTOR AND FOR
2 AT LEAST 3 YEARS IMMEDIATELY AFTER THE INDIVIDUAL LAST SERVES AS THE
3 STATE PROSECUTOR; AND

4 (II) HAS LAWFULLY AND ACTIVELY PRACTICED LAW IN THE
5 STATE FOR AT LEAST 5 YEARS.

6 (2) THE STATE PROSECUTOR SHALL RENEW THE AFFIDAVIT
7 EVERY 2 YEARS DURING THE PERIOD OF SERVICE.

8 (3) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS
9 SUBSECTION SHALL SUBJECT THE STATE PROSECUTOR TO REMOVAL FROM
10 OFFICE UNDER THIS SECTION.

11 (C) NOMINATION; APPOINTMENT; TENURE.

12 (1) THE STATE PROSECUTOR SHALL BE:

13 (I) NOMINATED BY THE COMMISSION; AND

14 (II) APPOINTED BY THE GOVERNOR WITH THE ADVICE AND
15 CONSENT OF THE SENATE.

16 (2) THE TERM OF THE STATE PROSECUTOR IS 6 YEARS.

17 (3) AT THE END OF A TERM, THE STATE PROSECUTOR
18 CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

19 (D) REMOVAL.

20 ONLY ON THE RECOMMENDATION OF THE COMMISSION, THE GOVERNOR
21 MAY REMOVE THE STATE PROSECUTOR FOR:

22 (1) MISCONDUCT IN OFFICE;

23 (2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE
24 OFFICE; OR

25 (3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF
26 JUSTICE.

27 (E) SALARY.

1 **THE STATE PROSECUTOR IS ENTITLED TO THE SALARY PROVIDED IN THE**
2 **STATE BUDGET, BUT NOT LESS THAN THE SALARY OF A JUDGE OF A CIRCUIT**
3 **COURT.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former SG § 9–1201.

6 In subsection (b)(1)(i) of this section, the former phrase “under oath” is
7 deleted in light of the reference to “affidavit”.

8 Also in subsection (b)(1)(i) of this section, the former reference to a State
9 or local office “, whether appointive or elective,” is deleted as redundant,
10 because this subsection states that an individual will not accept
11 “appointment to, or be a candidate for,” a State or local office.

12 In subsection (b)(1)(ii) of this section, the former phrase “at the time of
13 appointment” is deleted as surplusage.

14 The Criminal Procedure Article Additions Review Committee notes, for
15 consideration by the General Assembly, that the Office of the State
16 Prosecutor is an independent unit but is no longer physically housed in
17 the Office of the Attorney General, and the Office of the State Prosecutor
18 is not budgeted as part of the Office of the Attorney General. Thus, the
19 reference in subsection (a)(2) of this section to the Office as being “in the
20 Office of the Attorney General” may be obsolete.

21 The Committee also notes that subsection (b)(1) of this section states that
22 the State Prosecutor must file an affidavit stating that the State
23 Prosecutor will not accept appointment to, or be a candidate for, a State
24 or local office during service as the State Prosecutor and for at least 3
25 years thereafter. Subsection (b)(2) states that the State Prosecutor must
26 renew the affidavit every 2 years during the period of service. These
27 provisions, however, do not state with whom the State Prosecutor should
28 file an original or renewed affidavit.

29 The Committee also notes that subsection (b)(3) of this section states that
30 a failure to renew the affidavit shall subject the State Prosecutor to
31 removal from office under this section. The only provision in this section
32 that covers removal is subsection (d). The relationship, however, between
33 subsection (b) and subsection (d) is unclear. Subsection (d) requires that
34 removal be first recommended by the Commission and states three
35 grounds for removal, none of which specifically includes failure to renew
36 the affidavit.

37 Defined term: “Commission” § 14–101

38 **14–103. STATE PROSECUTOR SELECTION AND DISABILITIES COMMISSION.**

1 **1. SHALL BE APPOINTED FROM A LIST OF ONE OR**
2 **MORE NOMINEES SUBMITTED BY THE GOVERNING BOARD OF THE MARYLAND**
3 **STATE’S ATTORNEYS ASSOCIATION; AND**

4 **2. IS A STATE’S ATTORNEY AT THE TIME OF**
5 **APPOINTMENT AND THROUGHOUT THE INDIVIDUAL’S TERM ON THE**
6 **COMMISSION.**

7 **(C) APPOINTMENT.**

8 **(1) THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE**
9 **COMMISSION FROM THE NOMINEES SUBMITTED TO THE GOVERNOR UNDER**
10 **THIS SECTION.**

11 **(2) THE GOVERNOR MAY REJECT AN INDIVIDUAL AS A NOMINEE**
12 **ONLY FOR CAUSE.**

13 **(3) IF THE GOVERNOR REJECTS AN INDIVIDUAL AS A NOMINEE,**
14 **THE GOVERNOR SHALL REQUEST THE APPROPRIATE NOMINATING AUTHORITY**
15 **TO SUBMIT ANOTHER NOMINEE.**

16 **(D) TENURE.**

17 **(1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.**

18 **(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS**
19 **REQUIRED BY THE TERMS IN EFFECT FOR MEMBERS ON OCTOBER 1, 2008.**

20 **(3) AN APPOINTED MEMBER SERVES UNTIL A SUCCESSOR IS**
21 **APPOINTED AND QUALIFIES.**

22 **(4) AN APPOINTED MEMBER IS ELIGIBLE FOR REAPPOINTMENT.**

23 **(E) CHAIR.**

24 **FROM AMONG THE MEMBERS, THE GOVERNOR SHALL DESIGNATE THE**
25 **CHAIR OF THE COMMISSION FOR THE PERIOD THAT THE GOVERNOR**
26 **DETERMINES.**

27 **(F) VACANCIES.**

1 **A VACANCY THAT OCCURS ON THE COMMISSION SHALL BE FILLED BY THE**
2 **GOVERNOR IN THE SAME MANNER AS PROVIDED FOR APPOINTMENTS IN THIS**
3 **SECTION.**

4 **(G) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.**

5 **A MEMBER OF THE COMMISSION:**

6 **(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE**
7 **COMMISSION; BUT**

8 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
9 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
10 **BUDGET.**

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former SG § 9-1211.

13 In subsection (b)(1) of this section, the former reference to the Attorney
14 General “, ex officio, but with power to vote” is deleted as unnecessary
15 and possibly misleading because serving “ex officio” does not place a limit
16 on voting rights, despite a common misperception that it indicates a
17 nonvoting status.

18 In subsection (b)(2)(iv) of this section, the former reference to the
19 Maryland State’s Attorneys Association “, Incorporated, or its successor”
20 is deleted as surplusage.

21 In subsection (d) of this section, the references to “appointed” members
22 are added to clarify that subsection (d) does not apply to the Attorney
23 General, who serves ex officio.

24 In subsection (d)(2) of this section, the reference to terms being
25 “staggered as required by the terms in effect for members on October 1,
26 2008” is substituted for the former obsolete reference to the initial terms
27 of the initial appointees. This substitution is not intended to alter the
28 term of any member of the Commission. *See* § __ of Ch. __, Acts of 2008.
29 The terms of the members serving on October 1, 2008, end as follows: (1)
30 two members on December 31, 2009; (2) two members on December 31,
31 2011; and (3) two members on December 31, 2013.

32 In subsection (e) of this section, the reference to “chair” is substituted for
33 the former reference to “chairman” because SG § 2-1238 requires the use
34 of words that are neutral as to gender to the extent practicable.

1 In subsection (g)(2) of this section, the reference to “Standard State
2 Travel Regulations” is standard language added to reflect that, under SF
3 § 10–203, the Board of Public Works has adopted regulations for
4 reimbursement of expenses. See COMAR 23.02.01.01 through .12.

5 Defined term: “Commission” § 14–101

6 **14–104. FILLING VACANCIES IN OFFICE OF STATE PROSECUTOR.**

7 **(A) RECOMMENDATIONS.**

8 **ON NOTIFICATION BY THE GOVERNOR THAT A VACANCY EXISTS OR IS**
9 **ABOUT TO OCCUR IN THE POSITION OF STATE PROSECUTOR, THE COMMISSION**
10 **SHALL:**

11 **(1) SEEK AND REVIEW APPLICATIONS OF PROPOSED NOMINEES;**

12 **(2) NOTIFY AND REQUEST RECOMMENDATIONS FROM THE**
13 **MARYLAND STATE BAR ASSOCIATION; AND**

14 **(3) SEEK RECOMMENDATIONS FROM MEMBERS OF THE**
15 **COMMISSION AND INTERESTED CITIZENS AND GROUPS.**

16 **(B) NOMINATIONS.**

17 **THE COMMISSION SHALL:**

18 **(1) INTERVIEW AND EVALUATE EACH ELIGIBLE APPLICANT; AND**

19 **(2) NOMINATE TO THE GOVERNOR, ON A VOTE TAKEN BY SECRET**
20 **BALLOT, ONE OR MORE INDIVIDUALS WHOM A MAJORITY OF THE AUTHORIZED**
21 **MEMBERSHIP OF THE COMMISSION FINDS TO BE LEGALLY AND**
22 **PROFESSIONALLY QUALIFIED.**

23 **(C) REPORT TO GOVERNOR.**

24 **THE COMMISSION SHALL REPORT, IN WRITING, TO THE GOVERNOR THE**
25 **NAME OF THE INDIVIDUAL OR INDIVIDUALS IT NOMINATES WITHIN 70 DAYS**
26 **AFTER NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR.**

27 **(D) REJECTION OF NOMINEE.**

28 **(1) (I) THE GOVERNOR MAY REJECT A NOMINEE FOR CAUSE.**

1 (II) IF A NOMINEE IS REJECTED FOR CAUSE, THE
2 COMMISSION SHALL SUBMIT ANOTHER NOMINEE.

3 (2) IF THE GOVERNOR REJECTS A NOMINEE:

4 (I) THE GOVERNOR SHALL SEND TO THE COMMISSION A
5 WRITTEN STATEMENT THAT CONTAINS THE REASONS FOR THE REJECTION; AND

6 (II) A COPY OF THE STATEMENT OF REJECTION SHALL BE
7 FURNISHED TO THE NOMINEE.

8 (3) THE STATEMENT SHALL BE CONFIDENTIAL AND PRIVILEGED,
9 UNLESS THE PRIVILEGE IS DEEMED WAIVED BY THE COMMISSION BY THE ACTS
10 OF THE NOMINEE IN PRESENTING TO THE PUBLIC THE REASON FOR THE
11 REJECTION.

12 (4) THE COMMISSION MAY MAKE THE STATEMENT PUBLIC.

13 (E) TIME OF APPOINTMENT OR REJECTION.

14 **THE GOVERNOR SHALL EXERCISE THE POWER OF APPOINTMENT OR**
15 **REJECTION WITHIN 30 DAYS AFTER RECEIPT OF THE COMMISSION'S REPORT.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former SG § 9-1212.

18 In the introductory language of subsection (a) of this section, the
19 reference to the "position of" State Prosecutor is substituted for the
20 former reference to the "Office of the" State Prosecutor for clarity.

21 In subsection (b)(2) of this section, the former reference to the "entire"
22 authorized membership is deleted as surplusage.

23 In subsection (d)(3) of this section, the former reference to "secret" is
24 deleted as implicit in the references to "confidential" and "privileged".

25 Also in subsection (d)(3) of this section, the former reference to the
26 "nominating" Commission is deleted as surplusage.

27 The Criminal Procedure Article Additions Review Committee notes, for
28 consideration by the General Assembly, that subsection (d)(3) of this
29 section appears to be inconsistent with subsection (d)(4). Subsection (d)(3)
30 states that a rejection statement "shall be confidential and privileged,
31 unless the privilege is deemed waived by the Commission by the acts of
32 the nominee in presenting to the public the reason for rejection".

1 Subsection (d)(4), however, states without qualification that the
2 Commission “may make the statement public”.

3 Defined term: “Commission” § 14–101

4 **14–105. REPRIMAND OR REMOVAL.**

5 **(A) AUTHORITY OF COMMISSION.**

6 **THE COMMISSION MAY REPRIMAND OR RECOMMEND TO THE GOVERNOR**
7 **THE REMOVAL OF THE STATE PROSECUTOR IF, AFTER A HEARING, THE**
8 **COMMISSION FINDS THAT THE STATE PROSECUTOR IS GUILTY OF:**

9 **(1) MISCONDUCT IN OFFICE;**

10 **(2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE**
11 **OFFICE; OR**

12 **(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF**
13 **JUSTICE.**

14 **(B) CONFIDENTIAL AND PRIVILEGED PROCEEDINGS AND EVIDENCE.**

15 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
16 **SUBSECTION, THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE BEFORE**
17 **THE COMMISSION ARE CONFIDENTIAL AND PRIVILEGED.**

18 **(2) ON TAKING FINAL ACTION, THE COMMISSION MAY MAKE ITS**
19 **ORDER AND THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE PUBLIC.**

20 **(C) INVESTIGATIONS; HEARINGS.**

21 **(1) ON COMPLAINT OR ON ITS OWN INITIATIVE, THE COMMISSION**
22 **MAY INVESTIGATE ALLEGATIONS AGAINST THE STATE PROSECUTOR THAT MAY**
23 **WARRANT REMOVAL OR REPRIMAND.**

24 **(2) THE COMMISSION MAY:**

25 **(I) CONDUCT HEARINGS;**

26 **(II) ADMINISTER OATHS AND AFFIRMATIONS;**

27 **(III) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF**
28 **WITNESSES AND THE PRODUCTION OF EVIDENCE; AND**

1 **(IV) REQUIRE A PERSON TO TESTIFY AND PRODUCE**
2 **EVIDENCE BY GRANTING THE PERSON IMMUNITY FROM PROSECUTION,**
3 **PENALTY, OR FORFEITURE.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former SG § 9–1213.

6 In subsection (c)(1) of this section, the reference to the Commission's own
7 "initiative" is substituted for the former reference to the Commission's
8 own "motion" to conform to the terminology used in § 14–107(a)(3) of this
9 title.

10 Also in subsection (c)(1) of this section, the reference to a "reprimand" is
11 substituted for the former reference to "discipline" to conform to the
12 terminology used in this section.

13 Also in subsection (c)(1) of this section, the former phrase "if true" is
14 deleted as surplusage.

15 Defined terms: "Commission" § 14–101
16 "Person" § 1–101

17 **14–106. GENERAL POWERS AND DUTIES OF STATE PROSECUTOR.**

18 **THE STATE PROSECUTOR HAS THE POWERS AND DUTIES ESTABLISHED**
19 **UNDER §§ 14–107 THROUGH 14–111 OF THIS TITLE.**

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former SG § 9–1202.

22 The former reference to "responsibilities" is deleted as unnecessary in
23 light of the reference to the "duties" of the State Prosecutor.

24 **14–107. INVESTIGATIONS.**

25 **(A) IN GENERAL.**

26 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
27 **SUBSECTION, THE STATE PROSECUTOR MAY INVESTIGATE:**

28 **(I) A CRIMINAL OFFENSE UNDER THE STATE ELECTION**
29 **LAWS;**

30 **(II) A CRIMINAL OFFENSE UNDER THE STATE PUBLIC**
31 **ETHICS LAW;**

1 (III) A VIOLATION OF THE STATE BRIBERY LAWS IN WHICH
2 AN OFFICIAL OR EMPLOYEE OF THE STATE, A POLITICAL SUBDIVISION OF THE
3 STATE, OR A BICOUNTY OR MULTICOUNTY UNIT OF THE STATE WAS THE
4 OFFEROR, OFFEREE, OR INTENDED OFFEROR OR OFFEREE OF A BRIBE;

5 (IV) AN OFFENSE CONSTITUTING CRIMINAL MALFEASANCE,
6 MISFEASANCE, OR NONFEASANCE IN OFFICE COMMITTED BY AN OFFICER OR
7 EMPLOYEE OF THE STATE, OF A POLITICAL SUBDIVISION OF THE STATE, OR OF
8 A BICOUNTY OR MULTICOUNTY UNIT OF THE STATE; AND

9 (V) A VIOLATION OF THE STATE EXTORTION, PERJURY, OR
10 OBSTRUCTION OF JUSTICE LAWS RELATED TO AN ACTIVITY DESCRIBED IN THIS
11 PARAGRAPH.

12 (2) THE STATE PROSECUTOR MAY NOT INVESTIGATE AN
13 OFFENSE ALLEGED TO HAVE BEEN COMMITTED BY THE STATE PROSECUTOR OR
14 A MEMBER OF THE STATE PROSECUTOR'S STAFF.

15 (3) THE STATE PROSECUTOR MAY INVESTIGATE AN ALLEGED
16 OFFENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE STATE
17 PROSECUTOR'S OWN INITIATIVE OR ON REQUEST OF:

18 (I) THE GOVERNOR;

19 (II) THE ATTORNEY GENERAL;

20 (III) THE GENERAL ASSEMBLY;

21 (IV) THE STATE ETHICS COMMISSION; OR

22 (V) A STATE'S ATTORNEY.

23 (4) AN INDIVIDUAL WHO IS ADVISED BY THE STATE PROSECUTOR
24 THAT THE INDIVIDUAL IS UNDER INVESTIGATION UNDER PARAGRAPH (1)(IV) OF
25 THIS SUBSECTION MAY RELEASE THIS INFORMATION TO THE PUBLIC, AS WELL
26 AS ANY RESULTS OF THE INVESTIGATION THAT PERTAIN TO THE INDIVIDUAL.

27 (B) BY REQUEST ONLY.

28 ON REQUEST OF THE GOVERNOR, THE ATTORNEY GENERAL, THE
29 GENERAL ASSEMBLY, OR A STATE'S ATTORNEY, THE STATE PROSECUTOR MAY
30 INVESTIGATE CRIMINAL ACTIVITY THAT IS COMMITTED:

1 **(1) PARTLY IN THE STATE AND PARTLY IN ANOTHER**
2 **JURISDICTION; OR**

3 **(2) IN MORE THAN ONE POLITICAL SUBDIVISION OF THE STATE.**

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former SG § 9-1203.

6 In subsection (a)(1)(iii) and (iv) of this section, the references to "unit" of
7 the State are substituted for the former references to "agency" to conform
8 to the terminology used in other revised articles of the Code.

9 In subsection (a)(4) of this section, the references to an "individual" are
10 substituted for the former references to a "person" to reflect that the
11 provision relating to an "offense constituting criminal malfeasance,
12 misfeasance, or nonfeasance in office committed by an officer or
13 employee" would apply only to human beings and not to the other entities
14 listed in the definition of "person".

15 In subsection (b) of this section, the former reference to "conducted" is
16 deleted as implicit in the term "committed".

17 The Criminal Procedure Article Additions Review Committee notes, for
18 consideration by the General Assembly, that subsection (a)(1)(iv) of this
19 section refers to "criminal malfeasance, misfeasance, or nonfeasance in
20 office committed by an ... employee of the State". An employee, however,
21 is not an officer and thus cannot commit any of those crimes "in office".

22 **14-108. REPORTS.**

23 **(A) REPORT OF ALLEGED VIOLATIONS.**

24 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
25 **SUBSECTION, IF THE STATE PROSECUTOR FINDS THAT AN ALLEGED VIOLATION**
26 **OF THE CRIMINAL LAW SET FORTH IN § 14-107 OF THIS TITLE HAS OCCURRED,**
27 **THE STATE PROSECUTOR SHALL MAKE A CONFIDENTIAL REPORT OF THE**
28 **FINDINGS AND ANY RECOMMENDATIONS FOR PROSECUTION TO THE ATTORNEY**
29 **GENERAL AND THE STATE'S ATTORNEY FOR THE COUNTY IN WHICH**
30 **JURISDICTION EXISTS TO PROSECUTE THE MATTER.**

31 **(2) A REPORT OF THE FINDINGS AND RECOMMENDATIONS**
32 **REGARDING ALLEGATIONS OF OFFENSES COMMITTED BY A STATE'S ATTORNEY**
33 **NEED NOT BE MADE TO THAT STATE'S ATTORNEY.**

34 **(B) REPORT OF NO VIOLATION OR NO RECOMMENDATION FOR**
35 **PROSECUTION.**

1 **(1) IF THE STATE PROSECUTOR FINDS THAT THERE HAS NOT**
2 **BEEN A VIOLATION OF CRIMINAL LAW OR THE STATE PROSECUTOR DOES NOT**
3 **RECOMMEND PROSECUTION, THE STATE PROSECUTOR SHALL REPORT THE**
4 **FINDINGS TO THE PERSON WHO REQUESTED THE INVESTIGATION.**

5 **(2) IF THE GENERAL ASSEMBLY REQUESTED THE**
6 **INVESTIGATION, THE REPORT SHALL BE MADE TO THE PRESIDENT OF THE**
7 **SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES.**

8 **(3) ON REQUEST OF THE PERSON WHO WAS THE SUBJECT OF THE**
9 **INVESTIGATION, THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AS**
10 **SOON AS POSSIBLE.**

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former SG § 9-1204.

13 In subsection (a)(2) of this section, the reference to a report "of the
14 findings" and allegations is added for clarity.

15 Defined terms: "County" § 1-101
16 "Person" § 1-101

17 **14-109. PROSECUTIONS.**

18 **(A) IN GENERAL.**

19 **(1) THE STATE PROSECUTOR MAY PROSECUTE A CRIMINAL**
20 **OFFENSE SET FORTH IN THE STATE PROSECUTOR'S REPORT OF THE FINDINGS**
21 **AND RECOMMENDATIONS IF, WITHIN 45 DAYS AFTER RECEIPT OF THE REPORT,**
22 **THE STATE'S ATTORNEY FAILS TO FILE CHARGES AND BEGIN PROSECUTION IN**
23 **ACCORDANCE WITH THE RECOMMENDATIONS.**

24 **(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,**
25 **THE STATE PROSECUTOR MAY IMMEDIATELY PROSECUTE A CRIMINAL OFFENSE**
26 **THAT IS SET FORTH IN THE STATE PROSECUTOR'S REPORT AND THAT IS**
27 **ALLEGED TO HAVE BEEN COMMITTED BY THE STATE'S ATTORNEY.**

28 **(B) APPEALS AND POSTCONVICTION PROCEEDINGS.**

29 **(1) THE STATE PROSECUTOR SHALL REPRESENT THE STATE IN**
30 **EACH APPEAL AND POSTCONVICTION PROCEEDING THAT ARISES FROM A**
31 **PROSECUTION THAT THE STATE PROSECUTOR CONDUCTS.**

1 **(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION,**
 2 **THE ATTORNEY GENERAL MAY REPRESENT THE STATE OR ASSIST THE STATE**
 3 **PROSECUTOR:**

4 **(I) ON THE REQUEST OF THE STATE PROSECUTOR; OR**

5 **(II) AS REQUIRED BY LAW IN AN APPEAL OR COLLATERAL**
 6 **PROCEEDING DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.**

7 REVISOR'S NOTE: This section is new language derived without substantive
 8 change from former SG § 9–1205.

9 In subsection (a) of this section, the former references to the
 10 “investigative” report are deleted to conform to the terminology used
 11 throughout this title.

12 In subsection (a)(2) of this section, the former reference to
 13 “recommendations” is deleted as surplusage.

14 **14–110. POWERS AND DUTIES FOR INVESTIGATIONS AND PROSECUTIONS.**

15 **THE STATE PROSECUTOR HAS ALL THE POWERS AND DUTIES OF A**
 16 **STATE'S ATTORNEY, INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY,**
 17 **WHEN THE STATE PROSECUTOR:**

18 **(1) INVESTIGATES A CASE UNDER § 14–107 OF THIS TITLE; OR**

19 **(2) PROSECUTES A CASE UNDER § 14–109 OF THIS TITLE.**

20 REVISOR'S NOTE: This section is new language derived without substantive
 21 change from former SG § 9–1206.

22 Defined term: “County” § 1–101

23 **14–111. VENUE.**

24 **THE TRIAL OF A CASE THAT THE STATE PROSECUTOR PROSECUTES IN**
 25 **ACCORDANCE WITH § 14–109 OF THIS TITLE SHALL TAKE PLACE BEFORE THE**
 26 **COURT HAVING JURISDICTION IN THE COUNTY IN WHICH THE OFFENSE WAS**
 27 **ENTIRELY OR PARTLY COMMITTED, SUBJECT TO REMOVAL IN ACCORDANCE**
 28 **WITH THE MARYLAND RULES.**

29 REVISOR'S NOTE: This section is new language derived without substantive
 30 change from former SG § 9–1207.

1 The former reference to jurisdiction in the county “or Baltimore City, as
2 the case may be” is deleted as surplusage.

3 Defined term: “County” § 1–101

4 **14–112. BUDGET AND STAFF.**

5 **(A) BUDGET.**

6 **THE BUDGET OF THE STATE PROSECUTOR AND THE OFFICE OF THE**
7 **STATE PROSECUTOR SHALL BE A PART OF THE BUDGET OF THE OFFICE OF THE**
8 **ATTORNEY GENERAL.**

9 **(B) STAFF.**

10 **THE STATE PROSECUTOR MAY APPOINT AND EMPLOY THE**
11 **PROFESSIONAL, INVESTIGATIVE, AND CLERICAL STAFF PROVIDED IN THE**
12 **STATE BUDGET.**

13 **(C) PRIVATE PRACTICE OF LAW PROHIBITED.**

14 **THE STATE PROSECUTOR AND THE STAFF ATTORNEYS APPOINTED BY**
15 **THE STATE PROSECUTOR SHALL DEVOTE FULL TIME TO THEIR OFFICIAL**
16 **DUTIES AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

17 **(D) USE OF SERVICES AND PERSONNEL OF OTHER AGENCIES.**

18 **(1) TO THE EXTENT PRACTICABLE, THE STATE PROSECUTOR**
19 **SHALL USE THE SERVICES AND PERSONNEL OF:**

20 **(I) THE OFFICE OF THE ATTORNEY GENERAL;**

21 **(II) THE DEPARTMENT OF STATE POLICE; AND**

22 **(III) OTHER STATE AND LAW ENFORCEMENT UNITS.**

23 **(2) THE UNITS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION**
24 **SHALL COOPERATE, TO THE EXTENT FEASIBLE, WITH THE STATE PROSECUTOR**
25 **AND THE STATE PROSECUTOR’S STAFF.**

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former SG § 9–1208.

1 In subsection (d) of this section, the references to “units” of the State are
2 substituted for the former references to “agencies” to conform to the
3 terminology used in other revised articles of the Code.

4 The Criminal Procedure Article Additions Review Committee notes, for
5 consideration by the General Assembly, that the statement in subsection
6 (a) of this section, declaring that “the budget of the State Prosecutor and
7 the Office of the Attorney General shall be a part of the budget of the
8 Office of the Attorney General” may be obsolete. The Office of the State
9 Prosecutor is no longer budgeted as part of the Office of the Attorney
10 General.

11 **14-113. MEETINGS WITH ATTORNEY GENERAL AND STATE’S ATTORNEYS.**

12 **THE STATE PROSECUTOR SHALL MEET AND CONFER REGULARLY WITH**
13 **THE ATTORNEY GENERAL AND THE STATE’S ATTORNEYS.**

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former SG § 9-1209.

16 The former reference to “various” State’s Attorneys is deleted as
17 surplusage.

18 **14-114. ANNUAL REPORT.**

19 **THE STATE PROSECUTOR SHALL SUBMIT AN ANNUAL REPORT ON**
20 **ACTIVITIES OF THE OFFICE OF THE STATE PROSECUTOR THAT ARE NOT**
21 **CONFIDENTIAL TO:**

22 (1) **THE GOVERNOR;**

23 (2) **THE ATTORNEY GENERAL; AND**

24 (3) **SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,**
25 **THE GENERAL ASSEMBLY.**

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former SG § 9-1210.

28 **TITLE 15. OFFICE OF THE STATE’S ATTORNEY.**

29 **SUBTITLE 1. DEFINITIONS; GENERAL DUTIES AND POWERS.**

30 **15-101. DEFINITIONS.**

1 **(A) IN GENERAL.**

2 **IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

3 REVISOR'S NOTE: This subsection is new language added as the standard
4 introductory language to a definition section.

5 **(B) COORDINATOR.**

6 **“COORDINATOR” MEANS THE STATE’S ATTORNEYS’ COORDINATOR.**

7 REVISOR'S NOTE: This subsection is new language added to avoid repetition
8 of the full title, “State’s Attorneys’ Coordinator”.

9 **(C) COUNCIL.**

10 **“COUNCIL” MEANS THE STATE’S ATTORNEYS’ COORDINATION COUNCIL.**

11 REVISOR'S NOTE: This subsection is new language added to avoid repetition
12 of the full title, “State’s Attorneys’ Coordination Council”.

13 **(D) STATE’S ATTORNEY.**

14 **“STATE’S ATTORNEY” MEANS THE INDIVIDUAL HOLDING THAT OFFICE**
15 **UNDER ARTICLE V, § 7 OF THE MARYLAND CONSTITUTION.**

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 10, § 39A(d).

18 The definition of the term “State’s Attorney” in former Art. 10, § 39A(d)
19 was applicable only to former Art. 10, § 39A, which is revised in § 15–108
20 of this subtitle. However, the term “State’s Attorney” was also used in
21 other provisions of former Art. 10 that are revised in this title. In this
22 subsection, the former phrase “[f]or the purpose of this section” is deleted
23 and the definition of “State’s Attorney” is made applicable throughout
24 this title. No substantive change is intended.

25 Also in this subsection, the reference to an “individual” is substituted for
26 the former reference to a “person” because only a human being and not
27 the other entities including in the defined term “person” can hold the
28 office of State’s Attorney.

29 **15–102. DUTY TO REPRESENT STATE.**

1 **SUBJECT TO TITLE 14 OF THIS ARTICLE, A STATE’S ATTORNEY SHALL, IN**
2 **THE COUNTY SERVED BY THE STATE’S ATTORNEY, PROSECUTE AND DEFEND ON**
3 **THE PART OF THE STATE ALL CASES IN WHICH THE STATE MAY BE INTERESTED.**

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 10, § 34.

6 The former references to “the City of Baltimore” and “city” are deleted in
7 light of the defined term “county” in § 1–101 of this article.

8 Defined terms: “County” § 1–101
9 “State’s Attorney” § 15–101

10 **15–103. DUTY TO ASSIST COMPTROLLER AND STATE TREASURER.**

11 **(A) IN GENERAL.**

12 **A STATE’S ATTORNEY:**

13 **(1) WITH RESPECT TO THE COUNTY SERVED BY THE STATE’S**
14 **ATTORNEY, SHALL AID THE COMPTROLLER AND STATE TREASURER IN THE**
15 **ADJUSTMENT OF THE ACCOUNTS THAT THE CLERK OF THE CIRCUIT COURT, THE**
16 **REGISTER OF WILLS, AND THE SHERIFF HAVE WITH THE STATE; AND**

17 **(2) WHEN REQUIRED, SHALL ADVISE THE COMPTROLLER AND**
18 **STATE TREASURER OF THE ALLOWANCES THAT THE COMPTROLLER OR STATE**
19 **TREASURER SHOULD MAKE THE ACCOUNTANT FOR INSOLVENCY OR**
20 **NONRESIDENCE.**

21 **(B) COMPENSATION.**

22 **FOR THE SERVICES DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND**
23 **PROFESSIONAL SERVICES IN THE COLLECTION OF STATE REVENUE, THE**
24 **COMPTROLLER MAY ALLOW A STATE’S ATTORNEY 5% OF ALL MONEY SUED FOR**
25 **AND PAID INTO THE STATE TREASURY.**

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 10, § 38.

28 In subsection (a) of this section, the former references to a State’s
29 Attorney in “the several counties and the City of Baltimore” and “the said
30 city” are deleted in light of the defined term “county” in § 1–101 of this
31 article.

1 The Criminal Procedure Article Additions Review Committee notes, for
2 consideration by the General Assembly, that the language of this section
3 appears to be obsolete, as it predates the development of the modern
4 State's Attorney's Office in Maryland. State's Attorneys no longer provide
5 services such as adjusting accounts of county office holders for the
6 Comptroller or Treasurer or advising those officials on insolvency or
7 nonresidence. Neither do they provide services in the collection of revenue.
8 Instead, a State's Attorney primarily deals with the prosecution of crime.

9 Defined terms: "County" § 1-101
10 "State's Attorney" § 15-101

11 **15-104. DUTY TO POST BOND.**

12 (A) **AMOUNT OF BOND.**

13 **EACH STATE'S ATTORNEY SHALL ANNUALLY PROVIDE A CORPORATE**
14 **SURETY BOND PAYABLE TO THE STATE IN THE AMOUNT OF \$5,000.**

15 (B) **CONDITIONS OF BOND.**

16 **THE BOND SHALL BE CONDITIONED ON THE STATE'S ATTORNEY**
17 **FAITHFULLY:**

18 (1) **PERFORMING THE DUTIES OF THE OFFICE; AND**

19 (2) **ACCOUNTING FOR FUNDS AND PROPERTY RECEIVED UNDER**
20 **COLOR OF THE OFFICE.**

21 (C) **REQUIREMENT OF DEPOSIT; PREMIUMS.**

22 (1) **THE BOND SHALL BE DEPOSITED WITH THE COMPTROLLER.**

23 (2) **PREMIUMS ON THE BOND SHALL BE AN EXPENSE OF THE**
24 **OFFICE OF THE STATE'S ATTORNEY.**

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 10, § 35.

27 In subsection (a) of this section, the reference requiring a State's Attorney
28 to "provide" a bond is substituted for the former reference requiring the
29 State's Attorney to "give" a bond for accuracy.

30 Also in subsection (a) of this section, the reference to "amount" is
31 substituted for the former reference to "penal sum" for clarity.

1 Also in subsection (a) of this section, the former reference to the State's
2 Attorney "for each county and the City of Baltimore" is deleted in light of
3 the defined term "State's Attorney".

4 In subsection (c)(2) of this section, the reference to "an expense" is
5 substituted for the former reference to "part of the expense" for brevity.

6 Defined term: "State's Attorney" § 15-101

7 **15-105. DUTY TO SUBMIT FACTS AND EVIDENCE OF CASES.**

8 **A STATE'S ATTORNEY SHALL PREPARE AND SUBMIT TO THE DIVISION OF**
9 **PAROLE AND PROBATION AND THE DIVISION OF CORRECTION A SUMMARY OF**
10 **THE FACTS AND EVIDENCE IN EACH CASE TRIED IN THE CIRCUIT COURT FOR**
11 **THE COUNTY SERVED BY THE STATE'S ATTORNEY IN WHICH:**

12 **(1) THE DEFENDANT WAS SENTENCED TO IMPRISONMENT FOR 18**
13 **MONTHS OR MORE; AND**

14 **(2) THE DIVISION OF PAROLE AND PROBATION DID NOT**
15 **PREPARE A PRESENTENCE INVESTIGATION REPORT.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 10, § 40A.

18 In the introductory language of this section, the reference to a "summary"
19 of facts and evidence is substituted for the former reference to a "resume"
20 for clarity.

21 Also in the introductory language of this section, the reference to the
22 county "served by the State's Attorney" is added for clarity.

23 In item (2) of this section, the reference to the Division "of Parole and
24 Probation" is added for clarity. For provisions regarding the preparation
25 of a presentence investigation report, see § 6-112 of the Correctional
26 Services Article.

27 The Criminal Procedure Article Additions Review Committee notes, for
28 consideration by the General Assembly, that the various State's
29 Attorneys, in practice, do not generally prepare the reports required by
30 this section. Additionally, former Art. 10, § 40A was limited to cases "tried
31 in the circuit court" and on its face was inapplicable to sentences of 18
32 months or more that result from pleas without trial in circuit court or any
33 sentence of 18 months or more in a District Court case.

1 Defined terms: “County” § 1–101
 2 “State’s Attorney” § 15–101

3 **15–106. DUTY TO RECOVER FINES, PENALTIES, AND FORFEITURES.**

4 **ON THE APPLICATION OF THE SHERIFF FOR THE COUNTY SERVED BY A**
 5 **STATE’S ATTORNEY, THE STATE’S ATTORNEY SHALL ORDER EXECUTION TO BE**
 6 **ISSUED FOR THE RECOVERY OF FINES, PENALTIES, FORFEITURES, AND COSTS**
 7 **IMPOSED BY A COURT OF RECORD IN THE STATE.**

8 REVISOR’S NOTE: This section is new language derived without substantive
 9 change from former Art. 10, § 36.

10 The former reference to a sheriff of a “city” is deleted in light of the
 11 defined term “county” in § 1–101 of this article.

12 The former reference to “ex officio” is deleted as surplusage.

13 The reference to “and costs” is substituted for the former reference to
 14 “together with the costs accruing thereon” for brevity.

15 The Criminal Procedure Article Additions Review Committee notes, for
 16 consideration by the General Assembly, that the language of this section
 17 refers to a service that the modern State’s Attorney’s office no longer
 18 provides for the courts of the State.

19 Defined terms: “County” § 1–101
 20 “State’s Attorney” § 15–101

21 **15–107. DUTY TO SPECIFY SERVICES AND EXPENSES RENDERED.**

22 **(A) SCOPE OF SECTION.**

23 **THIS SECTION DOES NOT APPLY TO ALLEGANY COUNTY, ANNE ARUNDEL**
 24 **COUNTY, BALTIMORE COUNTY, CALVERT COUNTY, GARRETT COUNTY,**
 25 **MONTGOMERY COUNTY, PRINCE GEORGE’S COUNTY, WASHINGTON COUNTY,**
 26 **OR WORCESTER COUNTY.**

27 **(B) DUTY TO ACCOUNT FOR SERVICES AND EXPENSES TO COUNTY.**

28 **(1) A STATE’S ATTORNEY SHALL MAKE A FULL AND PARTICULAR**
 29 **ACCOUNTING OF SERVICES RENDERED AND EXPENSES INCURRED BY THE**
 30 **STATE’S ATTORNEY AND CHARGEABLE TO THE COUNTY.**

31 **(2) THE ACCOUNTING SHALL INCLUDE:**

1 (I) THE TIME AND PLACE THAT SERVICES WERE
2 RENDERED; AND

3 (II) THE EXPENSES THAT WERE INCURRED.

4 (3) THE ACCOUNTING MAY INCLUDE:

5 (I) A REASONABLE TRIAL FEE FOR EACH CASE ACTUALLY
6 TRIED, ALLOWABLE AT THE DISCRETION OF THE COURT;

7 (II) AN APPEARANCE FEE PROVIDED BY LAW; AND

8 (III) REASONABLE COMPENSATION FOR OTHER SERVICES
9 PERFORMED.

10 (4) THE STATE'S ATTORNEY SHALL SUBMIT THE ACCOUNTING TO
11 THE JUDGES OF THE CIRCUIT COURT OF THE COUNTY SERVED BY THE STATE'S
12 ATTORNEY WITH AN AFFIDAVIT AS TO THE CORRECTNESS OF THE ACCOUNTING
13 AND THE FAIRNESS OF ANY CHARGES.

14 (5) THE JUDGES OF THE CIRCUIT COURT SHALL EXAMINE THE
15 ACCOUNTING SUBMITTED BY THE STATE'S ATTORNEY.

16 (6) IF THE ACCOUNTING IS FAIR, REASONABLE, AND PROPERLY
17 CHARGEABLE TO THE COUNTY, THE JUDGES OF THE CIRCUIT COURT SHALL
18 CERTIFY THE ACCOUNTING.

19 (7) IF THE ACCOUNTING IS CERTIFIED BY A MAJORITY OF THE
20 JUDGES OF THE CIRCUIT COURT, THE ACCOUNTING SHALL BE FILED WITH THE
21 CLERK OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY SERVED BY
22 THE STATE'S ATTORNEY.

23 (C) COUNTY TO LEVY AND COLLECT CERTIFIED AMOUNT.

24 ON THE FILING OF A CERTIFIED ACCOUNTING WITH THE CLERK OF THE
25 BOARD OF COUNTY COMMISSIONERS UNDER SUBSECTION (B) OF THIS SECTION,
26 THE COUNTY COMMISSIONERS SHALL:

27 (1) APPROVE THE ACCOUNTING; AND

28 (2) LEVY AND COLLECT THE AMOUNT CHARGED BY THE STATE'S
29 ATTORNEY IN THE SAME TIME AND MANNER THAT OTHER COUNTY TAXES ARE
30 LEVIED AND COLLECTED.

1 **(D) EFFECT OF SECTION.**

2 **THIS SECTION DOES NOT PROHIBIT A BOARD OF COUNTY COMMISSIONERS**
3 **FROM PROVIDING THE OFFICE OF A STATE'S ATTORNEY A LARGER**
4 **APPROPRIATION THAN THE AMOUNT THAT IS ALLOWED AND CERTIFIED BY THE**
5 **JUDGES OF THE CIRCUIT COURT UNDER SUBSECTION (B) OF THIS SECTION.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 39.

8 In subsection (b)(1) of this section, the reference to the requirement that a
9 "State's Attorney shall make a full and particular accounting of services
10 rendered and expenses incurred by the State's Attorney and chargeable
11 to the county" is substituted for the former reference that "[i]t shall be
12 the duty of the respective State's Attorneys of the counties of this State,
13 in making up their accounts against the board of county commissioners of
14 their respective counties, for all such services and expenses as are
15 properly chargeable against said board of county commissioners, to state
16 fully and particularly the services rendered" for brevity.

17 In subsection (b)(2) of this section, the reference to "expenses that were
18 incurred" is substituted for the former reference to "items of expenses
19 incurred in the proper discharge of their duties" for brevity.

20 In subsection (b)(5) of this section, the reference to the requirement that
21 "[t]he judges of the circuit court shall examine the accounting" is
22 substituted for the former reference that "it shall be the duty of said
23 judges to examine said accounts" for clarity.

24 In subsection (b)(6) of this section, the phrase "judges of the circuit court
25 shall certify the accounting" is substituted for the former phrase "said
26 judges shall endorse on said accounts their certificate to that effect" for
27 clarity.

28 In subsection (c)(1) of this section, the reference to the requirement that
29 the county commissioners "approve the accounting" is substituted for the
30 former reference to the requirement that the county commissioners "pass
31 said accounts as certified to them by said judges, or a majority thereof"
32 for brevity.

33 In subsection (c)(2) of this section, the reference to the requirement that
34 the county commissioners levy and collect "the amount charged" is
35 substituted for the former reference that the county commissioners levy
36 and collect "for the use of the State's Attorneys of their respective
37 counties, the amounts of money so as aforesaid certified by said judges, or
38 a majority of them, to be properly chargeable" for brevity.

1 In subsection (d) of this section, the reference to a larger “appropriation”
2 is substituted for the former reference to “sum” for clarity and accuracy.

3 Also in subsection (d) of this section, the reference to the “amount that is
4 allowed and certified by the judges of the circuit court” is substituted for
5 the former reference to the “amount of the accounts so allowed and
6 certified by said court or judges” for clarity.

7 The Criminal Procedure Article Additions Review Committee notes, for
8 consideration by the General Assembly, that the language of this section
9 apparently requires the State’s Attorneys, in counties that are not
10 specifically exempted, to submit certain detailed information, including
11 the specific “time[s] and place[s]” of services provided, as well as
12 “expenses” to the “judges of the circuit court” prior to receiving funds. The
13 judges then are required to conduct an examination of each charge before
14 certifying the charges to the “clerk of the board of county commissioners”.
15 Finally, the “county commissioners” are directed to levy and collect from
16 the taxpayers the allowed and certified amounts. This system, which
17 dates back to the era of “fee-based” State’s Attorney offices, is no longer
18 followed anywhere in the State.

19 Typically, the budget request for a State’s Attorney’s office is annually
20 submitted directly to the county government without examination or
21 certification by the circuit court in the county. Additionally, the
22 references in this section to the “judges of the circuit court”, the “clerk of
23 the board of county commissioners”, and “county commissioners” may be
24 dated and are inapplicable to many modern county governments and the
25 courts. For example, Dorchester, Harford, Howard, Talbot, and Wicomico
26 counties and Baltimore City are not exempted from this section and are
27 not governed by a board of county commissioners.

28 Moreover, this section may be unconstitutional, because it imposes a
29 nonjudicial duty on the judges of the circuit court. *See Robey v.*
30 *Commissioners of Prince George’s County*, 92 Md. 150, 48A. 98 (1900),
31 which held that a statute requiring the circuit courts to approve the
32 accounts of sheriffs as a prerequisite to the county’s payment of those
33 accounts was unconstitutional.

34 Defined terms: “County” § 1–101
35 “State’s Attorney” § 15–101

36 **15–108. SUBPOENA POWER IN CRIMINAL INVESTIGATION.**

37 **(A) LIMITED PURPOSE; SERVICE.**

1 (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING
2 CRIMINAL INVESTIGATION, A STATE'S ATTORNEY OR A DEPUTY STATE'S
3 ATTORNEY DESIGNATED IN WRITING BY THE STATE'S ATTORNEY MAY ISSUE IN
4 THE COUNTY SERVED BY THE STATE'S ATTORNEY A SUBPOENA TO A PERSON TO
5 PRODUCE TELEPHONE, BUSINESS, GOVERNMENTAL, OR CORPORATE RECORDS
6 OR DOCUMENTS.

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

9 **(B) RIGHT TO ATTORNEY.**

10 (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY
11 CONTACT MADE UNDER SUBSECTION (A) OF THIS SECTION WITH A STATE'S
12 ATTORNEY OR AN AGENT OF THE STATE'S ATTORNEY.

13 (2) THE STATE'S ATTORNEY SHALL ADVISE A PERSON OF THE
14 RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.

15 **(C) REPORTING FAILURE TO OBEY SUBPOENA; RIGHT TO HEARING.**

16 (1) (I) THE STATE'S ATTORNEY IMMEDIATELY MAY REPORT
17 THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA UNDER
18 SUBSECTION (A) OF THIS SECTION TO THE CIRCUIT COURT OF THE COUNTY
19 SERVED BY THE STATE'S ATTORNEY.

20 (II) THE STATE'S ATTORNEY SHALL PROVIDE A COPY OF
21 THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.

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

26 **(D) EFFECT OF SECTION.**

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

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 10, § 39A(a), (b), (c), (e), and (f).

1 In subsection (a)(1) of this section, the former reference to the limited
2 purpose “of obtaining documents” is deleted as surplusage.

3 In subsection (c)(1) of this section, the former reference to “the
4 disobedience” is deleted as unnecessary.

5 Also in subsection (c)(1) of this section, the reference to the circuit court of
6 the county “served by the State’s Attorney” is substituted for the former
7 reference to the circuit court of the county “in which the State’s Attorney
8 serves under § 34 of this article” for brevity, clarity, and consistency
9 within this title.

10 Defined terms: “County” § 1–101
11 “Person” § 1–101
12 “State’s Attorney” § 15–101

13 **15–109. INTERIM STATE’S ATTORNEY.**

14 **(A) POWER TO APPOINT.**

15 **IF NECESSARY DUE TO AN ABSENCE, SICKNESS, RESIGNATION, OR DEATH**
16 **OF A STATE’S ATTORNEY, THE CIRCUIT COURT FOR THE COUNTY MAY APPOINT**
17 **A COMPETENT INDIVIDUAL TO PERFORM THE DUTIES OF THE STATE’S**
18 **ATTORNEY IN CONDUCTING CRIMINAL OR CIVIL CASES ARISING OR PENDING IN**
19 **THE CIRCUIT COURT UNTIL:**

20 **(1) THE STATE’S ATTORNEY IS ABLE TO ATTEND AND ACT IN**
21 **PERSON; OR**

22 **(2) A NEW STATE’S ATTORNEY IS APPOINTED AND QUALIFIED.**

23 **(B) COMPENSATION.**

24 **AN INDIVIDUAL APPOINTED UNDER SUBSECTION (A) OF THIS SECTION**
25 **SHALL RECEIVE THE SAME COMPENSATION AS THE STATE’S ATTORNEY WHO IS**
26 **REPLACED.**

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 10, § 41.

29 Throughout this section, the references to an “individual” are substituted
30 for the former references to a “person” because only a human being and
31 not the other entities included in the defined term “person” can serve as
32 an interim State’s Attorney.

1 In subsection (a)(2) of this section, the reference to a “new” State’s
2 Attorney is added for clarity.

3 In subsection (b) of this section, the reference to the State’s Attorney
4 “who is replaced” is added for clarity.

5 The Criminal Procedure Article Additions Review Committee notes, for
6 consideration by the General Assembly, that in subsection (a) of this
7 section, the power to appoint an interim State’s Attorney is given to “the
8 circuit court for the county”, which is substituted for the former reference
9 to “the several courts of this State”. This substitution is in accordance
10 with Article V, § 11 of the Maryland Constitution, which states that the
11 power to appoint an interim State’s Attorney rests with “the Judge or
12 Judges resident in the county or, if there be no resident Judge, the Judge
13 or Judges having jurisdiction in the Circuit Court of the county in which
14 the vacancy occurs, or by the Supreme Bench of Baltimore City for a
15 vacancy occurring in Baltimore City”.

16 Defined terms: “County” § 1–101
17 “State’s Attorney” § 15–101

18 **SUBTITLE 2. STATE’S ATTORNEYS’ COORDINATION COUNCIL.**

19 **15–201. ESTABLISHED.**

20 **THERE IS A STATE’S ATTORNEYS’ COORDINATION COUNCIL.**

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from the first sentence of former Art. 10, § 41D(a).

23 **15–202. MEMBERSHIP.**

24 **(A) COMPOSITION; APPOINTMENT OF MEMBERS.**

25 **THE COUNCIL CONSISTS OF:**

- 26 **(1) THE ATTORNEY GENERAL;**
27 **(2) THE STATE’S ATTORNEY FOR ANNE ARUNDEL COUNTY;**
28 **(3) THE STATE’S ATTORNEY FOR BALTIMORE CITY;**
29 **(4) THE STATE’S ATTORNEY FOR BALTIMORE COUNTY;**
30 **(5) THE STATE’S ATTORNEY FOR MONTGOMERY COUNTY;**

1 **(6) THE STATE'S ATTORNEY FOR PRINCE GEORGE'S COUNTY;**

2 **(7) THE STATE'S ATTORNEY FOR ALLEGANY COUNTY,**
3 **FREDERICK COUNTY, GARRETT COUNTY, OR WASHINGTON COUNTY WHO IS**
4 **CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE**
5 **COUNTIES;**

6 **(8) THE STATE'S ATTORNEY FOR CALVERT COUNTY, CHARLES**
7 **COUNTY, OR ST. MARY'S COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE**
8 **STATE'S ATTORNEYS FOR THOSE COUNTIES;**

9 **(9) THE STATE'S ATTORNEY FOR CAROLINE COUNTY, CECIL**
10 **COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, OR TALBOT COUNTY WHO IS**
11 **CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE**
12 **COUNTIES;**

13 **(10) THE STATE'S ATTORNEY FOR CARROLL COUNTY, HARFORD**
14 **COUNTY, OR HOWARD COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE**
15 **STATE'S ATTORNEYS FOR THOSE COUNTIES; AND**

16 **(11) THE STATE'S ATTORNEY FOR DORCHESTER COUNTY,**
17 **SOMERSET COUNTY, WICOMICO COUNTY, OR WORCESTER COUNTY WHO IS**
18 **CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE**
19 **COUNTIES.**

20 **(B) TENURE.**

21 **(1) THIS SUBSECTION ONLY APPLIES TO MEMBERS CHOSEN IN**
22 **ACCORDANCE WITH SUBSECTION (A)(7) THROUGH (11) OF THIS SECTION.**

23 **(2) THE TERM OF A MEMBER OF THE COUNCIL IS 2 YEARS.**

24 **(3) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS**
25 **CHOSEN AND QUALIFIES.**

26 **(4) A MEMBER MAY SERVE ONLY DURING THE TIME THE MEMBER**
27 **HOLDS THE OFFICE THAT QUALIFIES THE MEMBER FOR MEMBERSHIP.**

28 **(5) A MEMBER IS ELIGIBLE TO SERVE MORE THAN ONE TERM.**

29 **(6) A VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME**
30 **MANNER USED TO CHOOSE THE ORIGINAL MEMBERSHIP IN SUBSECTION (A) OF**
31 **THIS SECTION.**

1 (C) MEMBERSHIP NOT OFFICE OF PROFIT.

2 MEMBERSHIP ON THE COUNCIL DOES NOT CONSTITUTE HOLDING AN
3 OFFICE OF PROFIT.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 10, § 41D(b), (c), and the second sentence of (a).

6 Subsection (b)(1) of this section is new language added for clarity.

7 In subsection (b)(6) of this section, the reference to “subsection (a) of this
8 section” is added for clarity.

9 Defined terms: “Council” § 15–101

10 “County” § 1–101

11 “State’s Attorney” § 15–101

12 15–203. OFFICERS.

13 THE COUNCIL SHALL DESIGNATE FROM AMONG ITS MEMBERS A CHAIR
14 AND VICE CHAIR WHO:

15 (1) SHALL SERVE FOR A TERM OF 2 YEARS; AND

16 (2) ARE ELIGIBLE FOR REELECTION.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from the first sentence of former Art. 10, § 41D(d).

19 The references to “chair” and “vice chair” are substituted for the former
20 references to “chairman” and “vice chairman”, respectively, because SG §
21 2–1238 requires the use of words that are neutral as to gender to the
22 extent practicable.

23 Defined term: “Council” § 15–101

24 15–204. QUORUM; MEETINGS; STAFF.

25 (A) QUORUM.

26 A MAJORITY OF THE MEMBERS OF THE COUNCIL IS A QUORUM.

27 (B) MEETINGS.

28 (1) THE COUNCIL SHALL MEET AT LEAST FOUR TIMES EACH
29 YEAR.

1 **(2) THE COUNCIL SHALL HOLD SPECIAL MEETINGS WHEN**
 2 **CALLED BY:**

3 **(I) THE CHAIR, ON THE CHAIR'S OWN INITIATIVE OR ON**
 4 **THE WRITTEN REQUEST OF THREE COUNCIL MEMBERS; OR**

5 **(II) THE VICE CHAIR, IN THE ABSENCE OF THE CHAIR.**

6 **(3) THE COUNCIL SHALL ESTABLISH PROCEDURES AND**
 7 **REQUIREMENTS WITH RESPECT TO MEETINGS, DELIBERATIONS, AND THE**
 8 **ADMINISTRATION OF THE FUNCTIONS OF THE COUNCIL.**

9 **(c) COORDINATOR SECRETARY TO COUNCIL.**

10 **THE COORDINATOR SHALL SERVE AS THE SECRETARY TO THE COUNCIL**
 11 **AND PERFORM THE DUTIES AND RESPONSIBILITIES THE COUNCIL DIRECTS IN**
 12 **ORDER TO CARRY OUT THE FUNCTIONS OF THE COUNCIL.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 10, § 41D(e) and the second through fourth
 15 sentences of (d).

16 In subsection (b)(2) of this section, the references to "chair" and "vice
 17 chair" are substituted for the former references to "chairman" and "vice
 18 chairman", respectively, because SG § 2-1238 requires the use of words
 19 that are neutral as to gender to the extent practicable.

20 In subsection (b)(2)(i) of this section, the phrase "on the chair's own
 21 initiative" is added for clarity.

22 In subsection (b)(3) of this section, the former reference to "its own"
 23 procedures and requirements is deleted as surplusage.

24 Defined terms: "Coordinator" § 15-101
 25 "Council" § 15-101

26 **15-205. REGULATIONS.**

27 **AFTER CONSULTATION WITH THE STATE BOARD OF VICTIM SERVICES,**
 28 **THE COUNCIL SHALL ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE**
 29 **VICTIM AND WITNESS PROTECTION AND RELOCATION PROGRAM ESTABLISHED**
 30 **UNDER § 11-902 OF THIS ARTICLE.**

31 REVISOR'S NOTE: This section formerly was Art. 10, § 41D(f).

1 The only changes are in style.

2 Defined term: "Council" § 15-101

3 **SUBTITLE 3. STATE'S ATTORNEYS' COORDINATOR.**

4 **15-301. OFFICE OF STATE'S ATTORNEYS' COORDINATOR.**

5 **(A) ESTABLISHED.**

6 **(1) THERE IS AN OFFICE OF STATE'S ATTORNEYS'**
7 **COORDINATOR.**

8 **(2) THE COORDINATOR SHALL BE APPOINTED BY AND SERVE AT**
9 **THE PLEASURE OF THE COUNCIL.**

10 **(B) ELIGIBILITY.**

11 **AN INDIVIDUAL IS ELIGIBLE TO BE THE COORDINATOR IF, AT THE TIME**
12 **OF APPOINTMENT, THE INDIVIDUAL IS ADMITTED TO PRACTICE LAW IN THE**
13 **STATE.**

14 **(C) SALARY.**

15 **THE COORDINATOR SHALL RECEIVE THE SALARY PROVIDED IN THE**
16 **STATE BUDGET.**

17 **(D) RESTRICTIONS.**

18 **THE COORDINATOR SHALL DEVOTE FULL TIME TO THE COORDINATOR'S**
19 **OFFICIAL DUTIES AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

20 **(E) STAFF.**

21 **THE COORDINATOR MAY APPOINT AND EMPLOY THE PROFESSIONAL AND**
22 **CLERICAL STAFF APPROVED BY THE COUNCIL AND AS PROVIDED IN THE STATE**
23 **BUDGET.**

24 **(F) SUBMISSION OF BUDGET.**

25 **THE COUNCIL SHALL PREPARE AND SUBMIT TO THE GOVERNOR A**
26 **BUDGET FOR THE OFFICE EACH FISCAL YEAR.**

1 **(G) COOPERATION FROM STATE AND LOCAL UNITS.**

2 **EACH UNIT OF STATE AND LOCAL GOVERNMENT SHALL COOPERATE TO**
3 **THE EXTENT PRACTICABLE WITH THE COORDINATOR AND THE STAFF OF THE**
4 **COORDINATOR IN THE DISCHARGE OF THE COORDINATOR’S DUTIES.**

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 10, §§ 41A and 41C.

7 In subsection (b) of this section, the references to an “individual” are
8 substituted for the former references to “person” because only a human
9 being and not the other entities included in the defined term “person” can
10 serve as the Coordinator.

11 In subsection (f) of this section, the phrase “each fiscal year” is
12 substituted for the former phrase “beginning with the fiscal year 1979”
13 for brevity.

14 Also in subsection (f) of this section, the former reference to a
15 “consolidated” budget is deleted as unnecessary.

16 Defined terms: “Coordinator” § 15–101
17 “Council” § 15–101

18 **15–302. DUTIES OF COORDINATOR.**

19 **THE COORDINATOR SHALL:**

20 **(1) ESTABLISH AND IMPLEMENT STANDARD AND SPECIALIZED**
21 **TRAINING PROGRAMS FOR AND PROVIDE MATERIALS TO STATE’S ATTORNEYS**
22 **AND PROFESSIONAL STAFFS OF STATE’S ATTORNEYS;**

23 **(2) PROVIDE AND COORDINATE CONTINUING LEGAL EDUCATION**
24 **PROGRAMS AND SERVICES FOR STATE’S ATTORNEYS AND PROFESSIONAL**
25 **STAFFS OF STATE’S ATTORNEYS, INCLUDING:**

26 **(I) LEGAL RESEARCH;**

27 **(II) TECHNICAL ASSISTANCE;**

28 **(III) TECHNICAL AND PROFESSIONAL PUBLICATIONS; AND**

29 **(IV) THE COMPILING AND DISSEMINATING OF INFORMATION**
30 **CONCERNING AND THE ADVISING OF STATE’S ATTORNEYS ABOUT**

1 DEVELOPMENTS IN THE CRIMINAL LAW AND THE ADMINISTRATION OF
2 CRIMINAL JUSTICE RELATING TO THE DUTIES OF THE OFFICE OF STATE'S
3 ATTORNEY;

4 (3) WITH THE APPROVAL OF THE COUNCIL, ESTABLISH AND
5 IMPLEMENT UNIFORM REPORTING PROCEDURES FOR STATE'S ATTORNEYS AND
6 PROFESSIONAL STAFFS OF STATE'S ATTORNEYS TO MAINTAIN AND PROVIDE
7 STATISTICAL DATA AND INFORMATION RELATING TO PROSECUTORIAL
8 FUNCTIONS AND STANDARDS OF THE OFFICE OF STATE'S ATTORNEY;

9 (4) WITH THE APPROVAL OF THE COUNCIL, ACCEPT AND EXPEND
10 FUNDS, GRANTS, AND GIFTS AND ACCEPT SERVICES FROM PUBLIC OR PRIVATE
11 SOURCES;

12 (5) WITH THE APPROVAL OF THE COUNCIL, ENTER INTO
13 AGREEMENTS AND CONTRACTS WITH PUBLIC OR PRIVATE AGENCIES OR
14 EDUCATIONAL INSTITUTIONS;

15 (6) PROVIDE SERVICES AND FUNCTIONS AS THE COUNCIL
16 DIRECTS TO CARRY OUT THE DUTIES OF THE OFFICE OF COORDINATOR;

17 (7) ADMINISTER THE VICTIM AND WITNESS PROTECTION AND
18 RELOCATION PROGRAM ESTABLISHED UNDER § 11-902 OF THIS ARTICLE,
19 INCLUDING CONSIDERATION OF AND APPROVING THE RELEASE OF MONEYS
20 FROM THE PROGRAM;

21 (8) CONSULT WITH THE STATE BOARD OF VICTIM SERVICES ON
22 THE ADMINISTRATION OF THE VICTIM AND WITNESS PROTECTION AND
23 RELOCATION PROGRAM; AND

24 (9) MEET AND CONFER REGULARLY WITH THE ATTORNEY
25 GENERAL, THE STATE'S ATTORNEYS, AND THE COUNCIL.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 10, § 41B.

28 In item (2)(iv) of this section, the reference to "developments" is
29 substituted for the former reference to "current developments and
30 changes" for brevity.

31 Also in item (2)(iv) of this section, the former reference to
32 "responsibilities" is deleted in light of the reference to "duties".

33 Defined terms: "Coordinator" § 15-101

34 "Council" § 15-101

1 “State’s Attorney” § 15–101

2 **SUBTITLE 4. COUNTYWIDE PROVISIONS.**

3 **15–401. COMPENSATION — IN GENERAL.**

4 **(A) SALARY; EXPENSES.**

5 **(1) THE STATE’S ATTORNEY FOR A COUNTY SHALL RECEIVE:**

6 **(I) AN ANNUAL SALARY FOR PERFORMING THE DUTIES OF**
7 **THE OFFICE AS SET FORTH IN THE PUBLIC GENERAL LAWS AND THE PUBLIC**
8 **LOCAL LAWS OF THE COUNTY; AND**

9 **(II) AN ANNUAL PAYMENT FOR OFFICE, TRAVEL, AND OTHER**
10 **EXPENSES AS PROVIDED BY LAW AND THE CURRENT PRACTICE OF THE COUNTY.**

11 **(2) UNLESS OTHERWISE SPECIFIED, A COUNTY SHALL PAY THE**
12 **SALARY AND EXPENSES IN EQUAL MONTHLY INSTALLMENTS.**

13 **(B) OTHER COMPENSATION PROHIBITED.**

14 **(1) EXCEPT FOR NECESSARY TRAVEL AND OTHER EXPENSES**
15 **INCURRED IN TRYING A CASE REMOVED TO ANOTHER COUNTY, A STATE’S**
16 **ATTORNEY MAY NOT RECEIVE ANY OTHER COMPENSATION FOR PERFORMING**
17 **THE DUTIES OF THE OFFICE.**

18 **(2) ANY FEES TO WHICH THE STATE’S ATTORNEY MAY BE**
19 **ENTITLED SHALL BE:**

20 **(I) COLLECTED AND PAID TO THE GOVERNING BODY OF**
21 **THE COUNTY; AND**

22 **(II) CREDITED TO THE GENERAL FUND OF THE COUNTY.**

23 **REVISOR’S NOTE:** This section is new language derived without substantive
24 change from former Art. 10, § 40(a) and (y).

25 In subsection (a) of this section, the former clause “[t]he salaries and
26 expenses are as follows:” is deleted as unnecessary.

27 In subsection (b)(1) of this section, the former reference to “commission or
28 emolument of any kind” is deleted as surplusage.

1 Also in subsection (b)(1) of this section, the former reference to cases
2 removed to “Baltimore City” is deleted because the definition of “county”
3 found in § 1–101 of this article includes Baltimore City.

4 In subsection (b)(2)(i) of this section, the reference to “governing body of
5 the county” is substituted for the former reference to the “board of county
6 commissioners or county council of his county” for brevity.

7 The Criminal Procedure Article Additions Committee notes, for
8 consideration by the General Assembly, that in subsection (b)(2) of this
9 section, it is unclear which fees are referenced.

10 Defined terms: “County” § 1–101
11 “State’s Attorney” § 15–101

12 **15–402. ALLEGANY COUNTY.**

13 (A) **SCOPE.**

14 **THIS SECTION APPLIES ONLY IN ALLEGANY COUNTY.**

15 (B) **SALARY.**

16 **THE STATE’S ATTORNEY’S SALARY IS 90% OF THE SALARY OF A JUDGE OF**
17 **THE DISTRICT COURT OF MARYLAND IN EFFECT ON DECEMBER 31 OF THE**
18 **YEAR IMMEDIATELY BEFORE THE START OF THE STATE’S ATTORNEY’S TERM OF**
19 **OFFICE.**

20 (C) **DUTIES.**

21 **AS DETERMINED BY THE STATE’S ATTORNEY, THE STATE’S ATTORNEY, A**
22 **DEPUTY STATE’S ATTORNEY, OR AN ASSISTANT STATE’S ATTORNEY SHALL:**

23 (1) **PRESENT CASES TO THE GRAND JURY; AND**

24 (2) **PERFORM OTHER NECESSARY DUTIES IN RELATION TO THE**
25 **GRAND JURY, THE DISTRICT COURT OF MARYLAND, AND THE CIRCUIT COURT,**
26 **INCLUDING THE JUVENILE COURT.**

27 (D) **DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

28 **THE STATE’S ATTORNEY MAY APPOINT:**

1 **(1) TWO DEPUTY STATE’S ATTORNEYS WHO SHALL SERVE FULL**
2 **TIME AND WHOSE SALARIES MAY NOT BE LESS THAN 80% OF THE SALARY OF**
3 **THE STATE’S ATTORNEY; AND**

4 **(2) AS MANY ASSISTANT STATE’S ATTORNEYS THAT THE COUNTY**
5 **COMMISSIONERS AUTHORIZE AND FUND.**

6 **(E) INVESTIGATORS.**

7 **(1) THE STATE’S ATTORNEY SHALL APPOINT A COUNTY**
8 **INVESTIGATOR AND AN ASSISTANT COUNTY INVESTIGATOR IN ACCORDANCE**
9 **WITH §§ 12-1A AND 12-1B OF THE ALLEGANY COUNTY CODE.**

10 **(2) THE COUNTY INVESTIGATOR AND ASSISTANT COUNTY**
11 **INVESTIGATOR SHALL BE FUNDED IN ACCORDANCE WITH § 12-1A OF THE**
12 **ALLEGANY COUNTY CODE.**

13 **(F) RESTRICTION ON PRACTICE.**

14 **THE STATE’S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF**
15 **LAW.**

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 10, § 40(b).

18 In subsection (b) of this section, the former references to the salary of the
19 State’s Attorney in calendar years 1999, 2000, and 2001 are deleted as
20 obsolete.

21 In subsection (c) of this section, the phrase “[a]s determined by the State’s
22 Attorney” is substituted for the former phrase “in the judgment of the
23 State’s Attorney” for simplicity.

24 In subsection (c)(2) of this section, the former reference to “proper” is
25 deleted in light of the reference to “necessary”.

26 Also in subsection (c)(2) of this section, the former term “acts” is deleted
27 as implicit in the term “duties”.

28 In subsection (d) of this section, the phrase “serve full time” is substituted
29 for the former phrase “fulfill the responsibilities of their positions on a
30 full-time basis” for brevity.

31 In subsection (f) of this section, the former phrase “[w]hile in office” is
32 deleted as surplusage.

1 Defined term: "State's Attorney" § 15-101

2 **15-403. ANNE ARUNDEL COUNTY.**

3 **(A) SCOPE.**

4 **THIS SECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY.**

5 **(B) SALARY.**

6 **THE STATE'S ATTORNEY'S SALARY:**

7 **(1) FOR CALENDAR YEAR 2003, IS EQUAL TO THE SALARY OF A**
8 **CIRCUIT COURT JUDGE AS OF DECEMBER 31, 2002; AND**

9 **(2) SHALL BE INCREASED EACH CALENDAR YEAR THEREAFTER BY**
10 **3% OVER THE SALARY OF THE STATE'S ATTORNEY FOR THE PREVIOUS**
11 **CALENDAR YEAR.**

12 **(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

13 **(1) THE STATE'S ATTORNEY MAY:**

14 **(I) 1. APPOINT TWO DEPUTY STATE'S ATTORNEYS; AND**

15 **2. SUBJECT TO THE APPROVAL OF THE COUNTY, SET**
16 **SALARIES FOR THE DEPUTY STATE'S ATTORNEYS THAT MAY NOT EXCEED 90%**
17 **OF THE STATE'S ATTORNEY'S SALARY; AND**

18 **(II) 1. APPOINT THE NUMBER OF ASSISTANT STATE'S**
19 **ATTORNEYS AS PROVIDED BY THE COUNTY; AND**

20 **2. SUBJECT TO APPROVAL BY THE COUNTY, SET**
21 **SALARIES FOR THE ASSISTANT STATE'S ATTORNEYS THAT MAY NOT EXCEED**
22 **80% OF THE STATE'S ATTORNEY'S SALARY.**

23 **(2) SUBJECT TO APPROVAL BY THE ADMINISTRATIVE JUDGE OF**
24 **THE CIRCUIT COURT, THE STATE'S ATTORNEY MAY:**

25 **(I) APPOINT A TEMPORARY ASSISTANT STATE'S ATTORNEY**
26 **FOR A PARTICULAR CASE OR SERIES OF CASES; AND**

27 **(II) SUBJECT TO THE APPROVAL OF THE COUNTY, SET THE**
28 **COMPENSATION FOR THE TEMPORARY ASSISTANT STATE'S ATTORNEY.**

1 **(D) OTHER STAFF.**

2 **THE STATE'S ATTORNEY MAY APPOINT CLERICAL, ADMINISTRATIVE,**
3 **INVESTIGATIVE, AND OTHER STAFF THE STATE'S ATTORNEY CONSIDERS**
4 **NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.**

5 **(E) RESTRICTION ON PRACTICE.**

6 **(1) (I) EXCEPT IN CONNECTION WITH PERFORMING THE**
7 **DUTIES OF THE OFFICE, THE STATE'S ATTORNEY MAY NOT APPEAR AS COUNSEL**
8 **OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF THE STATE OR A**
9 **POLITICAL SUBDIVISION OF THE STATE.**

10 **(II) THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE**
11 **PRIVATE PRACTICE OF LAW.**

12 **(2) THE DEPUTY STATE'S ATTORNEYS SHALL SERVE FULL TIME**
13 **AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL LAW.**

14 **(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE**
15 **ASSISTANT STATE'S ATTORNEYS:**

16 **(I) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF**
17 **CRIMINAL LAW; AND**

18 **(II) EXCEPT FOR ONE ASSISTANT STATE'S ATTORNEY,**
19 **SHALL SERVE FULL TIME.**

20 **(4) IN ACCORDANCE WITH THE ANNE ARUNDEL COUNTY CODE,**
21 **THE STATE'S ATTORNEY MAY DESIGNATE TWO OR MORE ASSISTANT STATE'S**
22 **ATTORNEYS TO SHARE ONE OR MORE FULL-TIME POSITIONS.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 10, § 40(c).

25 In subsection (b) of this section, the former phrase "of the eight judicial
26 circuits" is deleted as surplusage.

27 In subsection (c)(2) of this section, the former reference to "from time to
28 time, if considered necessary," is deleted as surplusage.

1 In subsection (d) of this section, the reference to “staff” is substituted for
2 the former reference to “assistants” for consistency with similar
3 provisions in this subtitle.

4 Also in subsection (d) of this section, the reference to “considers”
5 necessary is substituted for the former reference to “as in his judgment
6 may be” necessary for brevity.

7 In subsection (e)(1)(i) of this section, the reference to a “unit” is
8 substituted for the former reference to a “board, commission or agency”
9 for brevity and to conform to the terminology used in other revised
10 articles of the Code.

11 Also in subsection (e)(1)(i) of this section, the former phrase “during his
12 term of office” is deleted as surplusage.

13 Also in subsection (e)(1)(i) of this section, the former reference to a
14 “county” is deleted as included in the reference to a “political subdivision
15 of the State”.

16 Defined term: “State’s Attorney” § 15–101

17 **15–404. BALTIMORE COUNTY.**

18 **(A) SCOPE.**

19 **THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.**

20 **(B) SALARY.**

21 **SUBJECT TO ARTICLE III, § 35 OF THE MARYLAND CONSTITUTION, AND**
22 **BEGINNING WITH THE TERM OF THE STATE’S ATTORNEY WHO WAS ELECTED TO**
23 **THAT POSITION IN 1982, THE STATE’S ATTORNEY’S SALARY:**

24 **(1) IS EQUAL TO THE SALARY OF A CIRCUIT COURT JUDGE; AND**

25 **(2) SHALL BE INCREASED 5% EACH YEAR DURING THE STATE’S**
26 **ATTORNEY’S TERM OF OFFICE.**

27 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

28 **(1) (I) THE STATE’S ATTORNEY SHALL APPOINT TWO DEPUTY**
29 **STATE’S ATTORNEYS, ONE OF WHOM SHALL BE DESIGNATED DEPUTY STATE’S**
30 **ATTORNEY OF TRIAL AND ADMINISTRATION AND THE OTHER SHALL BE**
31 **DESIGNATED DEPUTY STATE’S ATTORNEY OF OPERATIONS.**

1 **(II) A DEPUTY STATE’S ATTORNEY SHALL PERFORM THE**
2 **WORK THAT THE STATE’S ATTORNEY REQUIRES.**

3 **(III) SUBJECT TO THE APPROVAL OF THE COUNTY**
4 **EXECUTIVE AND THE COUNTY COUNCIL, THE STATE’S ATTORNEY SHALL SET**
5 **THE SALARIES OF THE DEPUTY STATE’S ATTORNEYS.**

6 **(2) (I) AS AUTHORIZED BY THE COUNTY EXECUTIVE, THE**
7 **STATE’S ATTORNEY MAY APPOINT ASSISTANT STATE’S ATTORNEYS.**

8 **(II) SUBJECT TO THE APPROVAL OF THE COUNTY**
9 **EXECUTIVE AND THE COUNTY COUNCIL, THE STATE’S ATTORNEY SHALL SET**
10 **THE SALARIES OF THE ASSISTANT STATE’S ATTORNEYS.**

11 **(3) THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS HAVE THE**
12 **SAME LEGAL POWERS AS THE STATE’S ATTORNEY TO REPRESENT THE STATE**
13 **BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.**

14 **(D) OTHER STAFF.**

15 **(1) THE STATE’S ATTORNEY MAY APPOINT CLERICAL,**
16 **ADMINISTRATIVE, AND OTHER STAFF THAT THE STATE’S ATTORNEY CONSIDERS**
17 **NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.**

18 **(2) THE STAFF APPOINTED UNDER PARAGRAPH (1) OF THIS**
19 **SUBSECTION SHALL PERFORM CLERICAL AND OTHER WORK AS DIRECTED BY**
20 **THE STATE’S ATTORNEY.**

21 **(E) RESTRICTION ON PRACTICE.**

22 **THE STATE’S ATTORNEY AND THE DEPUTY STATE’S ATTORNEYS SHALL**
23 **SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 10, § 40(d).

26 In subsection (b)(1) of this section, the former phrase “of the eight judicial
27 circuits” is deleted as surplusage.

28 In subsection (c)(3) of this section, the former reference to “the trial of”
29 criminal proceeding is deleted as surplusage and to reflect the practice of
30 deputy State’s Attorneys and assistant State’s Attorneys, who may also
31 represent the State in criminal proceedings before and after trial.

1 In subsection (d) of this section, the references to “staff” are substituted
2 for the former references to “assistants” for consistency with similar
3 provisions in this subtitle.

4 Defined term: “State’s Attorney” § 15–101

5 **15–405. CALVERT COUNTY.**

6 **(A) SCOPE.**

7 **THIS SECTION APPLIES ONLY IN CALVERT COUNTY.**

8 **(B) SALARY.**

9 **(1) THE STATE’S ATTORNEY’S SALARY IS 90% OF THE SALARY OF**
10 **A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

11 **(2) A SALARY INCREASE SHALL TAKE EFFECT AT THE BEGINNING**
12 **OF THE ELECTED TERM OF OFFICE AND MAY NOT INCREASE DURING THE TERM**
13 **OF OFFICE.**

14 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

15 **(1) SUBJECT TO APPROVAL OF THE COUNTY COMMISSIONERS,**
16 **THE STATE’S ATTORNEY SHALL APPOINT A DEPUTY STATE’S ATTORNEY AND AN**
17 **ASSISTANT STATE’S ATTORNEY, AS NEEDED.**

18 **(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF**
19 **THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

20 **(3) THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS:**

21 **(I) SHALL SERVE AT THE PLEASURE OF THE STATE’S**
22 **ATTORNEY;**

23 **(II) SHALL PERFORM WORK AS DIRECTED BY THE STATE’S**
24 **ATTORNEY; AND**

25 **(III) MAY PRESENT CASES TO THE GRAND JURY, SIGN**
26 **INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER**
27 **FUNCTIONS NECESSARY TO THE OPERATION OF THE OFFICE.**

28 **(D) RESTRICTION ON PRACTICE.**

1 **THE STATE’S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE**
2 **IN THE PRIVATE PRACTICE OF LAW.**

3 REVISOR’S NOTE: This section is new language derived without substantive
4 change from former Art. 10, § 40(e).

5 In subsection (c)(3)(iii) of this section, the former reference to “proper” is
6 deleted in light of the reference to “necessary”.

7 In subsection (d) of this section, the former phrase “[w]hile in office” is
8 deleted as surplusage.

9 Defined term: “State’s Attorney” § 15–101

10 **15–406. CAROLINE COUNTY.**

11 **(A) SCOPE.**

12 **THIS SECTION APPLIES ONLY IN CAROLINE COUNTY.**

13 **(B) SALARY; EXPENSES.**

14 **(1) THE STATE’S ATTORNEY’S SALARY IS 80% OF THE SALARY OF**
15 **A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

16 **(2) THE STATE’S ATTORNEY IS ENTITLED TO REIMBURSEMENT**
17 **FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.**

18 **(C) RESTRICTION ON PRACTICE.**

19 **THE STATE’S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF**
20 **LAW.**

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 10, § 40(f).

23 In subsection (b)(2) of this section, the phrase “is entitled to
24 reimbursement for” expenses is substituted for the former phrase “shall
25 receive” expenses for consistency with standard language used in other
26 revised articles of the Code.

27 Defined term: “State’s Attorney” § 15–101

1 **15-407. CARROLL COUNTY.**

2 (A) **SCOPE.**

3 **THIS SECTION APPLIES ONLY IN CARROLL COUNTY.**

4 (B) **SALARY; OFFICE; EXPENSES.**

5 (1) (I) **THE STATE'S ATTORNEY'S SALARY IS 80% OF THE**
6 **SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

7 (II) **A SALARY INCREASE SHALL TAKE EFFECT AT THE**
8 **BEGINNING OF THE ELECTED TERM OF OFFICE AND MAY NOT INCREASE DURING**
9 **THE TERM OF OFFICE.**

10 (2) **THE COUNTY COMMISSIONERS SHALL:**

11 (I) **PROVIDE SPACE FOR THE OFFICES OF THE STATE'S**
12 **ATTORNEY AND PAY THE EXPENSES OF THE OFFICE, INCLUDING GENERAL**
13 **OPERATING EXPENSES, EQUIPMENT COSTS, AND REASONABLE COSTS FOR**
14 **SECRETARIAL OR STENOGRAPHIC NEEDS; OR**

15 (II) **AS DETERMINED BY THE COUNTY COMMISSIONERS, PAY**
16 **A REASONABLE ALLOWANCE TO REIMBURSE THE STATE'S ATTORNEY FOR THE**
17 **COSTS OF THE OPERATION OF THE OFFICE.**

18 (C) **DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

19 (1) **THE STATE'S ATTORNEY:**

20 (I) **MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND**
21 **THE NUMBER OF ASSISTANT STATE'S ATTORNEYS NECESSARY TO STAFF THE**
22 **OFFICE; AND**

23 (II) **SUBJECT TO THE APPROVAL OF THE COUNTY**
24 **COMMISSIONERS, SHALL SET THE SALARIES FOR THE DEPUTY AND ASSISTANT**
25 **STATE'S ATTORNEYS.**

26 (2) (I) **IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS**
27 **APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF BOTH THE STATE'S**
28 **ATTORNEY AND THE RESIDENT JUDGE OF THE CIRCUIT COURT OF THE COUNTY**
29 **CONSIDER IT NECESSARY AND THE JUDGE APPROVES, THE STATE'S ATTORNEY**
30 **MAY APPOINT AN ASSISTANT STATE'S ATTORNEY.**

1 **(II) THE COUNTY COMMISSIONERS SHALL SET THE SALARY**
2 **OF AN ASSISTANT STATE’S ATTORNEY APPOINTED UNDER THIS PARAGRAPH.**

3 **(D) RESTRICTION ON PRACTICE.**

4 **THE STATE’S ATTORNEY SHALL SERVE FULL TIME.**

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 10, § 40(g).

7 In subsection (b)(2)(ii) of this section, the former reference to “in lieu of
8 providing space and expenses” is deleted in light of the conjunction “or”.

9 Also in subsection (b)(2)(ii) of this section, the former reference to
10 “providing the same” is deleted as surplusage.

11 In subsection (d) of this section, the phrase “serve full time” is substituted
12 for the former reference to “devote full time to the duties of office” for
13 brevity and consistency with similar provisions in this subtitle.

14 Defined term: “State’s Attorney” § 15–101

15 **15–408. CECIL COUNTY.**

16 **(A) SCOPE.**

17 **THIS SECTION APPLIES ONLY IN CECIL COUNTY.**

18 **(B) SALARY; EXPENSES.**

19 **(1) THE STATE’S ATTORNEY IS ENTITLED TO:**

20 **(I) A SALARY THAT IS 95% OF THE SALARY OF A JUDGE OF**
21 **THE DISTRICT COURT OF MARYLAND; AND**

22 **(II) THE SAME BENEFITS AS A FULL–TIME COUNTY**
23 **EMPLOYEE.**

24 **(2) THE STATE’S ATTORNEY:**

25 **(I) IS ENTITLED TO A REASONABLE EXPENSE ALLOWANCE**
26 **FOR THE OPERATION OF THE OFFICE AND PERFORMANCE OF THE DUTIES OF**
27 **STATE’S ATTORNEY AS PROVIDED IN THE COUNTY BUDGET; AND**

1 (II) SUBJECT TO THE APPROVAL OF THE ADMINISTRATIVE
2 JUDGE OF THE CIRCUIT COURT FOR THE COUNTY, MAY SPEND \$1,500 EACH
3 YEAR FOR SPECIAL WORK AND EMPLOYING EXTRA HELP.

4 (C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

5 (1) (I) THE STATE'S ATTORNEY MAY APPOINT ONE DEPUTY
6 STATE'S ATTORNEY AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS AS
7 PROVIDED IN THE COUNTY BUDGET.

8 (II) THE SALARY OF THE DEPUTY STATE'S ATTORNEY AND
9 THE ASSISTANT STATE'S ATTORNEYS SHALL BE AS PROVIDED IN THE COUNTY
10 BUDGET.

11 (2) THE DEPUTY STATE'S ATTORNEY AND THE ASSISTANT
12 STATE'S ATTORNEYS HAVE THE SAME LEGAL POWERS AS THE STATE'S
13 ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN
14 CRIMINAL PROCEEDINGS.

15 (3) THE DEPUTY STATE'S ATTORNEY AND THE ASSISTANT
16 STATE'S ATTORNEYS:

17 (I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

18 (II) SERVE PART TIME; AND

19 (III) ARE ENTITLED TO THE SAME BENEFITS AS A FULL-TIME
20 COUNTY EMPLOYEE.

21 (D) OTHER STAFF.

22 (1) (I) THE STATE'S ATTORNEY MAY APPOINT CLERICAL,
23 SECRETARIAL, ADMINISTRATIVE, INVESTIGATIVE, AND OTHER SUPPORT STAFF
24 THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE PROPER
25 CONDUCT OF THE OFFICE.

26 (II) THE STATE'S ATTORNEY'S EXECUTIVE SECRETARY AND
27 CRIMINAL INVESTIGATORS SERVE AT THE PLEASURE OF THE STATE'S
28 ATTORNEY.

29 (III) EXCEPT FOR THE STATE'S ATTORNEY'S EXECUTIVE
30 SECRETARY AND CRIMINAL INVESTIGATORS, THE POSITIONS APPOINTED UNDER
31 THIS SUBSECTION ARE SUBJECT TO COUNTY PERSONNEL POLICIES AND
32 PROCEDURES GOVERNING COUNTY EMPLOYEES.

1 **(2) THE SALARIES OF THE POSITIONS APPOINTED UNDER THIS**
2 **SUBSECTION SHALL BE AS PROVIDED IN THE COUNTY BUDGET.**

3 **(E) RESTRICTION ON PRACTICE.**

4 **THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE**
5 **IN THE PRIVATE PRACTICE OF LAW.**

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 40(h).

8 In subsections (b)(1)(ii) and (c)(3)(iii) of this section, the phrase "the same
9 benefits as a full-time county employee" is substituted for the former
10 phrase "all benefits received by full-time employees of Cecil County" to
11 reflect the general preference in revised articles of the Code for the use of
12 the singular rather than the plural construction.

13 In subsection (b)(2) of this section, the former phrase "[i]n addition to the
14 compensation provided for in this section" is deleted as surplusage.

15 In subsection (c)(2) of this section, the former reference to "the trial of"
16 criminal proceedings is deleted as surplusage.

17 In subsection (d)(1)(i) of this section, the former reference to the State's
18 Attorney being "the appointing authority for all employees of that office"
19 is deleted as surplusage.

20 In subsection (e) of this section, the former phrase "during the State's
21 Attorney's term of office" is deleted as surplusage.

22 Also in subsection (e) of this section, the phrase "serve full time" is
23 substituted for the former phrase "devote full time to the duties of the
24 office" for brevity and consistency with similar provisions in this subtitle.

25 The Criminal Procedure Article Additions Review Committee notes, for
26 consideration by the General Assembly, that the provision in subsection
27 (b)(2)(ii) of this section that allows the State's Attorney to spend money
28 "subject to the approval of the administrative judge of the circuit court for
29 the county" may be unconstitutional because it assigns a nonjudicial duty
30 to the administrative judge. *See Robey v. Commissioners of Prince*
31 *George's County*, 92 Md. 150, 48A. 98 (1900), which held that a statute
32 requiring the circuit courts to approve the accounts of sheriffs as a
33 prerequisite to the county's payment of those accounts was
34 unconstitutional.

1 The Criminal Procedure Article Additions Review Committee also notes,
2 for consideration by the General Assembly, that according to the State’s
3 Attorney for Cecil County, notwithstanding the language of subsection
4 (c)(3)(ii) of this section, the three assistant State’s Attorneys serve full
5 time.

6 Defined term: “State’s Attorney” § 15–101

7 **15–409. CHARLES COUNTY.**

8 **(A) SCOPE.**

9 **THIS SECTION APPLIES ONLY IN CHARLES COUNTY.**

10 **(B) SALARY; EXPENSES.**

11 **(1) THE STATE’S ATTORNEY’S SALARY IS EQUAL TO THE SALARY**
12 **OF A CIRCUIT COURT JUDGE.**

13 **(2) SUBJECT TO THE APPROVAL OF THE COUNTY**
14 **COMMISSIONERS, THE STATE’S ATTORNEY IS ENTITLED TO REIMBURSEMENT**
15 **FOR REASONABLE EXPENSES INCURRED DURING THE PERFORMANCE OF THE**
16 **DUTIES OF THE OFFICE.**

17 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

18 **(1) THE STATE’S ATTORNEY MAY APPOINT DEPUTY STATE’S**
19 **ATTORNEYS AND ASSISTANT STATE’S ATTORNEYS.**

20 **(2) SUBJECT TO THE APPROVAL OF THE COUNTY**
21 **COMMISSIONERS AND PARAGRAPH (3) OF THIS SUBSECTION, THE STATE’S**
22 **ATTORNEY SHALL SET THE SALARY FOR POSITIONS APPOINTED UNDER THIS**
23 **SUBSECTION.**

24 **(3) THE SALARY OF AN ASSISTANT STATE’S ATTORNEY MAY NOT**
25 **EXCEED THE SALARY OF THE STATE’S ATTORNEY.**

26 **(4) THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS:**

27 **(I) SHALL SERVE AT THE PLEASURE OF THE STATE’S**
28 **ATTORNEY;**

29 **(II) SHALL PERFORM WORK AS DIRECTED BY THE STATE’S**
30 **ATTORNEY OR AS AUTHORIZED BY LAW; AND**

1 (III) MAY PRESENT CASES TO THE GRAND JURY, SIGN
2 INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER
3 FUNCTIONS NECESSARY TO OPERATE THE OFFICE.

4 (D) OTHER STAFF.

5 (1) THE STATE'S ATTORNEY MAY APPOINT CLERICAL,
6 ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF THAT THE STATE'S
7 ATTORNEY CONSIDERS NECESSARY FOR THE PROPER CONDUCT OF THE OFFICE.

8 (2) SUBJECT TO THE APPROVAL OF THE COUNTY
9 COMMISSIONERS, THE STATE'S ATTORNEY SHALL SET THE SALARIES FOR THE
10 EMPLOYEES APPOINTED UNDER THIS SUBSECTION.

11 (3) AN EMPLOYEE APPOINTED UNDER THIS SUBSECTION IS
12 ENTITLED TO THE SAME BENEFITS AS A COUNTY EMPLOYEE.

13 (E) RESTRICTION ON PRACTICE.

14 (1) THE STATE'S ATTORNEY:

15 (I) SHALL SERVE FULL TIME; AND

16 (II) EXCEPT IN CONNECTION WITH PERFORMING THE
17 DUTIES OF THE OFFICE, MAY NOT:

18 1. APPEAR AS COUNSEL OR REPRESENT ANY PARTY
19 BEFORE A COURT OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE
20 STATE; OR

21 2. OTHERWISE ENGAGE IN THE PRIVATE PRACTICE
22 OF LAW.

23 (2) A DEPUTY STATE'S ATTORNEY SHALL SERVE FULL TIME AND
24 MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

25 (3) AN ASSISTANT STATE'S ATTORNEY MAY SERVE FULL TIME OR
26 PART TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL
27 LAW.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 10, § 40(i).

1 In subsection (b)(2) of this section, the former phrase “[i]n addition to the
2 compensation provided for in this section” is deleted as surplusage.

3 In subsection (c)(4)(iii) of this section, the former reference to “proper” is
4 deleted in light of the reference to “necessary”.

5 In subsection (d)(1) and (2) of this section, the terms “staff” and
6 “employees” are substituted for the former terms “assistants” and
7 “positions”, respectively, to conform to the terminology used throughout
8 this subtitle.

9 In subsection (d)(3) of this section, the phrase “the same benefits as a
10 county employee” is substituted for the former phrase “all benefits
11 received by county employees” to reflect the general preference in revised
12 articles of the Code for the use of the singular rather than the plural
13 construction.

14 In subsection (e)(1) of this section, the former phrase “while in office” is
15 deleted as surplusage.

16 In subsection (e)(1)(ii)1 of this section, the reference to a “unit” is
17 substituted for the former reference to a “board, commission, or agency”
18 for brevity and to conform to the terminology used in other revised
19 articles of the Code.

20 Defined term: “State’s Attorney” § 15–101

21 **15–410. DORCHESTER COUNTY.**

22 (A) **SCOPE.**

23 **THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.**

24 (B) **SALARY; EXPENSES.**

25 (1) **THE STATE’S ATTORNEY’S SALARY IS 80% OF THE SALARY OF**
26 **A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

27 (2) **SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE**
28 **STATE’S ATTORNEY IS ENTITLED TO AN ALLOWANCE FOR THE EXPENSES OF**
29 **OPERATING THE OFFICE, INCLUDING THE COSTS OF TELEPHONE CHARGES,**
30 **OFFICE SUPPLIES AND EQUIPMENT, POSTAGE, TRAVEL, TRAINING,**
31 **CONFERENCES, BOOKS AND PUBLICATIONS, AND PREMIUMS ON OFFICE BONDS.**

32 (C) **DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

1 **(1) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF**
2 **FULL-TIME OR PART-TIME DEPUTY STATE'S ATTORNEYS AND ASSISTANT**
3 **STATE'S ATTORNEYS THAT THE COUNTY COUNCIL APPROVES.**

4 **(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL:**

5 **(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;**

6 **(II) RECEIVE COMPENSATION AS APPROVED BY THE**
7 **COUNTY COUNCIL; AND**

8 **(III) HAVE THE SAME LEGAL POWERS AS THE STATE'S**
9 **ATTORNEY TO PRESENT CASES TO THE GRAND JURY AND PERFORM ALL OTHER**
10 **NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF**
11 **THE OFFICE.**

12 **(D) OTHER STAFF.**

13 **SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S**
14 **ATTORNEY MAY EMPLOY ADMINISTRATIVE AND CLERICAL EMPLOYEES WHO**
15 **SHALL:**

16 **(1) RECEIVE SALARIES IN ACCORDANCE WITH THE COUNTY PAY**
17 **SCALE; AND**

18 **(2) BE CONSIDERED COUNTY EMPLOYEES AND MEMBERS OF THE**
19 **PENSION SYSTEM IN WHICH A COUNTY EMPLOYEE IS ELIGIBLE FOR**
20 **MEMBERSHIP.**

21 **(E) RESTRICTION ON PRACTICE.**

22 **THE STATE'S ATTORNEY:**

23 **(1) SHALL SERVE FULL TIME;**

24 **(2) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW; AND**

25 **(3) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF**
26 **THE OFFICE, MAY NOT APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING**
27 **IN THE STATE.**

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 10, § 40(j).

1 In subsection (c)(2)(ii) of this section, the former reference to “salaries” is
2 deleted as included in the reference to “compensation”.

3 In subsection (c)(2)(iii) of this section, the former term “acts” is deleted as
4 implicit in the term “duties”.

5 Also in subsection (c)(2)(iii) of this section, the former reference to
6 “proper” is deleted in light of the reference to “necessary”.

7 In subsection (e)(2) and (3) of this section, the former phrases “while in
8 office” are deleted as surplusage.

9 In subsection (e)(2) of this section, the former phrase “at any time in any
10 jurisdiction” is deleted as surplusage.

11 The Criminal Procedure Article Additions Review Committee notes, for
12 consideration by the General Assembly, that in subsection (b)(2) of this
13 section, the reference to “premiums on office bonds” may be obsolete.
14 Under former Art. 10, § 35, now revised as § 15–104 of this title, each
15 State’s Attorney gave a corporate surety bond payable to the State in the
16 sum of \$5,000. The corporate bond was partly conditioned on the State’s
17 Attorney accounting for all funds and property received under color of the
18 office. It is believed that the phrase “color of the office” referred to duties
19 such as collection of revenues and bringing forfeiture actions no longer
20 performed by a modern State’s Attorney.

21 Defined term: “State’s Attorney” § 15–101

22 **15–411. FREDERICK COUNTY.**

23 **(A) SCOPE.**

24 **THIS SECTION APPLIES ONLY IN FREDERICK COUNTY.**

25 **(B) SALARY; OFFICE; EXPENSES.**

26 **(1) THE STATE’S ATTORNEY’S ANNUAL SALARY IS EQUAL TO THE**
27 **SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

28 **(2) THE COUNTY COMMISSIONERS SHALL:**

29 **(I) PROVIDE AN OFFICE IN THE COURTHOUSE FOR THE**
30 **STATE’S ATTORNEY;**

31 **(II) PAY THE OFFICE EXPENSES, INCLUDING GENERAL**
32 **OPERATING EXPENSES AND THE COST OF EQUIPMENT; AND**

1 (III) PAY THE REASONABLE SALARY OF A STENOGRAPHER TO
2 BE APPOINTED BY THE STATE'S ATTORNEY.

3 (C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

4 (1) (I) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY
5 STATE'S ATTORNEYS WHO SHALL:

6 1. SERVE AT THE PLEASURE OF THE STATE'S
7 ATTORNEY; AND

8 2. UNDER THE DIRECTION OF THE STATE'S
9 ATTORNEY, PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER
10 NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF
11 THE OFFICE.

12 (II) SUBJECT TO THE APPROVAL OF THE COUNTY
13 COMMISSIONERS, THE STATE'S ATTORNEY SHALL SET THE SALARY OF EACH
14 DEPUTY STATE'S ATTORNEY.

15 (2) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF
16 FULL-TIME AND PART-TIME ASSISTANT STATE'S ATTORNEYS THAT ARE
17 APPROVED BY THE COUNTY COMMISSIONERS AND WHO:

18 (I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;

19 (II) RECEIVE THE COMPENSATION THAT THE COUNTY
20 COMMISSIONERS APPROVE; AND

21 (III) HAVE THE SAME LEGAL POWERS THAT THE STATE'S
22 ATTORNEY HAS TO PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER
23 NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF
24 THE OFFICE.

25 (D) OTHER STAFF.

26 (1) SUBJECT TO THE APPROVAL OF THE COUNTY
27 COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT OTHER STAFF.

28 (2) EMPLOYEES APPOINTED UNDER THIS SUBSECTION SHALL:

29 (I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;
30 AND

1 (II) RECEIVE THE COMPENSATION THAT THE COUNTY
2 COMMISSIONERS APPROVE.

3 (E) RESTRICTION ON PRACTICE.

4 THE STATE’S ATTORNEY AND DEPUTY STATE’S ATTORNEYS MAY NOT
5 ENGAGE IN THE PRIVATE PRACTICE OF LAW.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 40(k).

8 In subsection (c)(1)(i)2 and (2)(iii) of this section, the former references to
9 “proper” are deleted in light of the references to “necessary”.

10 Also in subsection (c)(1)(i)2 and (2)(iii) of this section, the former term
11 “acts” is deleted as implicit in the term “duties”.

12 In subsections (c)(2)(ii) and (d)(2)(ii) of this section, the former references
13 to “salaries” are deleted as included in the references to “compensation”.

14 In subsection (d)(1) and (2) of this section, the terms “staff” and
15 “employees” are substituted for the former terms “staff personnel” and
16 “persons”, respectively, to conform to the terminology used throughout
17 this subtitle.

18 Defined term: “State’s Attorney” § 15–101

19 15–412. GARRETT COUNTY.

20 (A) SCOPE.

21 THIS SECTION APPLIES ONLY IN GARRETT COUNTY.

22 (B) SALARY; EXPENSES.

23 (1) THE COUNTY COMMISSIONERS SHALL SET THE STATE’S
24 ATTORNEY’S SALARY IN ACCORDANCE WITH CHAPTER 91 OF THE PUBLIC
25 LOCAL LAWS OF GARRETT COUNTY.

26 (2) (I) THE STATE’S ATTORNEY’S ALLOWANCE FOR OFFICE
27 EXPENSES SHALL BE AT LEAST \$10,000.

28 (II) AN ALLOWANCE OF MORE THAN \$10,000 SHALL BE AT
29 THE DISCRETION OF THE COUNTY COMMISSIONERS.

1 **(C) ASSISTANT STATE'S ATTORNEYS.**

2 **(1) SUBJECT TO THE APPROVAL OF THE COUNTY**
3 **COMMISSIONERS AND AS PROVIDED FOR IN THE COUNTY BUDGET, THE STATE'S**
4 **ATTORNEY MAY APPOINT ASSISTANT STATE'S ATTORNEYS.**

5 **(2) AN ASSISTANT STATE'S ATTORNEY SHALL:**

6 **(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;**
7 **AND**

8 **(II) RECEIVE A SALARY OF AT LEAST \$25,000.**

9 **(D) INVESTIGATORS; OTHER STAFF.**

10 **(1) SUBJECT TO THE APPROVAL OF THE COUNTY**
11 **COMMISSIONERS AND IF PROVIDED FOR IN THE COUNTY BUDGET, THE STATE'S**
12 **ATTORNEY MAY APPOINT INVESTIGATORS WHO SHALL:**

13 **(I) BE LAW ENFORCEMENT OFFICERS IN THE STATE; AND**

14 **(II) HAVE THE SAME POWERS, RIGHTS, PROTECTIONS, AND**
15 **BENEFITS AS A COUNTY DEPUTY SHERIFF.**

16 **(2) (I) THE STATE'S ATTORNEY MAY EMPLOY CLERICAL,**
17 **ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF NECESSARY FOR THE**
18 **PROPER CONDUCT OF THE OFFICE.**

19 **(II) SUBJECT TO THE APPROVAL OF THE COUNTY**
20 **COMMISSIONERS AND IN CONFORMITY WITH THE COUNTY PAY AND**
21 **CLASSIFICATION PLANS, THE STATE'S ATTORNEY SHALL SET THE SALARIES**
22 **AND CLASSIFICATIONS FOR THE EMPLOYEES DESCRIBED IN SUBPARAGRAPH (I)**
23 **OF THIS PARAGRAPH.**

24 **(E) RESTRICTION ON PRACTICE.**

25 **THE STATE'S ATTORNEY SHALL SERVE FULL TIME.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 10, § 40(1).

28 In subsection (b)(1) of this section, the former references to salaries in
29 calendar years 1991 through 1994 are deleted as obsolete.

1 In subsection (d)(1)(ii) of this section, the former reference to “fringe”
2 benefits is deleted as surplusage.

3 In subsection (d)(2)(i) of this section, the reference to “staff” is substituted
4 for the former reference to “personnel” to conform to the terminology used
5 throughout this subtitle.

6 In subsection (e) of this section, the phrase “serve full time” is substituted
7 for the former phrase “devote full time to the duties of office” for brevity
8 and consistency with similar provisions in this subtitle.

9 Defined term: “State’s Attorney” § 15–101

10 **15–413. HARFORD COUNTY.**

11 **(A) SCOPE.**

12 **THIS SECTION APPLIES ONLY IN HARFORD COUNTY.**

13 **(B) SALARY; EXPENSES.**

14 **(1) THE STATE’S ATTORNEY’S SALARY IS \$98,500.**

15 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ON OR**
16 **AFTER JULY 1 OF EACH YEAR, THE SALARY SHALL BE ADJUSTED USING THE**
17 **ANNUAL CONSUMER PRICE INDEX THAT IS PUBLISHED BY THE U.S. BUREAU OF**
18 **LABOR STATISTICS:**

19 **(I) FOR THE PERIOD ENDING EACH DECEMBER;**

20 **(II) FOR ALL REGIONS; AND**

21 **(III) TO REFLECT THE ANNUAL CHANGE IN THE “CONSUMER**
22 **PRICE INDEX” FOR “ALL URBAN CONSUMERS” FOR THE EXPENDITURE**
23 **CATEGORY “ALL ITEMS NOT SEASONALLY ADJUSTED”.**

24 **(3) THE ANNUAL ADJUSTMENT UNDER PARAGRAPH (2) OF THIS**
25 **SUBSECTION MAY NOT EXCEED 3% IN A FISCAL YEAR.**

26 **(4) THE COUNTY GOVERNMENT SHALL PAY ALL REASONABLE**
27 **EXPENSES FOR THE CONDUCT OF THE OFFICE.**

28 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

1 **(1) THE STATE'S ATTORNEY MAY APPOINT:**

2 **(I) NOT MORE THAN TWO DEPUTY STATE'S ATTORNEYS;**
3 **AND**

4 **(II) THE NUMBER OF ASSISTANT STATE'S ATTORNEYS**
5 **AUTHORIZED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.**

6 **(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:**

7 **(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;**

8 **(II) RECEIVE COMPENSATION AS PROVIDED BY THE COUNTY**
9 **EXECUTIVE AND COUNTY COUNCIL; AND**

10 **(III) HAVE THE SAME LEGAL POWERS AS THE STATE'S**
11 **ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN**
12 **CRIMINAL PROCEEDINGS.**

13 **(D) OTHER STAFF.**

14 **(1) THE STATE'S ATTORNEY MAY APPOINT A SECRETARY OR**
15 **CLERICAL ASSISTANT WHO SHALL:**

16 **(I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;**
17 **AND**

18 **(II) RECEIVE A SALARY THAT CONFORMS TO THE EXEMPT**
19 **CLASSIFICATION AND PAY PLAN AUTHORIZED BY THE COUNTY EXECUTIVE AND**
20 **COUNTY COUNCIL.**

21 **(2) (I) THE STATE'S ATTORNEY MAY EMPLOY CLERICAL,**
22 **ADMINISTRATIVE, INVESTIGATIVE, AND OTHER STAFF NECESSARY FOR THE**
23 **PROPER CONDUCT OF THE OFFICE.**

24 **(II) SUBJECT TO THE APPROVAL OF THE COUNTY**
25 **EXECUTIVE AND COUNTY COUNCIL AND IN CONFORMITY WITH THE COUNTY**
26 **PAY AND CLASSIFICATION PLANS, THE STATE'S ATTORNEY SHALL SET SALARIES**
27 **AND CLASSIFICATIONS FOR EMPLOYEES APPOINTED UNDER THIS PARAGRAPH.**

28 **(III) AN EMPLOYEE APPOINTED UNDER THIS PARAGRAPH IS**
29 **ENTITLED TO THE SAME BENEFITS AS A SIMILARLY CLASSIFIED COUNTY**
30 **EMPLOYEE.**

1 **(E) RESTRICTION ON PRACTICE.**

2 **EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE,**
3 **THE STATE’S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW**
4 **OR APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT**
5 **OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.**

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 40(m).

8 In subsection (b)(1) of this section, the former references to the salaries
9 “commencing July 1, 2004”, “commencing January 1, 2007”, and “on or
10 after July 1, 2007” are deleted as obsolete.

11 In subsection (b)(2) of this section, the former phrase “while in office” is
12 deleted as surplusage.

13 In subsection (c)(2)(ii) of this section, the former reference to “salaries” is
14 deleted as included in the reference to “compensation”.

15 The Criminal Procedure Article Additions Review Committee notes, for
16 consideration by the General Assembly, that in subsection (c)(2)(iii) of
17 this section, the former overly narrow reference to “the trial of” criminal
18 proceedings is deleted to reflect the practice of deputy State’s Attorneys
19 and assistant State’s Attorneys, who may also represent the State in
20 criminal proceedings before and after trial.

21 In subsection (d)(2)(i) of this section, the term “staff” is substituted for the
22 former term “personnel” to conform to the terminology used throughout
23 this subtitle.

24 In subsection (e) of this section, the reference to a “unit” is substituted for
25 the former reference to a “board, commission or agency” for brevity.

26 Also in subsection (e) of this section, the former reference to a “county” is
27 deleted as included in the reference to a “political subdivision of the
28 State”.

29 Also in subsection (e) of this section, the former phrases “[d]uring the
30 term in office”, “[t]he intent is that”, and “in any manner” are deleted as
31 unnecessary.

32 The Criminal Procedure Article Additions Review Committee notes, for
33 consideration by the General Assembly, that in subsection (e) of this
34 section, which revises former Art. 10, § 40(m)(2)(iii), the prohibition
35 against the State’s Attorney “appear[ing] as counsel or represent[ing] any
36 party before a court or unit of the State or a political subdivision”

1 apparently includes lobbying professionally. This prohibition therefore
2 may be broader than the second sentence of former Art. 10, § 40(m)(2)(iii),
3 which states “[t]he intent is that the State’s Attorney may not engage in
4 the private practice of law in any manner”.

5 Defined term: “State’s Attorney” § 15–101

6 **15–414. HOWARD COUNTY.**

7 **(A) SCOPE.**

8 **THIS SECTION APPLIES ONLY IN HOWARD COUNTY.**

9 **(B) SALARY.**

10 **THE STATE’S ATTORNEY’S SALARY IS EQUAL TO THE SALARY OF A JUDGE**
11 **OF THE DISTRICT COURT OF MARYLAND.**

12 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

13 **(1) THE STATE’S ATTORNEY MAY APPOINT TWO DEPUTY STATE’S**
14 **ATTORNEYS AND THE NUMBER OF ASSISTANT STATE’S ATTORNEYS**
15 **AUTHORIZED BY THE COUNTY EXECUTIVE.**

16 **(2) THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS:**

17 **(I) SHALL SERVE AT THE PLEASURE OF THE STATE’S**
18 **ATTORNEY;**

19 **(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
20 **SHALL RECEIVE A SALARY SET BY THE COUNTY EXECUTIVE WITH THE**
21 **APPROVAL OF THE COUNTY COUNCIL;**

22 **(III) SHALL HAVE THE SAME LEGAL POWER AS THE STATE’S**
23 **ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN**
24 **CRIMINAL PROCEEDINGS; AND**

25 **(IV) UNDER THE DIRECTION OF THE STATE’S ATTORNEY,**
26 **MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL**
27 **INFORMATIONS, AND PERFORM OTHER NECESSARY DUTIES RELATING TO THE**
28 **GRAND JURY AND THE OPERATION OF THE OFFICE AS DIRECTED BY THE**
29 **STATE’S ATTORNEY OR AUTHORIZED BY LAW.**

1 **(3) THE SALARY FOR A DEPUTY STATE’S ATTORNEY MAY NOT BE**
2 **LESS THAN \$6,000 EACH YEAR.**

3 **(D) OTHER STAFF.**

4 **(1) THE STATE’S ATTORNEY MAY EMPLOY AN ADMINISTRATIVE**
5 **ASSISTANT WHO MAY:**

6 **(I) COLLECT AND DISTRIBUTE MONEYS PAYABLE FOR THE**
7 **SUPPORT OF DEPENDENTS UNDER ORDERS ISSUED FROM COURTS IN THIS**
8 **STATE OR ANOTHER STATE; AND**

9 **(II) RETAIN 2% OF THE MONEYS COLLECTED TO BE PAID TO**
10 **THE COUNTY COUNCIL TO DEFRAY THE COSTS OF THE SERVICE.**

11 **(2) THE SALARY OF THE ADMINISTRATIVE ASSISTANT SHALL BE**
12 **SET BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF THE COUNTY**
13 **COUNCIL.**

14 **(E) AUDIT.**

15 **(1) NOT LATER THAN 3 MONTHS AFTER THE CLOSE OF EACH**
16 **FISCAL YEAR, THE COUNTY AUDITOR SHALL EXAMINE THE BOOKS AND**
17 **ACCOUNTS OF THE STATE’S ATTORNEY’S OFFICE AND PREPARE A FINANCIAL**
18 **AUDIT FOR THE PRECEDING FISCAL YEAR.**

19 **(2) THE FINANCIAL AUDIT SHALL BE:**

20 **(I) SUBMITTED TO THE COUNTY EXECUTIVE AND COUNTY**
21 **COUNCIL; AND**

22 **(II) INCLUDED IN THE ANNUAL AUDIT OF THE COUNTY**
23 **REQUIRED BY ARTICLE 19, § 40 OF THE CODE.**

24 **(3) AT ANY TIME THE COUNTY EXECUTIVE OR COUNTY COUNCIL**
25 **MAY ORDER A SPECIAL AUDIT OF THE STATE’S ATTORNEY’S OFFICE IN**
26 **ACCORDANCE WITH § 213 OF THE HOWARD COUNTY CHARTER.**

27 **(F) RESTRICTION ON PRACTICE.**

28 **THE STATE’S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF**
29 **LAW.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 10, § 40(n).

3 In subsection (c)(2)(iii) of this section, the former reference to "the trial of"
4 criminal proceedings is deleted as surplusage and to reflect the practice of
5 deputy State's Attorneys and assistant State's Attorneys, who may also
6 represent the State in criminal proceedings before and after trial.

7 In subsection (c)(2)(iv) of this section, the former reference to "acts" is
8 deleted in light of the reference to "duties". Similarly, the former
9 reference to "proper" is deleted in light of the reference to "necessary".

10 The Criminal Procedure Article Additions Review Committee notes, for
11 consideration by the General Assembly, that subsection (d) of this section,
12 which concerns an administrative assistant in the office who collects child
13 support moneys, may be obsolete. The Office of the State's Attorney has
14 not collected or distributed child support moneys for several years. The
15 Division of Human Resources in the State Office of the Attorney General
16 now performs this function.

17 Defined terms: "State" § 1-101
18 "State's Attorney" § 15-101

19 **15-415. KENT COUNTY.**

20 **(A) SCOPE.**

21 **THIS SECTION APPLIES ONLY IN KENT COUNTY.**

22 **(B) SALARY; EXPENSES.**

23 **(1) THE STATE'S ATTORNEY'S SALARY IS 80% OF THE SALARY OF**
24 **A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

25 **(2) (I) THE COUNTY COMMISSIONERS SHALL SET THE STATE'S**
26 **ATTORNEY'S ALLOWANCE FOR OFFICE EXPENSES.**

27 **(II) THE STATE'S ATTORNEY SHALL SUBMIT EXPENSE**
28 **VOUCHERS TO THE COUNTY COMMISSIONERS FOR APPROVAL AND PAYMENT.**

29 **(3) (I) THE STATE'S ATTORNEY HAS A SPECIAL FUND**
30 **ALLOWANCE OF \$4,000 FOR THE COSTS OF INVESTIGATIONS.**

31 **(II) AT THE END OF EACH FISCAL YEAR:**

1 **1. THE STATE’S ATTORNEY SHALL ACCOUNT TO THE**
2 **COUNTY COMMISSIONERS FOR EXPENDITURES FROM THE FUND; AND**

3 **2. ANY BALANCE REMAINING IN THE FUND SHALL**
4 **REVERT TO THE GENERAL FUND OF THE COUNTY.**

5 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

6 **(1) THE STATE’S ATTORNEY MAY EMPLOY ONE OR MORE DEPUTY**
7 **STATE’S ATTORNEYS AND ASSISTANT STATE’S ATTORNEYS WHO SHALL:**

8 **(I) SERVE AT THE PLEASURE OF THE STATE’S ATTORNEY;**
9 **AND**

10 **(II) BE MEMBERS IN GOOD STANDING OF THE LOCAL BAR.**

11 **(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF**
12 **THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

13 **(D) CRIMINAL INVESTIGATOR; OTHER STAFF.**

14 **(1) THE STATE’S ATTORNEY MAY EMPLOY A CRIMINAL**
15 **INVESTIGATOR WHO SERVES AT THE PLEASURE OF THE STATE’S ATTORNEY.**

16 **(2) THE STATE’S ATTORNEY MAY EMPLOY AN ADMINISTRATIVE**
17 **COORDINATOR AND OTHER ADMINISTRATIVE AND CLERICAL STAFF THAT THE**
18 **STATE’S ATTORNEY CONSIDERS NECESSARY FOR THE CONDUCT OF THE OFFICE.**

19 **(3) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF**
20 **THE CRIMINAL INVESTIGATOR, ADMINISTRATIVE COORDINATOR, AND**
21 **ADMINISTRATIVE AND CLERICAL STAFF.**

22 **(E) RESTRICTION ON PRACTICE.**

23 **(1) THE STATE’S ATTORNEY SHALL SERVE FULL TIME AND MAY**
24 **NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

25 **(2) SUBJECT TO THE APPROVAL OF THE COUNTY**
26 **COMMISSIONERS, A DEPUTY OR ASSISTANT STATE’S ATTORNEY MAY ENGAGE IN**
27 **THE PRIVATE PRACTICE OF LAW.**

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 10, § 40(o).

1 In subsection (d)(2) and (3) of this section, the references to “staff” are
2 substituted for the former references to “assistants” to conform to the
3 terminology used throughout this subtitle.

4 In subsection (e)(1) of this section, the former phrase “during the State’s
5 Attorney’s term of office” is deleted as surplusage.

6 Also in subsection (e)(1) of this section, the reference to “serve full time”
7 is substituted for the former reference to “devote full time to the duties of
8 the office” for brevity and consistency with similar provisions in this
9 subtitle.

10 Defined term: “State’s Attorney” § 15–101

11 **15–416. MONTGOMERY COUNTY.**

12 **(A) SCOPE.**

13 **THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

14 **(B) SALARY; EXPENSES.**

15 **(1) THE COUNTY COUNCIL SHALL SET THE SALARY OF THE**
16 **STATE’S ATTORNEY.**

17 **(2) SUBJECT TO APPROVAL BY THE COUNTY COUNCIL, THE**
18 **STATE’S ATTORNEY IS ENTITLED A REASONABLE EXPENSE ALLOWANCE FOR**
19 **THE OPERATION OF THE OFFICE AND PERFORMANCE OF THE DUTIES OF THE**
20 **STATE’S ATTORNEY.**

21 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

22 **(1) THE STATE’S ATTORNEY MAY APPOINT TWO DEPUTY STATE’S**
23 **ATTORNEYS AND THE NUMBER OF ASSISTANT STATE’S ATTORNEYS THAT THE**
24 **COUNTY COUNCIL APPROVES.**

25 **(2) EACH DEPUTY AND ASSISTANT STATE’S ATTORNEY IS:**

26 **(I) SUBJECT TO THE EXCLUSIVE CONTROL OF THE STATE’S**
27 **ATTORNEY; AND**

28 **(II) ENTITLED TO THE SAME BENEFITS AS A COUNTY**
29 **EMPLOYEE UNDER THE MERIT SYSTEM.**

30 **(3) THE DEPUTY AND ASSISTANT STATE’S ATTORNEYS:**

1 **(I) SHALL PERFORM THE WORK DIRECTED BY THE STATE'S**
2 **ATTORNEY OR AUTHORIZED BY LAW; AND**

3 **(II) UNDER THE DIRECTION OF THE STATE'S ATTORNEY,**
4 **MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL**
5 **INFORMATIONS, AND PERFORM OTHER NECESSARY DUTIES RELATING TO THE**
6 **GRAND JURY AND THE OPERATION OF THE OFFICE.**

7 **(4) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS**
8 **APPOINTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE**
9 **STATE'S ATTORNEY MAY FILE A PETITION IN CIRCUIT COURT FOR AUTHORITY**
10 **TO APPOINT ADDITIONAL ASSISTANT STATE'S ATTORNEYS.**

11 **(II) THE STATE'S ATTORNEY SHALL:**

12 **1. INCLUDE THE REASONS FOR THE APPOINTMENT**
13 **IN THE PETITION; AND**

14 **2. DELIVER NOTICE OF THE PETITION TO THE**
15 **COUNTY EXECUTIVE AND COUNTY COUNCIL.**

16 **(III) THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY**
17 **FILE A RESPONSE TO EACH PETITION.**

18 **(IV) THE COUNTY SHALL PAY THE SALARY AND EXPENSES OF**
19 **AN ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH.**

20 **(D) SPECIAL INVESTIGATORS.**

21 **(1) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF**
22 **SPECIAL INVESTIGATORS APPROVED BY THE COUNTY COUNCIL.**

23 **(2) (I) IN ADDITION TO THE SPECIAL INVESTIGATORS**
24 **APPOINTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE**
25 **STATE'S ATTORNEY MAY FILE A PETITION IN CIRCUIT COURT FOR AUTHORITY**
26 **TO APPOINT ADDITIONAL SPECIAL INVESTIGATORS.**

27 **(II) THE STATE'S ATTORNEY SHALL:**

28 **1. INCLUDE THE REASONS FOR THE APPOINTMENT**
29 **IN THE PETITION; AND**

1 **2. DELIVER NOTICE OF THE PETITION TO THE**
2 **COUNTY EXECUTIVE AND COUNTY COUNCIL.**

3 **(III) THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY**
4 **FILE A RESPONSE TO EACH PETITION.**

5 **(3) THE COUNTY SHALL PAY THE SALARY AND EXPENSES OF A**
6 **SPECIAL INVESTIGATOR APPOINTED UNDER THIS SUBSECTION.**

7 **(4) A SPECIAL INVESTIGATOR APPOINTED UNDER THIS**
8 **SUBSECTION:**

9 **(I) IS DIRECTLY UNDER THE SUPERVISION OF THE STATE'S**
10 **ATTORNEY; AND**

11 **(II) SHALL PERFORM EACH DUTY DESIGNATED BY THE**
12 **STATE'S ATTORNEY.**

13 **(5) A SPECIAL INVESTIGATOR APPOINTED UNDER THIS**
14 **SUBSECTION IS:**

15 **(I) SUBJECT TO THE EXCLUSIVE CONTROL OF THE STATE'S**
16 **ATTORNEY; AND**

17 **(II) ENTITLED TO THE SAME BENEFITS AS A COUNTY**
18 **EMPLOYEE UNDER THE MERIT SYSTEM.**

19 **(E) OTHER STAFF.**

20 **(1) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF**
21 **ADMINISTRATIVE ASSISTANTS, CLERKS, ADMINISTRATIVE AIDES, PARALEGAL**
22 **INTERNS, AND OTHER STAFF THAT THE COUNTY COUNCIL APPROVES.**

23 **(2) THE EMPLOYEES APPOINTED UNDER THIS SUBSECTION ARE:**

24 **(I) SUBJECT TO THE EXCLUSIVE CONTROL OF THE STATE'S**
25 **ATTORNEY; AND**

26 **(II) ENTITLED TO THE SAME BENEFITS AS COUNTY**
27 **EMPLOYEES UNDER THE MERIT SYSTEM.**

28 **(F) RESTRICTION ON PRACTICE OR EMPLOYMENT.**

1 **(1) THE STATE’S ATTORNEY, DEPUTY STATE’S ATTORNEYS, AND**
2 **ASSISTANT STATE’S ATTORNEYS SHALL SERVE FULL TIME AND MAY NOT**
3 **ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

4 **(2) A SPECIAL INVESTIGATOR SHALL SERVE FULL TIME AND MAY**
5 **NOT ENGAGE IN OTHER EMPLOYMENT.**

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 10, § 40(p).

8 In subsection (b)(2) of this section, the former reference to “in addition to
9 compensation provided for in this section” is deleted as surplusage.

10 In subsections (c)(1), (d)(1) and (4)(ii), and (e)(1) of this section, the former
11 references to “from time to time” are deleted as surplusage.

12 In subsection (c)(3)(i) of this section, the former reference to “acts” is
13 deleted in light of the reference to “duties”. Similarly, the former
14 reference to “proper” is deleted in light of the reference to “necessary”.

15 In subsection (e) of this section, the references to “staff” and “employees”
16 are substituted for the former references to “personnel” to conform to the
17 terminology used throughout this subtitle.

18 In subsection (f)(1) of this section, the former phrase “in any jurisdiction
19 or at any time during their tenure in office” is deleted as unnecessary.
20 Similarly, in subsection (f)(2) of this section, the former phrase “at any
21 time during their employment as special investigators” is deleted.

22 Also in subsection (f)(1) of this section, the reference to “serve full time” is
23 substituted for the former reference to “devote their full time and
24 attention to the duties of their respective offices” for brevity and
25 consistency with similar provisions in this subtitle. Similarly, in
26 subsection (f)(2) of this section, the reference to “serve full time” is
27 substituted for the former reference to “devote their full time and
28 attention to their duties as special investigators”.

29 Defined term: “State’s Attorney” § 15–101

30 **15–417. PRINCE GEORGE’S COUNTY.**

31 **(A) SCOPE.**

32 **THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

1 **(B) SALARY; EXPENSES.**

2 **(1) THE STATE'S ATTORNEY'S SALARY IS \$125,500.**

3 **(2) THE STATE'S ATTORNEY'S SALARY AND EXPENSES SHALL BE**
4 **PAID IN EQUAL SEMIMONTHLY INSTALLMENTS.**

5 **(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

6 **(1) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S**
7 **ATTORNEYS AND 80 ASSISTANT STATE'S ATTORNEYS.**

8 **(2) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SERVE AT**
9 **THE PLEASURE OF THE STATE'S ATTORNEY.**

10 **(3) THE SALARY OF A DEPUTY STATE'S ATTORNEY SHALL BE**
11 **WITHIN THE DISCRETION OF THE STATE'S ATTORNEY BUT MAY NOT EXCEED**
12 **\$115,000.**

13 **(4) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY SHALL BE**
14 **WITHIN THE DISCRETION OF THE STATE'S ATTORNEY BUT MAY NOT EXCEED**
15 **\$107,000.**

16 **(5) THE COUNTY SHALL PAY THE SALARIES OF THE DEPUTY AND**
17 **ASSISTANT STATE'S ATTORNEYS:**

18 **(I) ON CERTIFICATION OF THE STATE'S ATTORNEY TO THE**
19 **COUNTY EXECUTIVE AND COUNTY COUNCIL; AND**

20 **(II) IN EQUAL SEMIMONTHLY INSTALLMENTS.**

21 **(6) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS:**

22 **(I) SHALL PERFORM THE WORK DIRECTED BY THE STATE'S**
23 **ATTORNEY OR AS AUTHORIZED BY LAW; AND**

24 **(II) UNDER THE DIRECTION OF THE STATE'S ATTORNEY,**
25 **MAY PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL**
26 **INFORMATIONS, AND PERFORM OTHER NECESSARY DUTIES RELATING TO THE**
27 **GRAND JURY AND THE OPERATION OF THE OFFICE.**

28 **(D) OTHER STAFF.**

1 (1) (I) THE STATE'S ATTORNEY MAY APPOINT AN
2 ADMINISTRATIVE ASSISTANT WHO SERVES AT THE PLEASURE OF THE STATE'S
3 ATTORNEY.

4 (II) THE SALARY OF THE ADMINISTRATIVE ASSISTANT
5 SHALL BE WITHIN THE DISCRETION OF THE STATE'S ATTORNEY BUT MAY NOT
6 EXCEED \$64,000.

7 (III) THE COUNTY SHALL PAY THE SALARY OF THE
8 ADMINISTRATIVE ASSISTANT ON CERTIFICATION OF THE STATE'S ATTORNEY TO
9 THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

10 (IV) THE ADMINISTRATIVE ASSISTANT IS NOT SUBJECT TO
11 THE REGULATIONS OF THE COUNTY MERIT SYSTEM BUT IS ENTITLED TO THE
12 SAME BENEFITS AS A COUNTY EMPLOYEE UNDER THE MERIT SYSTEM.

13 (2) (I) EACH ELIGIBLE, FULL-TIME, NONEXEMPT EMPLOYEE,
14 AS DESCRIBED IN THE PRINCE GEORGE'S COUNTY LABOR CODE, OF THE
15 STATE'S ATTORNEY'S OFFICE IS SUBJECT TO THE PRINCE GEORGE'S COUNTY
16 PERSONNEL LAW.

17 (II) EMPLOYEES DESCRIBED IN SUBPARAGRAPH (I) OF THIS
18 PARAGRAPH:

19 1. MAY ORGANIZE AND BARGAIN COLLECTIVELY;
20 AND

21 2. ARE SUBJECT TO THE PRINCE GEORGE'S COUNTY
22 LABOR CODE WITH REGARD TO COLLECTIVE BARGAINING FOR COMPENSATION,
23 INCLUDING PENSION AND FRINGE BENEFITS, HOURS, AND OTHER TERMS AND
24 CONDITIONS OF EMPLOYMENT.

25 (III) THE COUNTY EXECUTIVE IS THE EMPLOYER OF AN
26 EMPLOYEE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR THE
27 PURPOSE OF COLLECTIVE BARGAINING FOR HOURS AND COMPENSATION,
28 INCLUDING PENSION AND FRINGE BENEFITS.

29 (IV) 1. THE STATE'S ATTORNEY IS THE EMPLOYER OF AN
30 EMPLOYEE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR THE
31 PURPOSE OF COLLECTIVE BARGAINING FOR OTHER TERMS AND CONDITIONS OF
32 EMPLOYMENT.

33 2. THE FUNDING REQUIRED FOR A COLLECTIVE
34 BARGAINING AGREEMENT NEGOTIATED BY THE STATE'S ATTORNEY UNDER

1 THIS SUBPARAGRAPH IS SUBJECT TO THE APPROVAL OF THE COUNTY
2 EXECUTIVE.

3 (E) RESTRICTION ON PRACTICE.

4 (1) EXCEPT IN CONNECTION WITH DUTIES OF THE OFFICE, THE
5 STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT STATE'S ATTORNEY MAY NOT
6 APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF
7 THE STATE, OR POLITICAL SUBDIVISION OF THE STATE.

8 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
9 PARAGRAPH, THE STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT STATE'S
10 ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

11 (II) THE STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT
12 STATE'S ATTORNEY MAY PARTICIPATE IN THE PRO BONO PROGRAM
13 ADMINISTERED BY THE PRINCE GEORGE'S COUNTY BAR FOUNDATION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 10, § 40(q).

16 In subsection (b) of this section, the former references to salaries in
17 calendar years 1999 through 2005 are deleted as obsolete.

18 In subsection (c)(6) of this section, the former reference to "acts" is deleted
19 in light of the reference to "duties". Similarly, the former reference to
20 "proper" is deleted in light of the reference to "necessary".

21 In subsection (e)(1) of this section, the reference to a "unit" is substituted
22 for the former reference to a "board, commission, or agency" for brevity.

23 Also in subsection (e)(1) of this section, the former reference to a "county"
24 is deleted as included in the reference to a "political subdivision of the
25 State".

26 Defined term: "State's Attorney" § 15-101

27 **15-418. QUEEN ANNE'S COUNTY.**

28 (A) SCOPE.

29 THIS SECTION APPLIES ONLY IN QUEEN ANNE'S COUNTY.

30 (B) SALARY; EXPENSES.

1 (1) (I) THE STATE’S ATTORNEY’S SALARY IS EQUAL TO THE
2 SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

3 (II) THE SALARY SHALL BE SET BEFORE THE START OF THE
4 ELECTED TERM OF OFFICE.

5 (2) THE STATE’S ATTORNEY IS ENTITLED TO REASONABLE
6 EXPENSES AS PROVIDED IN THE COUNTY BUDGET FOR THE OPERATION OF THE
7 OFFICE AND THE PERFORMANCE OF THE STATE’S ATTORNEY’S DUTIES.

8 (C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.

9 (1) SUBJECT TO THE APPROVAL OF THE COUNTY
10 COMMISSIONERS, THE STATE’S ATTORNEY MAY APPOINT ONE OR MORE DEPUTY
11 STATE’S ATTORNEYS OR ASSISTANT STATE’S ATTORNEYS.

12 (2) THE COUNTY COMMISSIONERS SHALL SET THE SALARY OF
13 EACH DEPUTY AND ASSISTANT STATE’S ATTORNEY.

14 (3) THE STATE’S ATTORNEY, DEPUTY STATE’S ATTORNEYS, OR
15 ASSISTANT STATE’S ATTORNEYS SHALL PRESENT CASES TO THE GRAND JURY
16 AND PERFORM OTHER DUTIES IN RELATION TO THE GRAND JURY, THE CIRCUIT
17 COURT, INCLUDING THE JUVENILE COURT, AND THE DISTRICT COURT THAT
18 THE STATE’S ATTORNEY CONSIDERS NECESSARY.

19 (D) RESTRICTION ON PRACTICE.

20 THE STATE’S ATTORNEY MAY NOT:

21 (1) ENGAGE IN THE PRIVATE PRACTICE OF LAW; OR

22 (2) EXCEPT IN CONNECTION WITH THE DUTIES OF THE OFFICE,
23 APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 10, § 40(r).

26 In subsection (b)(1) of this section, the phrase “before the start of the
27 elected term of office” is substituted for the former reference to “first
28 assumes his or her position during his or her term of office” for brevity.

29 In subsection (c)(3) of this section, the former reference to “acts” is deleted
30 in light of the reference to “duties”. Similarly, the former reference to
31 “proper” is deleted in light of the reference to “necessary”.

1 In subsection (d)(1) of this section, the former phrase “during the State’s
2 Attorney’s tenure in office” is deleted as surplusage.

3 Also in subsection (d)(1) of this section, the former reference to “at any
4 time in any jurisdiction” is deleted as unnecessary.

5 Defined term: “State’s Attorney” § 15–101

6 **15–419. ST. MARY’S COUNTY.**

7 **(A) SCOPE.**

8 **THIS SECTION APPLIES ONLY IN ST. MARY’S COUNTY.**

9 **(B) SALARY; OFFICE; EXPENSES.**

10 **(1) (I) THE STATE’S ATTORNEY’S SALARY IS 90% OF THE**
11 **SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND AND SHALL BE**
12 **PAID BIWEEKLY.**

13 **(II) A SALARY INCREASE SHALL TAKE EFFECT AT THE**
14 **BEGINNING OF THE ELECTED TERM OF OFFICE AND MAY NOT INCREASE DURING**
15 **THE TERM OF OFFICE.**

16 **(2) (I) THE COUNTY COMMISSIONERS SHALL PROVIDE FOR**
17 **THE ADMINISTRATIVE SUPPORT STAFF, INDEPENDENT OFFICE FACILITIES,**
18 **OFFICE EQUIPMENT, SUPPLIES, BOOKS, AND OTHER ITEMS NECESSARY FOR THE**
19 **OPERATION OF THE OFFICE.**

20 **(II) THE STATE’S ATTORNEY SHALL PRESENT VOUCHERS**
21 **TO THE COUNTY COMMISSIONERS FOR THE PAYMENT OF OFFICE EXPENSES.**

22 **(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.**

23 **(1) THE STATE’S ATTORNEY MAY APPOINT ONE DEPUTY STATE’S**
24 **ATTORNEY AND TWO OR MORE ASSISTANT STATE’S ATTORNEYS WHO:**

25 **(I) SHALL SERVE AT THE PLEASURE OF THE STATE’S**
26 **ATTORNEY; AND**

27 **(II) MAY BE FULL–TIME OR PART–TIME EMPLOYEES.**

1 **(2) THE STATE’S ATTORNEY SHALL PAY THE SALARIES OF THE**
2 **DEPUTY AND ASSISTANT STATE’S ATTORNEYS BIWEEKLY FROM MONEY THAT**
3 **THE COUNTY COMMISSIONERS APPROPRIATE EACH YEAR.**

4 **(D) OTHER STAFF.**

5 **(1) THE STATE’S ATTORNEY MAY APPOINT:**

6 **(I) ADMINISTRATIVE STAFF NECESSARY FOR THE**
7 **OPERATION OF THE OFFICE; AND**

8 **(II) ONE OR MORE FULL-TIME OR PART-TIME**
9 **INVESTIGATORS AS EMPLOYEES.**

10 **(2) THE STAFF APPOINTED UNDER PARAGRAPH (1) OF THIS**
11 **SUBSECTION SHALL BE IN THE COUNTY MERIT SYSTEM.**

12 **(3) THE STATE’S ATTORNEY SHALL PAY THE SALARIES OF THE**
13 **INVESTIGATORS APPOINTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION**
14 **BIWEEKLY FROM MONEY THAT THE COUNTY COMMISSIONERS APPROPRIATE**
15 **EACH YEAR.**

16 **(E) RESTRICTION ON PRACTICE.**

17 **THE STATE’S ATTORNEY MAY NOT:**

18 **(1) ENGAGE IN THE PRIVATE PRACTICE OF LAW; AND**

19 **(2) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF**
20 **THE OFFICE, APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE**
21 **STATE.**

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 10, § 40(s).

24 In subsections (c)(2) and (d)(3) of this section, the references to the
25 requirement that the State’s Attorney pay salaries of the deputy and
26 assistant State’s Attorneys and investigators from “money that the
27 county commissioners appropriate each year” are substituted for the
28 former reference to the requirement that the “County Commissioners
29 shall make available to the State’s Attorney an annual sum from which
30 the State’s Attorney shall appropriate salaries” for the deputy and
31 assistant State’s Attorneys and investigators for brevity.

1 In subsection (e) of this section, the former phrase “[d]uring his term of
2 office” is deleted as surplusage.

3 Also in subsection (e) of this section, the former reference to practicing
4 law “in any matter after December 31, 1982” is deleted as obsolete.

5 Defined term: “State’s Attorney” § 15–101

6 **15–420. SOMERSET COUNTY.**

7 **(A) SCOPE.**

8 **THIS SECTION APPLIES ONLY IN SOMERSET COUNTY.**

9 **(B) SALARY.**

10 **THE STATE’S ATTORNEY’S SALARY IS \$98,000.**

11 **(C) DEPUTY STATE’S ATTORNEY.**

12 **(1) THE STATE’S ATTORNEY MAY APPOINT A DEPUTY STATE’S**
13 **ATTORNEY WHO SHALL:**

14 **(I) SERVE AT THE PLEASURE OF THE STATE’S ATTORNEY;**
15 **AND**

16 **(II) PRESENT CASES TO THE GRAND JURY, SIGN**
17 **INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER**
18 **FUNCTIONS NECESSARY TO THE OPERATION OF THE OFFICE AND AS DIRECTED**
19 **BY THE STATE’S ATTORNEY OR AS AUTHORIZED BY LAW.**

20 **(2) THE COUNTY COMMISSIONERS SHALL SET A SALARY FOR THE**
21 **DEPUTY STATE’S ATTORNEY THAT MAY NOT EXCEED THE SALARY OF THE**
22 **STATE’S ATTORNEY.**

23 **(D) OTHER STAFF.**

24 **THE STATE’S ATTORNEY MAY:**

25 **(1) APPOINT ONE OR MORE ASSISTANTS AT SALARIES THAT THE**
26 **COUNTY COMMISSIONERS SET; AND**

27 **(2) HIRE ONE OR MORE INVESTIGATORS AT SALARIES PROVIDED**
28 **IN THE COUNTY BUDGET.**

1 **(E) RESTRICTION ON PRACTICE.**

2 **THE STATE’S ATTORNEY AND DEPUTY STATE’S ATTORNEY MAY NOT**
3 **ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 10, § 40(t).

6 In subsection (c)(1) of this section, the former reference to “proper” is
7 deleted in light of the reference to “necessary”.

8 In subsection (d)(2) of this section, the reference to “salaries provided in
9 the county budget” is substituted for the former reference to “for which
10 provision is made in the annual county budget” for clarity.

11 In subsection (e) of this section, the former phrase “during the State’s
12 Attorney’s tenure of office” is deleted as surplusage.

13 Also in subsection (e) of this section, the former reference to “at any time
14 in any jurisdiction” is deleted as unnecessary.

15 Defined term: “State’s Attorney” § 15–101

16 **15–421. TALBOT COUNTY.**

17 **(A) SCOPE.**

18 **THIS SECTION APPLIES ONLY IN TALBOT COUNTY.**

19 **(B) SALARY; EXPENSES.**

20 **(1) THE STATE’S ATTORNEY’S SALARY IS 80% OF THE SALARY OF**
21 **A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

22 **(2) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE**
23 **STATE’S ATTORNEY IS ENTITLED TO A REASONABLE ALLOWANCE FOR THE**
24 **EXPENSES OF OPERATING THE OFFICE, INCLUDING THE COSTS OF:**

25 **(I) ADMINISTRATIVE, CLERICAL, AND SECRETARIAL**
26 **EXPENSES, INCLUDING SALARIES AND BENEFITS;**

27 **(II) TELEPHONE CHARGES;**

28 **(III) OFFICE SUPPLIES AND EQUIPMENT;**

- 1 (IV) POSTAGE;
- 2 (V) TRAVEL, TRAINING, AND CONFERENCES;
- 3 (VI) BOOKS AND PUBLICATIONS; AND
- 4 (VII) PREMIUMS ON OFFICE BONDS.

5 (C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

6 (1) (I) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF
7 FULL-TIME OR PART-TIME DEPUTY STATE'S ATTORNEY AND ASSISTANT
8 STATE'S ATTORNEYS THAT THE COUNTY COUNCIL APPROVES.

9 (II) EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY
10 APPOINTED UNDER THIS PARAGRAPH SHALL:

11 1. SERVE AT THE PLEASURE OF THE STATE'S
12 ATTORNEY;

13 2. RECEIVE THE COMPENSATION THAT THE COUNTY
14 COUNCIL APPROVES; AND

15 3. HAVE THE SAME LEGAL POWERS AS THE STATE'S
16 ATTORNEY TO PRESENT CASES TO THE GRAND JURY AND PERFORM NECESSARY
17 DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

18 (2) (I) THE STATE'S ATTORNEY MAY APPOINT SPECIAL
19 ASSISTANT STATE'S ATTORNEYS AS THE STATE'S ATTORNEY CONSIDERS
20 NECESSARY TO SERVE IN AN INVESTIGATION OR A CASE.

21 (II) A SPECIAL ASSISTANT STATE'S ATTORNEY APPOINTED
22 UNDER THIS PARAGRAPH:

23 1. SHALL SERVE ON A TEMPORARY BASIS;

24 2. SUBJECT TO PARAGRAPH (3) OF THIS
25 SUBSECTION, SHALL RECEIVE COMPENSATION FROM THE COUNTY COUNCIL IN
26 THE FORM AND AMOUNT AUTHORIZED BY ORDER OF THE CIRCUIT COURT; AND

27 3. MAY NOT BE CONSIDERED TO HOLD AN OFFICE
28 FOR PROFIT OR TO HAVE VACATED A PUBLIC OFFICE OR EMPLOYMENT IN

1 ANOTHER STATE'S ATTORNEY'S OFFICE BY SERVING AS A SPECIAL ASSISTANT
2 STATE'S ATTORNEY.

3 (3) (I) THE COUNTY MAY NOT COMPENSATE AN INDIVIDUAL
4 WHO IS APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY AND IS
5 EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE
6 STATE PROSECUTOR, OR THE OFFICE OF THE STATE'S ATTORNEY IN ANOTHER
7 COUNTY.

8 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS
9 PARAGRAPH, THE COUNTY MAY ENTER INTO AN AGREEMENT TO REIMBURSE
10 THE APPROPRIATE GOVERNMENTAL UNIT FOR THE SERVICES OF AN
11 INDIVIDUAL EMPLOYED BY THAT GOVERNMENTAL UNIT WHO IS APPOINTED AS A
12 SPECIAL ASSISTANT STATE'S ATTORNEY UNDER PARAGRAPH (2) OF THIS
13 SUBSECTION.

14 (D) CRIMINAL INVESTIGATORS.

15 (1) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE
16 STATE'S ATTORNEY MAY APPOINT FULL-TIME OR PART-TIME CRIMINAL
17 INVESTIGATORS.

18 (2) IF THE STATE'S ATTORNEY APPOINTS MORE THAN ONE
19 CRIMINAL INVESTIGATOR, THE STATE'S ATTORNEY MAY DESIGNATE ONE AS
20 CHIEF INVESTIGATOR AND ASSIGN OTHER RANKS AND TITLES TO THE OTHER
21 CRIMINAL INVESTIGATORS.

22 (3) A CRIMINAL INVESTIGATOR WHO IS APPOINTED UNDER THIS
23 SUBSECTION:

24 (I) SHALL SERVE AT THE PLEASURE OF THE STATE'S
25 ATTORNEY;

26 (II) IS SUBJECT TO THE REGULATIONS OF THE STATE'S
27 ATTORNEY;

28 (III) SHALL PERFORM THE DUTIES THAT THE STATE'S
29 ATTORNEY DESIGNATES;

30 (IV) SHALL TAKE AN OATH OF OFFICE THAT THE CLERK OF
31 THE CIRCUIT COURT ADMINISTERS;

32 (V) SHALL MEET THE CRITERIA REGARDING TRAINING AND
33 EXPERIENCE THAT THE STATE'S ATTORNEY REQUIRES;

1 (VI) MAY SERVE A SUMMONS OR SUBPOENA THAT THE
2 STATE'S ATTORNEY ISSUES;

3 (VII) MAY WEAR OR DISPLAY APPROPRIATE METALLIC
4 BADGES THAT THE STATE'S ATTORNEY AUTHORIZES; AND

5 (VIII) IS NOT SUBJECT TO TITLE 3, SUBTITLE 1 OF THE
6 PUBLIC SAFETY ARTICLE.

7 (4) THE STATE'S ATTORNEY MAY DESIGNATE A CRIMINAL
8 INVESTIGATOR AS A PEACE OFFICER IF THE CRIMINAL INVESTIGATOR MEETS
9 THE SELECTION AND TRAINING STANDARDS OF THE POLICE TRAINING
10 COMMISSION AS SET FORTH IN TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY
11 ARTICLE.

12 (5) A CRIMINAL INVESTIGATOR DESIGNATED AS A PEACE
13 OFFICER MAY NOT BE SUBJECT TO TITLE 3, SUBTITLE 1 OF THE PUBLIC
14 SAFETY ARTICLE.

15 (6) IN ADDITION TO THE AUTHORITY, DUTIES, AND LIMITATIONS
16 DESCRIBED UNDER PARAGRAPH (3) OF THIS SUBSECTION, A CRIMINAL
17 INVESTIGATOR DESIGNATED AS A PEACE OFFICER MAY:

18 (I) ARREST A PERSON WHO COMMITS A CRIME IN THE
19 COUNTY OR IN A MUNICIPAL CORPORATION IN THE COUNTY;

20 (II) SERVE A WARRANT, SUMMONS, OR SUBPOENA THAT THE
21 DISTRICT COURT OF MARYLAND IN THE COUNTY OR A CIRCUIT COURT ISSUES;
22 AND

23 (III) POSSESS AND CARRY A FIREARM, INCLUDING A
24 HANDGUN, OR OTHER WEAPON THAT THE STATE'S ATTORNEY REQUIRES.

25 (E) RESTRICTION ON PRACTICE.

26 (1) THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY
27 NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

28 (2) AN ATTORNEY APPOINTED AS A SPECIAL ASSISTANT STATE'S
29 ATTORNEY UNDER SUBSECTION (C)(2) OF THIS SECTION MAY NOT BE
30 PRECLUDED FROM THE PRIVATE PRACTICE OF CRIMINAL LAW.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 10, § 40(u).

3 In subsection (c)(1)(ii)2 of this section, the former reference to "salaries" is
4 deleted as included in the reference to "compensation".

5 In subsection (c)(1)(ii)3 of this section, the former reference to "acts" is
6 deleted in light of the reference to "duties". Similarly, the former
7 reference to "proper" is deleted in light of the reference to "necessary".

8 In subsection (c)(3) of this section, the references to an "individual" are
9 substituted for the former references to a "person" because the position of
10 a special assistant State's Attorney can be held only by a human being.

11 In subsection (c)(3)(ii) of this section, the term "governmental unit" is
12 substituted for the former term "county, agency, or other governmental
13 body" for consistency with other provisions in this subtitle and in other
14 revised articles.

15 In subsection (d)(2) of this section, the former reference to the State's
16 Attorney's ability to assign other ranks and titles to investigators "as the
17 State's Attorney may deem appropriate" is deleted as unnecessary.

18 In subsection (e)(2) of this section, the phrase "private practice of criminal
19 law" is substituted for the former phrase "accepting a criminal case in the
20 private practice of the attorney" for brevity.

21 Also in subsection (e)(2) of this section, the former phrase "by virtue of
22 the person's service on a temporary basis" is deleted as unnecessary in
23 light of the requirement that each special assistant State's Attorney shall
24 serve "on a temporary basis".

25 The Criminal Procedure Article Additions Review Committee notes, for
26 consideration by the General Assembly, that in subsection (b)(2)(vii) of
27 this section, the reference to "premiums on office bonds" may be obsolete.
28 Under former Art. 10, § 35, now revised as § 15-104 of this title, each
29 State's Attorney gave a corporate surety bond payable to the State in the
30 sum of \$5,000. The corporate bond was partly conditioned on the State's
31 Attorney accounting for all funds and property received under color of the
32 office. It is believed that the phrase "color of the office" referred to duties
33 such as collection of revenues and bringing forfeiture actions no longer
34 performed by a modern State's Attorney.

35 Defined terms: "County" § 1-101
36 "State's Attorney" § 15-101

1 **(A) SCOPE.**

2 **THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.**

3 **(B) SALARY.**

4 **THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF**
5 **THE DISTRICT COURT OF MARYLAND.**

6 **(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

7 **(1) THE STATE'S ATTORNEY SHALL APPOINT:**

8 **(I) AT LEAST ONE BUT NOT MORE THAN TWO DEPUTY**
9 **STATE'S ATTORNEYS; AND**

10 **(II) AS MANY ASSISTANT STATE'S ATTORNEYS THAT ARE**
11 **APPROVED BY THE COUNTY COMMISSIONERS AND PROVIDED FOR IN THE**
12 **COUNTY BUDGET.**

13 **(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF**
14 **THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

15 **(3) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL**
16 **SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY.**

17 **(4) UNDER THE DIRECTION OF THE STATE'S ATTORNEY OR IN**
18 **THE STATE'S ATTORNEY'S ABSENCE, THE DEPUTY AND ASSISTANT STATE'S**
19 **ATTORNEYS SHALL HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY**
20 **TO:**

21 **(I) PERFORM ACTS AND DUTIES IN RELATION TO ALL**
22 **CRIMINAL PROCEEDINGS; AND**

23 **(II) REPRESENT THE STATE IN ALL PROCEEDINGS IN**
24 **RELATION TO THE GRAND JURY, CIRCUIT COURT, DISTRICT COURT OF**
25 **MARYLAND, AND UNITS OF THE STATE OR A POLITICAL SUBDIVISION OF THE**
26 **STATE.**

27 **(D) RESTRICTION ON PRACTICE.**

28 **THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF**
29 **LAW.**

1 REVISOR’S NOTE: This section is new language derived without substantive
 2 change from former Art. 10, § 40(v).

3 In subsection (c)(2) of this section, the reference to “set” the salaries for
 4 the deputy and assistant State’s Attorneys is substituted for the former
 5 references to the salaries “are to be determined by” the County
 6 Commissioners for brevity.

7 In subsection (c)(4)(ii) of this section, the reference to “a political
 8 subdivision of the State” is substituted for the former reference to “any
 9 county or political subdivision” to conform to the terminology used
 10 throughout this subtitle.

11 In subsection (d) of this section, the former reference to “during his
 12 tenure of office” is deleted as surplusage.

13 Also in subsection (d) of this section, the former reference to “at any time
 14 in any jurisdiction” is deleted as unnecessary.

15 The Criminal Procedure Article Additions Review Committee notes, for
 16 consideration by the General Assembly, that former Art. 10, § 40(v)(4),
 17 which is revised in subsection (c)(4)(ii) of this section, relates in part to
 18 the duty of the State’s Attorney to “represent the State in all proceedings
 19 in relation to grand jury, circuit court, the District Court, boards,
 20 commissions or agencies of this State or any county or political
 21 subdivision”. This provision may be overbroad and overlap with authority
 22 of the Office of the County Attorney.

23 Defined term: “State’s Attorney” § 15–101

24 **15–423. WICOMICO COUNTY.**

25 **(A) SCOPE.**

26 **THIS SECTION APPLIES ONLY IN WICOMICO COUNTY.**

27 **(B) SALARY; EXPENSES; OFFICE.**

28 **(1) THE STATE’S ATTORNEY’S SALARY IS 90% OF THE ANNUAL**
 29 **SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

30 **(2) AFTER RECEIVING A VOUCHER SUBMITTED BY THE STATE’S**
 31 **ATTORNEY, THE COUNTY COUNCIL SHALL PAY ALL EXPENSES THAT THE**
 32 **STATE’S ATTORNEY CONSIDERS NECESSARY FOR THE CONDUCT OF THE OFFICE,**

1 INCLUDING CLERICAL AND SECRETARIAL EXPENSES, TELEPHONE CHARGES,
2 OFFICE SUPPLIES, POSTAGE, AND PREMIUMS ON OFFICIAL BONDS.

3 (3) THE STATE'S ATTORNEY SHALL MAINTAIN AND STAFF AN
4 OFFICE IN THE WICOMICO COUNTY COURTHOUSE.

5 (C) ASSISTANT STATE'S ATTORNEYS.

6 (1) SUBJECT TO THE TERMS, CONDITIONS, AND SALARIES AS
7 APPROVED BY THE COUNTY COUNCIL, THE STATE'S ATTORNEY MAY APPOINT
8 ASSISTANT STATE'S ATTORNEYS WHO SHALL:

9 (I) SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY;
10 AND

11 (II) HAVE THE SAME LEGAL POWERS AS THE STATE'S
12 ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN
13 CRIMINAL PROCEEDINGS.

14 (2) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS
15 APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE'S
16 ATTORNEY MAY APPOINT SPECIAL ASSISTANT STATE'S ATTORNEYS TO SERVE
17 FOR ONE OR MORE CASES:

18 (I) WITH THE PRIOR APPROVAL OF THE RESIDENT JUDGE
19 OF THE CIRCUIT COURT AND THE COUNTY COUNCIL; AND

20 (II) SUBJECT TO THE TERMS, CONDITIONS, AND SALARIES
21 THAT THE COUNTY COUNCIL APPROVES.

22 (D) RESTRICTION ON PRACTICE.

23 THE STATE'S ATTORNEY SHALL SERVE FULL TIME AND MAY NOT ENGAGE
24 IN THE PRIVATE PRACTICE OF LAW.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 10, § 40(w).

27 In subsection (b)(2) of this section, the former phrase "[f]rom and after
28 the date of the enactment of this section" is deleted as surplusage.

29 In subsection (c)(1)(ii) of this section, the former reference to "the trial of"
30 criminal proceedings is deleted as surplusage.

1 In subsection (c)(2) of this section, the reference to a special assistant
 2 State's Attorney serving for "one or more cases" is substituted for the
 3 former reference to "a particular case or series of cases" for brevity.

4 In subsection (c)(2)(ii) of this section, the former requirement that the
 5 County Council "set" the terms, conditions, and salaries of special
 6 assistant State's Attorneys is deleted in light of the requirement that the
 7 County Council "approves" the terms, conditions, and salaries.

8 The Criminal Procedure Article Additions Review Committee notes, for
 9 consideration by the General Assembly, that in subsection (b)(2) of this
 10 section, the reference to "premiums on official bonds" may be obsolete.
 11 Under former Art. 10, § 35, now revised as § 15-104 of this title, each
 12 State's Attorney gave a corporate surety bond payable to the State in the
 13 sum of \$5,000. The corporate bond was partly conditioned on the State's
 14 Attorney accounting for all funds and property received under color of the
 15 office. It is believed that the phrase "color of the office" referred to duties
 16 such as collection of revenues and bringing forfeiture actions no longer
 17 performed by a modern State's Attorney.

18 Defined term: "State's Attorney" § 15-101

19 **15-424. WORCESTER COUNTY.**

20 **(A) SCOPE.**

21 **THIS SECTION APPLIES ONLY IN WORCESTER COUNTY.**

22 **(B) SALARY.**

23 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
 24 **STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE**
 25 **DISTRICT COURT OF MARYLAND.**

26 **(2) BY ENACTING AN ORDINANCE BEFORE THE ELECTION FILING**
 27 **DEADLINE FOR THE NEXT TERM OF OFFICE FOR THE STATE'S ATTORNEY, THE**
 28 **COUNTY COMMISSIONERS MAY SET THE SALARY AT AN AMOUNT EXCEEDING 90%**
 29 **OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.**

30 **(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

31 **(1) (I) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF**
 32 **FULL-TIME OR PART-TIME DEPUTY STATE'S ATTORNEYS AND ASSISTANT**
 33 **STATE'S ATTORNEYS THAT THE COUNTY COMMISSIONERS APPROVE.**

1 **(II) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS**
2 **APPOINTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:**

3 **1. SERVE AT THE PLEASURE OF THE STATE'S**
4 **ATTORNEY; AND**

5 **2. HAVE THE SAME LEGAL POWERS AS THE STATE'S**
6 **ATTORNEY TO PRESENT CASES TO THE GRAND JURY, REPRESENT THE STATE IN**
7 **CRIMINAL PROCEEDINGS, AND PERFORM NECESSARY DUTIES IN RELATION TO**
8 **THE GRAND JURY AND OPERATION OF THE OFFICE.**

9 **(III) THE COUNTY COMMISSIONERS SHALL APPROVE THE**
10 **COMPENSATION OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.**

11 **(2) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEY**
12 **APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, WITH THE APPROVAL**
13 **OF THE RESIDENT CIRCUIT COURT JUDGE OF THE COUNTY, THE STATE'S**
14 **ATTORNEY MAY APPOINT TWO MEMBERS OF THE BAR OF WORCESTER COUNTY**
15 **AS ASSISTANT STATE'S ATTORNEYS.**

16 **(II) ONE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER**
17 **THIS PARAGRAPH SHALL RECEIVE A SALARY SET BY THE BOARD OF COUNTY**
18 **COMMISSIONERS THAT MAY NOT BE LESS THAN \$16,000, INCLUDING ANY STATE**
19 **OR FEDERAL FUNDS PROVIDED FOR THE POSITION.**

20 **(III) THE OTHER ASSISTANT STATE'S ATTORNEY APPOINTED**
21 **UNDER THIS PARAGRAPH SHALL RECEIVE A SALARY THAT MAY NOT BE LESS**
22 **THAN \$12,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE**
23 **POSITION.**

24 **(3) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS**
25 **APPOINTED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, WITH THE**
26 **PRIOR APPROVAL OF THE RESIDENT CIRCUIT COURT JUDGE OF THE COUNTY**
27 **AND THE BOARD OF COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY**
28 **APPOINT ADDITIONAL ASSISTANT STATE'S ATTORNEYS AS THE STATE'S**
29 **ATTORNEY CONSIDERS NECESSARY.**

30 **(II) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY**
31 **APPOINTED UNDER THIS PARAGRAPH SHALL BE SET AND APPROVED BY THE**
32 **BOARD OF COUNTY COMMISSIONERS.**

33 **(D) SPECIAL INVESTIGATORS.**

1 **(1) IF AUTHORIZED BY AN ORDINANCE ENACTED BY THE COUNTY**
2 **COMMISSIONERS, THE STATE’S ATTORNEY MAY APPOINT TWO SPECIAL**
3 **INVESTIGATORS WHO:**

4 **(I) SHALL SERVE AT THE PLEASURE OF THE STATE’S**
5 **ATTORNEY;**

6 **(II) SHALL PERFORM WORK AS DIRECTED BY AND UNDER**
7 **THE SUPERVISION OF THE STATE’S ATTORNEY; AND**

8 **(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
9 **SHALL RECEIVE A SALARY DETERMINED BY THE COUNTY COMMISSIONERS.**

10 **(2) THE SALARY OF ONE SPECIAL INVESTIGATOR APPOINTED**
11 **UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE LESS THAN \$12,000,**
12 **INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.**

13 **(E) RESTRICTION ON PRACTICE OR EMPLOYMENT.**

14 **(1) THE STATE’S ATTORNEY SHALL SERVE FULL TIME AND MAY**
15 **NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

16 **(2) (I) THE ASSISTANT STATE’S ATTORNEY APPOINTED UNDER**
17 **SUBSECTION (C)(2)(II) OF THIS SECTION SHALL SERVE FULL TIME AND MAY NOT**
18 **ENGAGE IN THE PRIVATE PRACTICE OF LAW.**

19 **(II) THE ASSISTANT STATE’S ATTORNEY APPOINTED UNDER**
20 **SUBSECTION (C)(2)(III) OF THIS SECTION MAY ENGAGE IN THE PRIVATE**
21 **PRACTICE OF LAW.**

22 **(3) A SPECIAL INVESTIGATOR APPOINTED UNDER SUBSECTION**
23 **(D) OF THIS SECTION SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN OTHER**
24 **EMPLOYMENT.**

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 10, § 40(x).

27 In subsection (c)(1)(ii)2 of this section, the former reference to “acts” is
28 deleted in light of the reference to “duties”. Similarly, the former
29 reference to “proper” is deleted in light of the reference to “necessary”.

30 Also in subsection (c)(1)(ii)2 of this section, the former reference to “the
31 trial of” criminal proceedings is deleted as surplusage.

1 In subsection (c)(1)(iii) of this section, the former reference to “salary” is
2 deleted as included in the reference to “compensation”.

3 In subsection (e)(1) of this section, the former reference to the
4 requirement that the State’s Attorney serves full time “[a]fter December
5 31, 1998” is deleted as obsolete.

6 In subsection (e)(2)(i) of this section, the former phrase “at any time in
7 any jurisdiction during his tenure of office” is deleted as unnecessary.

8 In subsection (e)(3) of this section, the requirement that a special
9 investigator “serve full time” is substituted for the former requirement
10 that a special investigator “devote his full time and attention to his duty
11 ... during the time he is employed as a special investigator” for brevity.

12 The Criminal Procedure Article Additions Review Committee notes, for
13 consideration by the General Assembly, that subsection (c) of this section
14 may be outdated. Currently, the Office of State’s Attorney has two deputy
15 State’s Attorneys and five assistant State’s Attorneys. The salary
16 amounts stated in subsection (c) of this section are no longer valid. In
17 addition, there is no longer a resident circuit court judge in the county.
18 Instead, there are three judges, one of whom is the administrative judge.

19 Defined term: “State’s Attorney” § 15–101

20 GENERAL REVISOR’S NOTE TO SUBTITLE:

21 Former Art. 10, § 40 did not contain a specific subsection relating to the Office
22 of State’s Attorney for Baltimore City. Consequently, that omission is reflected in this
23 revision. Unlike the 23 other counties, the law regarding the salaries of the State’s
24 Attorney, the deputy State’s Attorney, and assistant State’s Attorneys and the
25 appointment of deputy and assistant State’s Attorneys in Baltimore City is found in
26 the Maryland Constitution and in the Baltimore City Charter, and it has been
27 acknowledged by the Maryland Court of Special Appeals.

28 Article V, § 9 of the Maryland Constitution states:

29 “... the State’s Attorney for Baltimore City shall have the power to appoint a
30 Deputy and such other Assistants as the Supreme Bench of Baltimore City may
31 authorize or approve and until otherwise provided by the General Assembly, the said
32 State’s Attorney, Deputy and Assistants shall receive the following annual salaries:
33 State’s Attorney, seven thousand five hundred dollars; Deputy State’s Attorney, five
34 thousand dollars; Assistant State’s Attorneys, four thousand dollars each; said
35 salaries, or such salaries as the General Assembly may subsequently provide and such
36 expenses for conducting the Office of the State’s Attorney as the Supreme Bench of
37 Baltimore City may authorize or approve shall be paid by the Mayor and City Council
38 of Baltimore to the extent that the total of them exceeds the fees of his office, or as the

1 General Assembly shall otherwise provide, and the Mayor and City Council of
2 Baltimore shall not be liable for appearance fees to the State's Attorney."

3 Subsequent constitutional amendments in 1912, 1924, 1943, and 1976 provided
4 specific salary amounts or authorized "such salaries as the General Assembly may
5 subsequently provide."

6 Further, law concerning the salaries of the employees of the Office of State's
7 Attorney in Baltimore City is in the Baltimore City Charter. Article VI, § 16 of the
8 current Baltimore City Charter states:

9 "The Board of Estimates is hereby authorized and empowered to fix the salaries
10 of the State's Attorney, the Deputy State's Attorney, and Assistant State's Attorneys of
11 Baltimore City, in amounts not less than those prescribed by the Constitution of
12 Maryland."

13 According to the Budget Director for Baltimore City, staffing and office expenses
14 of the Office of the State's Attorney are reflected in the Office's budget request
15 included in the Board's Ordinance of Estimates that the Board submits to the City
16 Council for approval.

17 Finally, legal authority of the State's Attorney to appoint deputy and assistant
18 State's Attorneys in Baltimore City has been addressed by the Court of Special
19 Appeals. In *State v. Aquilla*, 18 Md. App. 487, 1973 (cert. denied, September 18, 1973)
20 the court recognized that the Deputy State's Attorneys and Assistant State's Attorneys
21 for Baltimore City are appointed pursuant to Article V, § 9 of the State Constitution.
22 The court upheld the legitimacy of the State's Attorney for Baltimore City to appoint
23 Special Assistant State's Attorneys under the authorization and with the approval of
24 the Supreme Bench of Baltimore City to present cases to the grand jury concerning
25 irregularities in the Traffic Division of the Municipal Court for the City.

26 **TITLE 16. OFFICE OF THE PUBLIC DEFENDER.**

27 **SUBTITLE 1. DEFINITIONS; SCOPE OF TITLE.**

28 **16-101. DEFINITIONS.**

29 **(A) IN GENERAL.**

30 **IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 27A, § 2(a).

33 **(B) BOARD OF TRUSTEES.**

1 **“BOARD OF TRUSTEES” MEANS THE BOARD OF TRUSTEES OF THE**
2 **OFFICE OF THE PUBLIC DEFENDER ESTABLISHED UNDER § 16-301 OF THIS**
3 **TITLE.**

4 REVISOR’S NOTE: This subsection is new language added to provide a
5 convenient reference to the “Board of Trustees of the Office of the Public
6 Defender”.

7 **(C) DISTRICT.**

8 **“DISTRICT” MEANS AN AREA CONFORMING TO THE GEOGRAPHIC**
9 **BOUNDARIES OF A DISTRICT COURT DISTRICT ESTABLISHED IN § 1-602 OF THE**
10 **COURTS ARTICLE.**

11 REVISOR’S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27A, § 2(c).

13 The former reference to an area “comprising one or more political
14 subdivisions” is deleted as unnecessary in light of the reference to an area
15 “conforming to the geographic boundaries of a District Court district
16 established in § 1-602 of the Courts Article”.

17 **(D) INDIGENT INDIVIDUAL.**

18 **“INDIGENT INDIVIDUAL” MEANS AN INDIVIDUAL WHO QUALIFIES AS AN**
19 **INDIGENT INDIVIDUAL UNDER § 16-210 OF THIS TITLE.**

20 REVISOR’S NOTE: This subsection is new language added to provide a
21 definition of the term “indigent individual”.

22 **(E) OFFICE.**

23 **(1) “OFFICE” MEANS THE OFFICE OF THE PUBLIC DEFENDER.**

24 **(2) “OFFICE” INCLUDES EACH DISTRICT OFFICE AND BRANCH**
25 **OFFICE OF THE PUBLIC DEFENDER.**

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former Art. 27A, § 2(b).

28 The former reference to offices “as are deemed necessary and hereinafter
29 described” is deleted as surplusage.

30 Defined term: “District” § 16-101

1 (F) PANEL ATTORNEY.

2 "PANEL ATTORNEY" MEANS AN ATTORNEY WHO IS ELIGIBLE FOR
3 APPOINTMENT AS AN ATTORNEY FOR AN INDIGENT INDIVIDUAL.

4 REVISOR'S NOTE: This subsection is new language derived without
5 substantive change from former Art. 27A, § 2(e), as it related to an
6 attorney who qualifies and is eligible for appointment as counsel for an
7 indigent individual.

8 The former reference to an attorney who "qualifies" for appointment as
9 counsel to an indigent individual is deleted as implied in the reference to
10 an attorney who "is eligible" for appointment.

11 The former reference to an indigent individual "as defined by this article"
12 is deleted as surplusage.

13 The reference to an "attorney" is substituted for the former reference to a
14 "counsel" to conform to the terminology used throughout this title.

15 Defined term: "Indigent individual" § 16-101

16 (G) REGIONAL ADVISORY BOARD.

17 "REGIONAL ADVISORY BOARD" MEANS A PUBLIC DEFENDER REGIONAL
18 ADVISORY BOARD.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 27A, § 10(a).

21 (H) SERIOUS OFFENSE.

22 "SERIOUS OFFENSE" MEANS:

23 (1) A FELONY;

24 (2) A MISDEMEANOR OR OFFENSE PUNISHABLE BY CONFINEMENT
25 FOR MORE THAN 3 MONTHS OR A FINE OF MORE THAN \$500;

26 (3) A DELINQUENT ACT THAT WOULD BE A SERIOUS OFFENSE IF
27 COMMITTED BY AN ADULT; OR

28 (4) AN OFFENSE IN WHICH, IN THE OPINION OF THE COURT, THE
29 COMPLEXITY OF THE MATTER OR THE YOUTH, INEXPERIENCE, OR MENTAL

1 **CAPACITY OF THE ACCUSED REQUIRES REPRESENTATION OF THE ACCUSED BY**
2 **AN ATTORNEY.**

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 27A, § 2(h).

5 In item (3) of this subsection, the phrase "if committed by an adult"
6 is substituted for the former phrase "except for the age of the person
7 involved" for clarity.

8 REVISOR'S NOTE TO SECTION:

9 Former Art. 27A, § 2(d), which defined "district public defender" as "the
10 district public defender of each of the various districts described in
11 subsection (c) of this section", is deleted because it merely repeated the
12 ordinary meaning of the term "district public defender".

13 **16-102. SCOPE OF TITLE.**

14 **EXCEPT AS OTHERWISE PROVIDED IN § 16-206 OF THIS TITLE, THIS TITLE**
15 **APPLIES ONLY TO REPRESENTATION IN OR WITH RESPECT TO THE COURTS OF**
16 **THE STATE.**

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from the first sentence of former Art. 27A, § 4(c).

19 The reference to "§ 16-206 of this title", which contains provisions
20 concerning representation by the Office of an indigent individual in
21 federal court, is added for clarity.

22 **SUBTITLE 2. OFFICE OF THE PUBLIC DEFENDER.**

23 **16-201. POLICY OF STATE.**

24 **IT IS THE POLICY OF THE STATE TO:**

25 **(1) PROVIDE FOR THE REALIZATION OF THE CONSTITUTIONAL**
26 **GUARANTEES OF COUNSEL IN THE REPRESENTATION OF INDIGENT**
27 **INDIVIDUALS, INCLUDING RELATED NECESSARY SERVICES AND FACILITIES, IN**
28 **CRIMINAL AND JUVENILE PROCEEDINGS IN THE STATE;**

29 **(2) ASSURE THE EFFECTIVE ASSISTANCE AND CONTINUITY OF**
30 **COUNSEL TO INDIGENT ACCUSED INDIVIDUALS TAKEN INTO CUSTODY AND**
31 **INDIGENT INDIVIDUALS IN CRIMINAL AND JUVENILE PROCEEDINGS BEFORE**
32 **THE COURTS OF THE STATE; AND**

1 **(3) AUTHORIZE THE OFFICE OF THE PUBLIC DEFENDER TO**
 2 **ADMINISTER AND ASSURE ENFORCEMENT OF THIS TITLE.**

3 REVISOR'S NOTE: This section is new language derived without substantive
 4 change from former Art. 27A, § 1.

5 In the introductory language of this section, the former reference to the
 6 statement that it is "hereby declared to be" the policy of the State is
 7 deleted as surplusage.

8 In item (1) of this section, the reference to the defined term "indigent
 9 individual[s]" is substituted for the former reference to "indigents" to
 10 conform to the terminology used throughout this title.

11 In item (3) of this section, the former reference to the "provisions of" this
 12 title is deleted as surplusage.

13 Also in item (3) of this section, the former reference to the enforcement of
 14 this title "in accordance with its terms" is deleted as implicit in the
 15 reference to "enforcement of this title".

16 Defined term: "Indigent individual" § 16-101

17 **16-202. OFFICE OF THE PUBLIC DEFENDER ESTABLISHED.**

18 **THERE IS AN OFFICE OF THE PUBLIC DEFENDER IN THE EXECUTIVE**
 19 **BRANCH OF STATE GOVERNMENT.**

20 REVISOR'S NOTE: This section is new language derived without substantive
 21 change from the first sentence of former Art. 27A, § 3(a).

22 **16-203. OFFICE PERSONNEL.**

23 **(A) PUBLIC DEFENDER AS HEAD OF OFFICE; QUALIFICATIONS; SALARY.**

24 **(1) THE HEAD OF THE OFFICE IS THE PUBLIC DEFENDER.**

25 **(2) THE PUBLIC DEFENDER SHALL BE APPOINTED BY AND SERVE**
 26 **AT THE PLEASURE OF THE BOARD OF TRUSTEES.**

27 **(3) TO QUALIFY FOR APPOINTMENT AS PUBLIC DEFENDER, AN**
 28 **INDIVIDUAL SHALL BE AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE**
 29 **STATE BY THE COURT OF APPEALS OF MARYLAND WHO HAS ENGAGED IN THE**
 30 **PRACTICE OF LAW FOR AT LEAST 5 YEARS BEFORE APPOINTMENT.**

1 **(4) THE PUBLIC DEFENDER SHALL RECEIVE THE SAME SALARY**
2 **AS A JUDGE OF A CIRCUIT COURT.**

3 **(5) THE PUBLIC DEFENDER MAY NOT ENGAGE IN THE PRIVATE**
4 **PRACTICE OF LAW.**

5 **(B) DEPUTY AND DISTRICT PUBLIC DEFENDERS.**

6 **(1) WITH THE APPROVAL OF THE BOARD OF TRUSTEES, THE**
7 **PUBLIC DEFENDER SHALL APPOINT:**

8 **(I) A DEPUTY PUBLIC DEFENDER; AND**

9 **(II) ONE DISTRICT PUBLIC DEFENDER FOR EACH DISTRICT**
10 **OF THE DISTRICT COURT.**

11 **(2) THE DEPUTY PUBLIC DEFENDER AND EACH DISTRICT PUBLIC**
12 **DEFENDER SHALL HAVE THE SAME QUALIFICATIONS AS THE PUBLIC**
13 **DEFENDER.**

14 **(3) A DISTRICT PUBLIC DEFENDER SHALL:**

15 **(I) ASSIST THE PUBLIC DEFENDER TO PERFORM THE**
16 **DUTIES OF THE OFFICE; AND**

17 **(II) SUBJECT TO THE SUPERVISION OF THE PUBLIC**
18 **DEFENDER, BE IN CHARGE OF THE PUBLIC DEFENDER OFFICES IN THE**
19 **DISTRICT FOR WHICH THE DISTRICT PUBLIC DEFENDER IS APPOINTED.**

20 **(C) APPOINTMENT OF ASSISTANT PUBLIC DEFENDERS.**

21 **(1) WITH THE ADVICE OF THE DISTRICT PUBLIC DEFENDERS, THE**
22 **PUBLIC DEFENDER MAY APPOINT ASSISTANT PUBLIC DEFENDERS IN**
23 **ACCORDANCE WITH THE STATE BUDGET.**

24 **(2) TO QUALIFY FOR APPOINTMENT AS AN ASSISTANT PUBLIC**
25 **DEFENDER, AN INDIVIDUAL SHALL BE AN ATTORNEY AND ADMITTED TO**
26 **PRACTICE LAW IN THE STATE BY THE COURT OF APPEALS OF MARYLAND.**

27 **(D) CONDITIONS OF SERVICE OF DEPUTY, DISTRICT, AND ASSISTANT**
28 **PUBLIC DEFENDERS.**

1 **THE DEPUTY PUBLIC DEFENDER, DISTRICT PUBLIC DEFENDERS, AND**
2 **ASSISTANT PUBLIC DEFENDERS:**

3 **(1) SHALL SERVE AT THE PLEASURE OF THE PUBLIC DEFENDER;**
4 **AND**

5 **(2) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL**
6 **LAW.**

7 **(E) OTHER PERSONNEL.**

8 **THE PUBLIC DEFENDER SHALL APPOINT INVESTIGATORS,**
9 **STENOGRAPHIC ASSISTANTS, CLERICAL ASSISTANTS, AND OTHER PERSONNEL**
10 **AS MAY BE REQUIRED TO ASSIST THE PUBLIC DEFENDER AND THE DISTRICT**
11 **PUBLIC DEFENDERS TO PERFORM THE DUTIES OF THE OFFICE IN ACCORDANCE**
12 **WITH THE STATE BUDGET.**

13 **(F) OFFICES.**

14 **(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
15 **PUBLIC DEFENDER SHALL ESTABLISH AND MAINTAIN SUITABLE OFFICES IN**
16 **THE STATE.**

17 **(2) AT LEAST ONE PUBLIC DEFENDER'S OFFICE SHALL BE IN**
18 **EACH DISTRICT.**

19 **(G) POSITIONS, COMPENSATION, AND EXPENSES.**

20 **THE NUMBER OF POSITIONS, COMPENSATION, AND EXPENSES FOR THE**
21 **OFFICE SHALL BE IN ACCORDANCE WITH THE STATE BUDGET.**

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27A, § 3(b), (c), (d), (e), and the second through
24 fifth sentences of (a).

25 In subsection (a)(4) of this section, the former reference to an "associate"
26 judge, which does not exist on the circuit court, is deleted as erroneous.

27 In subsection (b)(2) of this section, the former phrase "to be eligible for
28 appointment" is deleted as surplusage.

29 In subsection (c)(1) of this section, the standard code revision phrase "in
30 accordance with the State budget" is substituted for the former phrase "in
31 such number as authorized by the budget" for consistency and for
32 accuracy, in light of the absence in the budget of a specified number of

1 assistant public defenders that may be appointed. Similarly, in
 2 subsection (e) of this section, the phrase “in accordance with the State
 3 budget” is substituted for the former phrase “as provided in the budget”;
 4 and in subsection (g) of this section, the phrase “in accordance with the
 5 State budget” is substituted for the former phrase “as provided in the
 6 executive budget as specified in Article III, § 52(4)(b) of the Constitution
 7 of the State of Maryland, which shall be subject to approval by the
 8 General Assembly”.

9 In subsection (e) of this section, the phrase “to perform” is substituted for
 10 the former phrase “for the proper performance of” for brevity.

11 In subsection (g) of this section, the reference to “compensation” is
 12 substituted for the former reference to “salaries” to conform to the
 13 terminology used throughout this title.

14 Defined terms: “Board of Trustees” § 16–101

15 “District” § 16–101

16 “Office” § 16–101

17 **16–204. REPRESENTATION OF INDIGENT INDIVIDUAL.**

18 **(A) PROVIDERS OF REPRESENTATION.**

19 **REPRESENTATION OF AN INDIGENT INDIVIDUAL MAY BE PROVIDED IN**
 20 **ACCORDANCE WITH THIS TITLE BY THE PUBLIC DEFENDER OR, SUBJECT TO**
 21 **THE SUPERVISION OF THE PUBLIC DEFENDER, BY THE DEPUTY PUBLIC**
 22 **DEFENDER, DISTRICT PUBLIC DEFENDERS, ASSISTANT PUBLIC DEFENDERS, OR**
 23 **PANEL ATTORNEYS.**

24 **(B) PROCEEDINGS FOR WHICH REPRESENTATION SHALL BE PROVIDED.**

25 **(1) INDIGENT DEFENDANTS OR PARTIES SHALL BE PROVIDED**
 26 **REPRESENTATION UNDER THIS TITLE IN:**

27 **(I) A CRIMINAL OR JUVENILE PROCEEDING IN WHICH A**
 28 **DEFENDANT OR PARTY IS ALLEGED TO HAVE COMMITTED A SERIOUS OFFENSE;**

29 **(II) A CRIMINAL OR JUVENILE PROCEEDING IN WHICH AN**
 30 **ATTORNEY IS CONSTITUTIONALLY REQUIRED TO BE PRESENT PRIOR TO**
 31 **PRESENTMENT BEING MADE BEFORE A COMMISSIONER OR JUDGE;**

32 **(III) A POSTCONVICTION PROCEEDING FOR WHICH THE**
 33 **DEFENDANT HAS A RIGHT TO AN ATTORNEY UNDER TITLE 7 OF THIS ARTICLE;**

1 (IV) ANY OTHER PROCEEDING IN WHICH CONFINEMENT
2 UNDER A JUDICIAL COMMITMENT OF AN INDIVIDUAL IN A PUBLIC OR PRIVATE
3 INSTITUTION MAY RESULT;

4 (V) A PROCEEDING INVOLVING CHILDREN IN NEED OF
5 ASSISTANCE UNDER § 3-813 OF THE COURTS ARTICLE; OR

6 (VI) A FAMILY LAW PROCEEDING UNDER TITLE 5, SUBTITLE
7 3, PART II OR PART III OF THE FAMILY LAW ARTICLE, INCLUDING:

8 1. FOR A PARENT, A HEARING IN CONNECTION WITH
9 GUARDIANSHIP OR ADOPTION;

10 2. A HEARING UNDER § 5-326 OF THE FAMILY LAW
11 ARTICLE FOR WHICH THE PARENT HAS NOT WAIVED THE RIGHT TO NOTICE; AND

12 3. AN APPEAL.

13 (2) REPRESENTATION SHALL BE PROVIDED TO AN INDIGENT
14 INDIVIDUAL IN ALL STAGES OF A PROCEEDING LISTED IN PARAGRAPH (1) OF
15 THIS SUBSECTION, INCLUDING, IN CRIMINAL PROCEEDINGS, CUSTODY,
16 INTERROGATION, PRELIMINARY HEARING, ARRAIGNMENT, TRIAL, AND APPEAL.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 27A, § 4(b), (d)(1), and the second sentence of (a).

19 In subsection (b)(1)(i) of this section, the former phrase “before the
20 District Court of Maryland, the various circuit courts within the State of
21 Maryland, and the Court of Special Appeals” is deleted as surplusage.

22 In subsection (b)(1)(ii) and (iii) of this section, the references to an
23 “attorney” are substituted for the former references to a “counsel” to
24 conform to the terminology used throughout this title.

25 In subsection (b)(1)(iv) of this section, the reference to “confinement” is
26 substituted for the former reference “possible incarceration” to conform to
27 the terminology used throughout this title.

28 Defined terms: “District” § 16-101
29 “Indigent individual” § 16-101
30 “Panel attorney” § 16-101
31 “Serious offense” § 16-101

32 **16-205. TERMINATION OF REPRESENTATION.**

1 **REPRESENTATION OF AN INDIGENT INDIVIDUAL BY THE OFFICE OR BY A**
 2 **PANEL ATTORNEY SHALL CONTINUE UNTIL THE FINAL DISPOSITION OF THE**
 3 **CASE OR UNTIL THE ASSIGNED ATTORNEY IS RELIEVED BY THE PUBLIC**
 4 **DEFENDER OR ORDER OF THE COURT IN WHICH THE CASE IS PENDING.**

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from former Art. 27A, § 4(d)(2).

7 The defined term "panel attorney" is substituted for the former reference
 8 to "an attorney appointed by the Office" to conform to the terminology
 9 used throughout this title.

10 Defined terms: "Indigent individual" § 16-101
 11 "Office" § 16-101
 12 "Panel attorney" § 16-101

13 **16-206. REPRESENTATION IN FEDERAL COURT.**

14 **(A) SCOPE.**

15 **THIS TITLE DOES NOT PROHIBIT THE OFFICE FROM REPRESENTING AN**
 16 **INDIGENT INDIVIDUAL IN FEDERAL COURT AT FEDERAL EXPENSE IF THE**
 17 **MATTER ARISES OUT OF OR IS RELATED TO AN ACTION PENDING OR RECENTLY**
 18 **PENDING IN A COURT OF CRIMINAL JURISDICTION OF THE STATE.**

19 **(B) COMPENSATION.**

20 **COMPENSATION PAID BY THE FEDERAL COURT TO THE PUBLIC**
 21 **DEFENDER, THE DEPUTY PUBLIC DEFENDER, A DISTRICT PUBLIC DEFENDER,**
 22 **OR AN ASSISTANT PUBLIC DEFENDER SHALL BE REMITTED TO THE GENERAL**
 23 **FUND OF THE STATE.**

24 REVISOR'S NOTE: This section is new language derived without substantive
 25 change from the second and third sentences of former Art. 27A, § 4(c).

26 In subsection (a) of this section, the former reference to a federal court "of
 27 the United States" is deleted as surplusage.

28 Defined terms: "District" § 16-101
 29 "Indigent individual" § 16-101
 30 "Office" § 16-101

31 **16-207. DUTIES AND POWERS OF PUBLIC DEFENDER.**

32 **(A) PRIMARY DUTY OF PUBLIC DEFENDER.**

1 **THE PRIMARY DUTY OF THE PUBLIC DEFENDER IS TO PROVIDE**
2 **REPRESENTATION FOR INDIGENT INDIVIDUALS IN ACCORDANCE WITH THIS**
3 **TITLE.**

4 **(B) GENERAL DUTIES.**

5 **THE PUBLIC DEFENDER SHALL:**

6 **(1) BE RESPONSIBLE GENERALLY FOR THE OPERATION OF THE**
7 **OFFICE AND ALL DISTRICT OFFICES;**

8 **(2) PREPARE SCHEDULES OF PROFESSIONAL FEES AND**
9 **EXPENSES FOR PANEL ATTORNEYS AND OTHER PROFESSIONAL AND TECHNICAL**
10 **SERVICES RENDERED TO INDIGENT INDIVIDUALS OTHER THAN BY THE PUBLIC**
11 **DEFENDER'S STAFF, TAKING INTO CONSIDERATION THE NATURE OF THE**
12 **SERVICES, THE TIME SPENT, THE SKILL OR EXPERIENCE REQUIRED, AND ANY**
13 **OTHER PERTINENT FACTOR;**

14 **(3) CONSULT AND COOPERATE WITH PROFESSIONAL GROUPS**
15 **ABOUT THE CAUSES OF CRIMINAL CONDUCT AND THE DEVELOPMENT OF**
16 **EFFECTIVE MEANS TO:**

17 **(I) REDUCE AND DISCOURAGE THE COMMISSION OF CRIME;**

18 **(II) REHABILITATE AND CORRECT INDIVIDUALS CHARGED**
19 **AND CONVICTED OF CRIME;**

20 **(III) ADMINISTER CRIMINAL JUSTICE; AND**

21 **(IV) ADMINISTER AND CONDUCT THE OFFICE; AND**

22 **(4) MAINTAIN FINANCIAL AND STATISTICAL RECORDS ABOUT**
23 **EACH CASE IN WHICH THE OFFICE PROVIDES LEGAL ASSISTANCE TO AN**
24 **INDIGENT INDIVIDUAL, INCLUDING DATA TO CALCULATE ALL DIRECT AND**
25 **INDIRECT COSTS TO THE OFFICE.**

26 **(C) GENERAL POWERS.**

27 **THE PUBLIC DEFENDER MAY:**

28 **(1) ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THIS**
29 **TITLE AND PROMOTE THE EFFICIENT CONDUCT OF THE WORK AND GENERAL**

1 ADMINISTRATION OF THE OFFICE, ITS PROFESSIONAL STAFF, AND OTHER
2 EMPLOYEES;

3 (2) MAKE NECESSARY ARRANGEMENTS TO COORDINATE
4 SERVICES OF THE OFFICE WITH ANY FEDERAL PROGRAM TO PROVIDE AN
5 ATTORNEY TO INDIGENT INDIVIDUALS;

6 (3) ARRANGE FOR THE OFFICE TO RECEIVE MONEY OR SERVICES
7 AVAILABLE TO ASSIST IN THE DUTIES UNDER THIS TITLE; AND

8 (4) ACCEPT THE SERVICES OF VOLUNTEER WORKERS OR
9 CONSULTANTS AT NO COMPENSATION OR AT NOMINAL OR TOKEN
10 COMPENSATION AND REIMBURSE THEM FOR THEIR NECESSARY EXPENSES.

11 (D) SERVICES IN BALTIMORE CITY.

12 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN
13 BALTIMORE CITY, THE PUBLIC DEFENDER MAY CONTRACT WITH PRIVATE OR
14 PUBLIC ORGANIZATIONS TO PROVIDE LEGAL, ADMINISTRATIVE, OR TECHNICAL
15 SERVICES FOR INDIGENT INDIVIDUALS.

16 (2) A CONTRACT SHALL REQUIRE THAT:

17 (I) THE LEVEL AND QUALITY OF THE WORK AT LEAST
18 EQUAL THAT OF THE OFFICE; AND

19 (II) THE PUBLIC DEFENDER SUPERVISE AND CONTROL ALL
20 SERVICES RENDERED.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27A, § 5 and the first sentence of § 4(a).

23 In subsection (a) of this section, the defined term "indigent individual" is
24 substituted for the former reference to "indigent defendant" because this
25 title applies to a party who is the subject of a juvenile proceeding, civil
26 commitment proceeding, or family law proceeding as well as to a
27 defendant in a criminal proceeding.

28 In subsection (b)(3) of this section, the former reference to "bodies" is
29 deleted in light of the reference to "groups".

30 In subsection (b)(4) of this section, the former reference to "keep"
31 financial and statistical records is deleted in light of the reference to
32 "maintain" the records.

1 Also in subsection (b)(4) of this section, the former reference to “proper”
2 financial and statistical records is deleted as surplusage.

3 Also in subsection (b)(4) of this section, the phrase “costs to the Office” is
4 substituted for the former phrase “costs incident to the operation of the
5 office” for brevity.

6 In subsection (c)(1) of this section, the reference to the power of the Public
7 Defender to “adopt regulations” is substituted for the former reference to
8 the power to “formulate and adopt rules and regulations as are
9 necessary” to distinguish, to the extent possible, between regulations of
10 executive units and rules of judicial or legislative units and to conform to
11 the terminology used in other revised articles.

12 In subsection (c)(2) of this section, the reference to an “attorney” is
13 substituted for the former reference to a “counsel” to conform to the
14 terminology used throughout this title.

15 In subsection (c)(3) of this section, the former reference to “obligations” is
16 deleted in light of the reference to “duties”.

17 In subsection (c)(4) of this section, the former reference to “proper”
18 expenses is deleted in light of the reference to “necessary” expenses.

19 In subsection (d)(1) of this section, the former phrase “from time to time”
20 is deleted as surplusage.

21 Also in subsection (d)(1) of this section, the former phrase “that are
22 equipped” is deleted as surplusage.

23 The Criminal Procedure Article Additions Review Committee notes, for
24 consideration by the General Assembly, that it is unclear whether
25 subsection (d)(1) of this section allows a Public Defender to:

- 26 (a) enter into a contract in Baltimore City;
- 27 (b) enter into a contract with an organization that is located in
28 Baltimore City; or
- 29 (c) enter into a contract for services to be provided in Baltimore
30 City.

31 Defined terms: “District” § 16–101
 32 “Indigent individual” § 16–101
 33 “Office” § 16–101
 34 “Panel attorney” § 16–101

1 **16-208. PANEL ATTORNEYS.**

2 (A) **LIST OF AVAILABLE ATTORNEYS TO BE MAINTAINED.**

3 (1) **SUBJECT TO THE AUTHORITY AND SUPERVISION OF THE**
4 **PUBLIC DEFENDER, EACH DISTRICT PUBLIC DEFENDER SHALL MAINTAIN A**
5 **CONFIDENTIAL LIST OF PRIVATE ATTORNEYS AVAILABLE TO BE APPOINTED AS**
6 **ATTORNEYS FOR INDIGENT INDIVIDUALS ELIGIBLE FOR REPRESENTATION**
7 **UNDER THIS TITLE.**

8 (2) **EACH ATTORNEY ON THE LIST SHALL BE:**

9 (I) **ADMITTED TO PRACTICE LAW IN THE STATE; AND**

10 (II) **PLACED ON VARIOUS PANELS IN ACCORDANCE WITH**
11 **QUALIFICATION CRITERIA THAT THE PUBLIC DEFENDER SETS FORTH, BASED**
12 **ON:**

13 1. **THE NATURE AND COMPLEXITY OF THE OFFENSE**
14 **REQUIRING REPRESENTATION;**

15 2. **THE TRIAL OR APPELLATE EXPERIENCE OF THE**
16 **ATTORNEY; AND**

17 3. **ANY OTHER FACTOR NECESSARY TO ENSURE**
18 **COMPETENT REPRESENTATION.**

19 (B) **REPRESENTATION OF INDIGENT INDIVIDUALS.**

20 (1) **EXCEPT IN CASES IN WHICH AN ATTORNEY IN THE OFFICE**
21 **PROVIDES REPRESENTATION, THE DISTRICT PUBLIC DEFENDER, SUBJECT TO**
22 **THE SUPERVISION OF THE PUBLIC DEFENDER, SHALL APPOINT AN ATTORNEY**
23 **FROM AN APPROPRIATE PANEL TO REPRESENT AN INDIGENT INDIVIDUAL.**

24 (2) **PANEL ATTORNEYS SHALL BE USED AS MUCH AS**
25 **PRACTICABLE.**

26 (C) **PRIMARY DUTY OF PANEL ATTORNEYS.**

27 (1) **THE PRIMARY DUTY OF A PANEL ATTORNEY IS TO THE**
28 **INDIGENT INDIVIDUAL REPRESENTED BY THE PANEL ATTORNEY WITH THE**
29 **SAME EFFECT AND PURPOSE AS THOUGH PRIVATELY ENGAGED BY THAT**
30 **INDIVIDUAL AND WITHOUT REGARD TO THE USE OF PUBLIC FUNDS TO PROVIDE**
31 **THE SERVICE.**

1 **(2) A PANEL ATTORNEY SHALL REPORT TO THE OFFICE AS THE**
2 **REGULATIONS OF THE PUBLIC DEFENDER REQUIRE.**

3 **(3) THIS SUBSECTION DOES NOT PRECLUDE THE DESIGNATION**
4 **OR ASSIGNMENT OF DIFFERENT INDIVIDUALS TO PERFORM VARIOUS PARTS OF**
5 **THE SERVICE.**

6 **(D) COMPENSATION.**

7 **(1) A PANEL ATTORNEY SHALL FILE A PETITION TO BE**
8 **COMPENSATED BY THE PUBLIC DEFENDER FOR FEES AND EXPENSES INCIDENT**
9 **TO REPRESENTING INDIGENT INDIVIDUALS, INCLUDING INVESTIGATION, OTHER**
10 **PRETRIAL PREPARATION, TRIAL, AND APPEAL.**

11 **(2) THE OFFICE SHALL AUTHORIZE PAYMENT OF FEES AND**
12 **EXPENSES ACCORDING TO SCHEDULES PREPARED UNDER § 16-207(B)(2) OF**
13 **THIS SUBTITLE AND FROM FUNDS APPROPRIATED BY THE STATE BUDGET.**

14 **(3) A PANEL ATTORNEY MAY NOT RECEIVE A FEE FOR SERVICES**
15 **IN ADDITION TO THAT PROVIDED IN ACCORDANCE WITH THIS TITLE.**

16 **(4) TO BE COMPENSATED FOR FEES OR EXPENSES THAT THE**
17 **PUBLIC DEFENDER DISAPPROVES OR THAT EXCEED THOSE AUTHORIZED FOR**
18 **PAYMENT, A PANEL ATTORNEY MAY SEEK A REVIEW BY A REGIONAL ADVISORY**
19 **BOARD.**

20 **(5) ALL FEES AND EXPENSES PAID TO PANEL ATTORNEYS,**
21 **INCLUDING ANY AUTHORIZED BY A REGIONAL ADVISORY BOARD, SHALL BE PAID**
22 **OUT OF FUNDS APPROPRIATED BY THE STATE BUDGET.**

23 **(E) STAFF AND TECHNICAL ASSISTANCE.**

24 **THE OFFICE MAY PROVIDE STAFF AND TECHNICAL ASSISTANCE TO A**
25 **PANEL ATTORNEY APPOINTED TO REPRESENT AN INDIGENT INDIVIDUAL.**

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27A, § 6(a) through (e) and § 2(g) and (e), as it
28 related to any attorney licensed to practice law in the State.

29 In subsection (a)(1) of this section, the reference to "attorneys" is
30 substituted for the former reference to "counsel" to conform to the
31 terminology used throughout this title.

1 In subsection (a)(2)(ii)2 of this section, the former reference to the
2 “previous” trial or appellate experience is deleted as surplusage.

3 In subsection (c)(1) of this section, the defined term “indigent individual”
4 is substituted for the former reference to “the individual defendant” to
5 conform to the terminology used throughout this title.

6 Also in subsection (c)(1) of this section, the former reference to a panel
7 attorney “appointed by the Office of the Public Defender” is deleted as
8 unnecessary because all panel attorneys are appointed by the Office.

9 In subsection (c)(2) of this section, the former reference to a panel
10 attorney “who is assigned to represent an indigent person under this
11 article” is deleted as surplusage.

12 Also in subsection (c)(2) of this section, the former requirement that a
13 panel attorney must report to the Office “on his representation of the
14 indigent person” is deleted in light of the requirement that the panel
15 attorney shall report “as the regulations of the Public Defender require”.

16 In subsection (c)(3) of this section, the former phrase “from time to time”
17 is deleted as surplusage.

18 In subsection (d)(1) of this section, the reference to “legal fees” is
19 substituted for the former reference to “professional services” to conform
20 to the terminology used throughout this subsection.

21 In subsection (d)(2) of this section, the reference to schedules “prepared
22 under § 16–207(b)(2) of this subtitle” is substituted for the former
23 reference to schedules “established from time to time by the Public
24 Defender” for clarity.

25 In subsection (d)(3) of this section, the former reference to a panel
26 attorney “who represents an indigent person under this article” is deleted
27 as surplusage.

28 In subsection (d)(4) of this section, the former phrase “of his petition” is
29 deleted as implicit in the word “review”.

30 In subsection (d)(5) of this section, the defined term “regional advisory
31 board” is substituted for the former erroneous reference to “district
32 advisory boards”.

33 Defined terms: “District” § 16–101
34 “Indigent individual” § 16–101
35 “Office” § 16–101
36 “Panel attorney” § 16–101

1 “Regional advisory board” § 16–101

2 **16–209. PRIVILEGED COMMUNICATIONS.**

3 (A) **IN GENERAL.**

4 **COMMUNICATIONS BETWEEN AN INDIGENT INDIVIDUAL AND AN**
5 **INDIVIDUAL IN THE OFFICE OR ENGAGED BY THE PUBLIC DEFENDER ARE**
6 **PROTECTED BY THE ATTORNEY–CLIENT PRIVILEGE TO THE SAME EXTENT AS**
7 **THOUGH AN ATTORNEY HAD BEEN PRIVATELY ENGAGED.**

8 (B) **USE OF COMMUNICATIONS FOR PREPARATION AND DISCLOSURE OF**
9 **SOCIOLOGICAL DATA.**

10 (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS**
11 **SECTION DOES NOT PRECLUDE THE PUBLIC DEFENDER FROM USING MATERIAL**
12 **IN THE PUBLIC DEFENDER’S FILES THAT IS OTHERWISE PRIVILEGED TO**
13 **PREPARE AND DISCLOSE STATISTICAL, CASE STUDY, AND OTHER SOCIOLOGICAL**
14 **DATA.**

15 (2) **MATERIAL USED TO PREPARE AND DISCLOSE SOCIOLOGICAL**
16 **DATA MAY NOT DISCLOSE THE IDENTITY OF A PARTICULAR INDIGENT**
17 **INDIVIDUAL.**

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 27A, § 8.

20 In subsection (a) of this section, the reference to an “attorney” is
21 substituted for the former reference to a “counsel” to conform to the
22 terminology used throughout this title.

23 Also in subsection (a) of this section, the former reference to all
24 communications being “fully” protected is deleted as surplusage.

25 Also in subsection (a) of this section, the defined term “indigent
26 individual” is substituted for the former reference to “individual
27 defendant” to conform to the terminology used throughout this title.
28 Similarly, in subsection (b)(2) of this section, the defined term “indigent
29 individual” is substituted for the former reference to “defendants”.

30 Also in subsection (a) of this section, the former reference to the same
31 “degree” is deleted in light of the reference to the same “extent”.

32 Defined terms: “Indigent individual” § 16–101
33 “Office” § 16–101

1 **16-210. ELIGIBILITY FOR SERVICES.**

2 (A) **APPLICATION AS INDIGENT INDIVIDUAL.**

3 AN INDIVIDUAL MAY APPLY FOR SERVICES OF THE OFFICE AS AN
4 INDIGENT INDIVIDUAL, IF THE INDIVIDUAL STATES IN WRITING UNDER OATH OR
5 AFFIRMATION THAT THE INDIVIDUAL, WITHOUT UNDUE FINANCIAL HARDSHIP,
6 CANNOT PROVIDE THE FULL PAYMENT OF AN ATTORNEY AND ALL OTHER
7 NECESSARY EXPENSES OF REPRESENTATION IN PROCEEDINGS LISTED UNDER §
8 **16-204(B) OF THIS SUBTITLE.**

9 (B) **DETERMINATION OF ELIGIBILITY.**

10 (1) **ELIGIBILITY FOR THE SERVICES OF THE OFFICE SHALL BE**
11 **DETERMINED BY THE NEED OF THE APPLICANT.**

12 (2) **NEED SHALL BE MEASURED ACCORDING TO THE FINANCIAL**
13 **ABILITY OF THE APPLICANT TO ENGAGE AND COMPENSATE A COMPETENT**
14 **PRIVATE ATTORNEY AND TO PROVIDE ALL OTHER NECESSARY EXPENSES OF**
15 **REPRESENTATION.**

16 (3) **FINANCIAL ABILITY SHALL BE DETERMINED BY:**

17 (I) **THE NATURE, EXTENT, AND LIQUIDITY OF ASSETS;**

18 (II) **THE DISPOSABLE NET INCOME OF THE APPLICANT;**

19 (III) **THE NATURE OF THE OFFENSE;**

20 (IV) **THE LENGTH AND COMPLEXITY OF THE PROCEEDINGS;**

21 (V) **THE EFFORT AND SKILL REQUIRED TO GATHER**
22 **PERTINENT INFORMATION; AND**

23 (VI) **ANY OTHER FORESEEABLE EXPENSE.**

24 (4) **IF ELIGIBILITY CANNOT BE DETERMINED BEFORE THE**
25 **OFFICE OR A PANEL ATTORNEY BEGINS REPRESENTATION, THE OFFICE MAY**
26 **REPRESENT AN APPLICANT PROVISIONALLY.**

27 (5) **IF THE OFFICE SUBSEQUENTLY DETERMINES THAT AN**
28 **APPLICANT IS INELIGIBLE:**

1 **(I) THE OFFICE SHALL INFORM THE APPLICANT; AND**

2 **(II) THE APPLICANT SHALL BE REQUIRED TO ENGAGE THE**
3 **APPLICANT'S OWN ATTORNEY AND REIMBURSE THE OFFICE FOR THE COST OF**
4 **THE REPRESENTATION PROVIDED.**

5 **(C) INVESTIGATION OF FINANCIAL STATUS.**

6 **(1) THE OFFICE SHALL INVESTIGATE THE FINANCIAL STATUS OF**
7 **AN APPLICANT WHEN THE CIRCUMSTANCES WARRANT.**

8 **(2) THE OFFICE MAY:**

9 **(I) REQUIRE AN APPLICANT TO EXECUTE AND DELIVER**
10 **WRITTEN REQUESTS OR AUTHORIZATIONS THAT ARE NECESSARY UNDER LAW**
11 **TO PROVIDE THE OFFICE WITH ACCESS TO CONFIDENTIAL RECORDS OF PUBLIC**
12 **OR PRIVATE SOURCES THAT ARE NEEDED TO EVALUATE ELIGIBILITY; AND**

13 **(II) ON REQUEST, OBTAIN INFORMATION WITHOUT CHARGE**
14 **FROM A PUBLIC RECORD OFFICE OR OTHER UNIT OF THE STATE, COUNTY, OR**
15 **MUNICIPAL CORPORATION.**

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27A, §§ 2(f) and 7(a) and (b).

18 In subsection (a) of this section, former Art. 27A, § 2(f), which defined the
19 term "indigent", is revised as a substantive section for clarity.

20 Also in subsection (a) of this section, the reference to representation "in
21 proceedings listed under § 16-204(b) of this subtitle" is substituted for
22 the former overly broad reference to representation for an individual who
23 is "taken into custody or charged with a serious crime as herein defined
24 under the laws of the State of Maryland or the laws and ordinances of
25 any county, municipality, or Baltimore City".

26 In subsection (b)(1), (2), and (5) of this section, the references to an
27 "applicant" are substituted for the former references to a "person" to
28 conform to the terminology used throughout this section. Similarly, the
29 references to an "applicant" are substituted for the former references to a
30 "defendant" in subsections (b)(3)(ii) and (c) of this section and for an
31 "indigent person" in subsection (b)(4) of this section.

32 In subsection (b)(1) of this section, the former reference to an "applicant
33 seeking legal representation" is deleted as surplusage.

1 In subsection (b)(2) and (5)(ii) of this section, the references to an
 2 “attorney” are substituted for the former references to a “counsel” to
 3 conform to the terminology used throughout this title.

4 In subsection (b)(3) of this section, the reference to the financial ability of
 5 a person seeking legal representation to be “determined” by certain
 6 factors is substituted for the former reference to financial ability being
 7 “recognized to be a variable” of certain factors to conform to the
 8 terminology used throughout this subsection.

9 In subsection (b)(4) of this section, the reference to a “panel attorney” is
 10 added for clarity.

11 In subsection (b)(5)(ii) of this section, the reference to the cost of the
 12 “representation provided” is substituted for the former reference to the
 13 cost of the “services rendered to that time” for brevity.

14 In subsection (c)(2) of this section, the former phrase “in connection
 15 therewith” is deleted as surplusage.

16 In subsection (c)(2)(i) of this section, the former reference to “applicable”
 17 law is deleted as surplusage.

18 In subsection (c)(2)(ii) of this section, the reference to a “unit of the State,
 19 county, or municipal corporation” is substituted for the former reference
 20 to the “State or of any subdivision or agency thereof” to conform to the
 21 terminology used in other revised articles.

22 Also in subsection (c)(2)(ii) of this section, the phrase “without charge” is
 23 substituted for the former phrase “without payment of any fees ordinarily
 24 required by law” for brevity.

25 Defined terms: “County” § 1–101
 26 “Indigent individual” § 16–101
 27 “Office” § 16–101
 28 “Panel attorney” § 16–101

29 **16–211. REIMBURSEMENT FOR SERVICES.**

30 **(A) IN GENERAL.**

31 **(1) IF IT APPEARS THAT AN INDIGENT INDIVIDUAL HAS OR**
 32 **REASONABLY EXPECTS TO HAVE MEANS TO MEET SOME OF THE EXPENSES FOR**
 33 **SERVICES RENDERED, THE INDIGENT INDIVIDUAL SHALL REIMBURSE THE**
 34 **OFFICE:**

35 **(I) BY A SINGLE PAYMENT OR IN INSTALLMENTS; AND**

1 (II) IN THE AMOUNT THAT THE INDIGENT INDIVIDUAL CAN
2 REASONABLY BE EXPECTED TO PAY.

3 (2) A DEFAULT OR FAILURE BY AN INDIGENT INDIVIDUAL TO
4 MAKE A PAYMENT MAY NOT AFFECT THE RENDERING OF SERVICES TO THE
5 INDIGENT INDIVIDUAL.

6 (B) DEPARTMENT OF BUDGET AND MANAGEMENT TO SEEK
7 REIMBURSEMENT.

8 THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND
9 MANAGEMENT, ON BEHALF OF THE PUBLIC DEFENDER AND IN THE NAME OF
10 THE STATE, SHALL DO ALL THINGS NECESSARY TO COLLECT ALL
11 REIMBURSEMENT MONEY DUE TO THE STATE FOR SERVICES RENDERED IN
12 ACCORDANCE WITH THIS TITLE.

13 (C) REIMBURSEMENT IN CRIMINAL CASES.

14 (1) A COURT EXERCISING CRIMINAL JURISDICTION SHALL ORDER
15 A DEFENDANT TO REIMBURSE THE STATE FOR SERVICES RENDERED TO THE
16 DEFENDANT BY THE PUBLIC DEFENDER AS A TERM OR CONDITION OF A
17 SENTENCE, JUDGMENT, OR PROBATION IMPOSED BY THE COURT, UNLESS THE
18 COURT:

19 (I) AFFIRMATIVELY FINDS THAT THE DEFENDANT CANNOT
20 MAKE THE REIMBURSEMENT; AND

21 (II) WAIVES THE TERM OR CONDITION.

22 (2) THE COURT SHALL ESTABLISH THE AMOUNT, TIME, AND
23 METHOD OF PAYMENT.

24 (3) IN ALL OTHER CASES OF REIMBURSEMENT FOR SERVICES
25 RENDERED, COLLECTION SHALL BE MADE IN ACCORDANCE WITH SUBSECTION
26 (B) OF THIS SECTION.

27 (D) REIMBURSEMENT IN CIVIL AND JUVENILE CASES.

28 (1) A COURT EXERCISING OTHER THAN CRIMINAL JURISDICTION
29 SHALL ORDER AN INDIGENT INDIVIDUAL REPRESENTED BY THE PUBLIC
30 DEFENDER TO REIMBURSE THE STATE FOR THE REASONABLE VALUE OF
31 SERVICES RENDERED TO THE INDIGENT INDIVIDUAL IN AN AMOUNT THAT THE
32 INDIGENT INDIVIDUAL MAY REASONABLY BE ABLE TO PAY.

1 **(2) IF THE INDIGENT INDIVIDUAL IS A MINOR, THE COURT SHALL**
 2 **ORDER THE PARENTS, GUARDIAN, OR CUSTODIAN OF THE MINOR TO**
 3 **REIMBURSE THE STATE FOR THE REASONABLE VALUE OF SERVICES RENDERED**
 4 **IN AN AMOUNT THAT THE PARENTS, GUARDIAN, OR CUSTODIAN MAY**
 5 **REASONABLY BE ABLE TO PAY.**

6 **(3) THE COURT SHALL ESTABLISH THE AMOUNT, TIME, AND**
 7 **METHOD OF PAYMENT.**

8 **(E) OPPORTUNITY TO BE HEARD.**

9 **BEFORE ORDERING REIMBURSEMENT UNDER SUBSECTION (D) OF THIS**
 10 **SECTION, A COURT SHALL GRANT AN OPPORTUNITY TO BE HEARD TO THE**
 11 **INDIGENT INDIVIDUAL OR THE PARENTS, GUARDIAN, OR CUSTODIAN OF A**
 12 **MINOR.**

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 27A, § 7(c), (f), (g), and (h).

15 In subsection (a)(1) of this section, the defined term "indigent individual"
 16 is substituted for the former reference to a "defendant" to reflect that this
 17 subsection applies to indigent individuals who are involved in juvenile or
 18 family court proceedings as well as in criminal proceedings.

19 In subsection (a)(2) of this section, the former reference to "reduce" the
 20 rendering of services is deleted as included in the reference to "affect" the
 21 rendering of services.

22 In subsection (b) of this section, the former reference to "proper" is
 23 deleted in light of the reference to "necessary".

24 In subsections (d) and (e) of this section, the references to the defined
 25 term "indigent individual" are substituted for the former references to
 26 "individual" to conform to the terminology used throughout this title.

27 Defined terms: "Indigent individual" § 16-101
 28 "Office" § 16-101

29 **16-212. LIENS.**

30 **(A) REASONABLE VALUE OF SERVICES.**

31 **THE REASONABLE VALUE OF THE SERVICES RENDERED TO AN INDIGENT**
 32 **INDIVIDUAL IN ACCORDANCE WITH THIS TITLE IS A LIEN ON REAL OR PERSONAL**

1 PROPERTY IN WHICH THE INDIGENT INDIVIDUAL HAS OR ACQUIRES AN
2 INTEREST, EXCEPT FOR THE RESIDENCE OF THE INDIGENT INDIVIDUAL.

3 (B) PERFECTION OF LIEN.

4 TO PERFECT THE LIEN, THE PUBLIC DEFENDER SHALL SUBMIT TO THE
5 COURT HAVING JURISDICTION IN THE MATTER AN AFFIDAVIT SETTING FORTH
6 THE SERVICES RENDERED TO THE INDIGENT INDIVIDUAL AND THEIR
7 REASONABLE VALUE.

8 (C) HEARING.

9 (1) THE COURT SHALL SET A HEARING DATE AND SHALL NOTIFY
10 THE INDIGENT INDIVIDUAL OF THE DATE AND THE FACT THAT THE PUBLIC
11 DEFENDER FILED AN AFFIDAVIT TO PERFECT THE LIEN.

12 (2) THE INDIGENT INDIVIDUAL MAY:

13 (I) APPEAR;

14 (II) BE REPRESENTED BY AN ATTORNEY;

15 (III) PRESENT EVIDENCE; AND

16 (IV) EXAMINE WITNESSES.

17 (3) THE INDIGENT INDIVIDUAL MAY CONTEST THE AFFIDAVIT.

18 (4) IF THE COURT DETERMINES THAT THE PUBLIC DEFENDER IS
19 NOT ENTITLED TO A LIEN, THE PROCEEDING SHALL BE DISMISSED.

20 (5) IF THE COURT DETERMINES THAT THE PUBLIC DEFENDER IS
21 ENTITLED TO A LIEN, THE COURT SHALL DETERMINE THE REASONABLE VALUE
22 OF THE SERVICES RENDERED TO THE INDIGENT INDIVIDUAL.

23 (D) RECORDING OF LIENS.

24 (1) ON ADJUDICATION, A LIEN SHALL BE FILED OR DOCKETED
25 WITH THE CLERK OF THE CIRCUIT COURT OR DISTRICT COURT WHERE THE
26 SERVICES WERE PERFORMED OR WHERE THE INDIGENT INDIVIDUAL WORKS OR
27 RESIDES.

28 (2) THE LIEN SHALL:

1 **(I) CONSTITUTE A LIEN ON THE INDIGENT INDIVIDUAL’S**
 2 **PROPERTY FOR 10 YEARS FROM THE DATE OF FILING OR DOCKETING UNLESS**
 3 **THE LIEN IS DISCHARGED SOONER; AND**

4 **(II) HAVE THE FORCE AND EFFECT OF A JUDGMENT AT LAW.**

5 **(3) (I) THE CLERKS OF THE CIRCUIT COURTS AND THE**
 6 **DISTRICT COURT SHALL PROVIDE SEPARATE BOOKS TO RECORD LIENS UNDER**
 7 **THIS SECTION.**

8 **(II) THE BOOKS SHALL BE PROPERLY INDEXED IN THE**
 9 **NAME OF THE DEBTOR.**

10 **(III) THE PUBLIC DEFENDER MAY NOT BE REQUIRED TO PAY**
 11 **FILING OR RECORDING FEES.**

12 REVISOR’S NOTE: This section is new language derived without substantive
 13 change from former Art. 27A, § 7(d) and (e).

14 Throughout this section, the defined term “indigent individual” is
 15 substituted for the former reference to a “defendant” to reflect that these
 16 subsections apply to indigent individuals who are involved in juvenile or
 17 family court proceedings as well as in criminal proceedings.

18 In subsection (a) of this section, the reference to “real or personal
 19 property” is substituted for the former reference to “any and all real
 20 property or personal” for brevity.

21 In subsection (c)(2)(ii) of this section, the reference to an “attorney” is
 22 substituted for the former reference to a “counsel” to conform to the
 23 terminology used throughout this title.

24 In subsection (c)(5) of this section, the former reference to “adjudge” is
 25 deleted in light of the reference to “determine”.

26 In subsection (d) of this section, the former reference to circuit courts and
 27 the District Court “throughout the State” is deleted as surplusage.

28 The Criminal Procedure Article Additions Review Committee notes, for
 29 consideration by the General Assembly, that in subsection (d) of this
 30 section, it is unclear when the 10–year period during which a lien on the
 31 defendant’s property begins. The provision states “from the date of filing
 32 or docketing”, but filing and docketing may occur on different dates.

33 Defined term: “Indigent individual” § 16–101

1 **16-213. EFFECT OF SUBTITLE.**

2 **THIS SUBTITLE DOES NOT PROHIBIT THE APPOINTMENT OF AN ATTORNEY**
 3 **TO REPRESENT AN INDIGENT INDIVIDUAL BY THE DISTRICT COURT, A CIRCUIT**
 4 **COURT, OR THE COURT OF SPECIAL APPEALS IF:**

5 **(1) THERE IS A CONFLICT IN LEGAL REPRESENTATION IN A**
 6 **MATTER INVOLVING MULTIPLE DEFENDANTS, AND ONE OF THE DEFENDANTS IS**
 7 **REPRESENTED BY OR THROUGH THE OFFICE; OR**

8 **(2) THE OFFICE DECLINES TO PROVIDE REPRESENTATION TO AN**
 9 **INDIGENT INDIVIDUAL ENTITLED TO REPRESENTATION UNDER THIS SUBTITLE.**

10 REVISOR’S NOTE: This section is new language derived without substantive
 11 change from former Art. 27A, § 6(f).

12 In the introductory language of this section, the reference to “the District
 13 Court, a circuit court, or the Court of Special Appeals” is substituted for
 14 the former reference to “any court mentioned in § 4(b)(2) of this article”
 15 for clarity.

16 The Criminal Procedure Article Additions Review Committee notes, for
 17 consideration by the General Assembly, that in the list of courts specified
 18 in the introductory language of this section, the Court of Appeals is not
 19 mentioned.

20 Defined terms: “Indigent individual” § 16-101
 21 “Office” § 16-101

22 **SUBTITLE 3. BOARD OF TRUSTEES; REGIONAL ADVISORY BOARDS.**

23 **16-301. BOARD OF TRUSTEES.**

24 **(A) ESTABLISHED.**

25 **THERE IS A BOARD OF TRUSTEES OF THE OFFICE OF THE PUBLIC**
 26 **DEFENDER.**

27 **(B) COMPOSITION; APPOINTMENT OF MEMBERS.**

28 **THE BOARD OF TRUSTEES CONSISTS OF THREE MEMBERS APPOINTED BY**
 29 **THE GOVERNOR.**

30 **(C) QUALIFICATIONS OF MEMBERS.**

1 (1) EACH MEMBER OF THE BOARD OF TRUSTEES SHALL BE A
2 RESIDENT OF THE STATE.

3 (2) TWO MEMBERS OF THE BOARD OF TRUSTEES SHALL BE
4 ACTIVE ATTORNEYS ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS
5 OF MARYLAND.

6 (D) TENURE; VACANCIES.

7 (1) THE TERM OF A MEMBER OF THE BOARD OF TRUSTEES IS 3
8 YEARS.

9 (2) A VACANCY OCCURRING ON THE BOARD OF TRUSTEES
10 DURING THE TERM OF A MEMBER SHALL BE FILLED BY THE GOVERNOR FOR
11 THE REMAINDER OF THE UNEXPIRED TERM.

12 (E) CHAIR.

13 (1) THE BOARD OF TRUSTEES ANNUALLY SHALL ELECT A CHAIR
14 FROM AMONG ITS MEMBERS.

15 (2) THE CHAIR SHALL PRESIDE OVER AND REPRESENT THE
16 INTERESTS OF THE BOARD OF TRUSTEES IN CARRYING OUT THIS TITLE.

17 (F) QUORUM.

18 TWO MEMBERS OF THE BOARD OF TRUSTEES ARE A QUORUM.

19 (G) MEETINGS.

20 (1) THE BOARD OF TRUSTEES SHALL HOLD AT LEAST ONE
21 REGULAR ANNUAL MEETING AT A TIME AND PLACE THAT THE CHAIR
22 DESIGNATES.

23 (2) ADDITIONAL MEETINGS SHALL BE HELD AS NECESSARY AND
24 MAY BE CALLED ON NOTICE BY THE CHAIR OR AT THE REQUEST OF AT LEAST
25 TWO MEMBERS OF THE BOARD OF TRUSTEES.

26 (H) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

27 A MEMBER OF THE BOARD OF TRUSTEES:

28 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE
29 BOARD OF TRUSTEES; BUT

1 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
 2 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
 3 **BUDGET.**

4 REVISOR’S NOTE: This section is new language derived without substantive
 5 change from former Art. 27A, § 9(a), (b), and (d).

6 In subsection (a) of this section, the reference to the Board of Trustees “of
 7 the Office of the Public Defender” is added to state explicitly what was
 8 implied in the former law.

9 In subsections (e)(1) and (g) of this section, the references to “chair” are
 10 substituted for the former references to “chairman” because SG § 2–1238
 11 requires the use of words that are neutral as to gender to the extent
 12 practicable.

13 In subsection (f) of this section, the former reference to a quorum “for all
 14 business” is deleted as surplusage.

15 In subsection (h)(2) of this section, the reference to reimbursement “for
 16 expenses under the Standard State Travel Regulations, as provided in
 17 the State budget” is substituted for the former reference “for necessary
 18 expenses, including travel, actually incurred in the performance of their
 19 duties” to conform to the terminology used in this and other revised
 20 articles.

21 Defined term: “Board of Trustees” § 16–101

22 **16–302. DUTIES OF BOARD OF TRUSTEES.**

23 **THE BOARD OF TRUSTEES SHALL:**

24 **(1) STUDY AND OBSERVE THE OPERATION OF THE OFFICE;**

25 **(2) COORDINATE THE ACTIVITIES OF THE REGIONAL ADVISORY**
 26 **BOARDS; AND**

27 **(3) ADVISE THE PUBLIC DEFENDER ON PANELS OF ATTORNEYS,**
 28 **FEES, AND OTHER MATTERS ABOUT THE OPERATION OF THE PUBLIC DEFENDER**
 29 **SYSTEM.**

30 REVISOR’S NOTE: This section is new language derived without substantive
 31 change from former Art. 27A, § 9(c).

1 In item (2) of this section, the defined term “regional advisory board[s]” is
2 substituted for the former erroneous reference to “district advisory
3 boards”.

4 Defined terms: “Board of Trustees” § 16–101
5 “Office” § 16–101
6 “Regional advisory board” § 16–101

7 **16–303. REGIONAL ADVISORY BOARDS.**

8 **(A) ESTABLISHED.**

9 **THERE ARE FOUR REGIONAL ADVISORY BOARDS OF THE OFFICE.**

10 **(B) COMPOSITION; APPOINTMENT OF MEMBERS.**

11 **EACH REGIONAL ADVISORY BOARD CONSISTS OF FIVE MEMBERS**
12 **APPOINTED BY THE GOVERNOR.**

13 **(C) DISTRICTS.**

14 **OF THE FOUR REGIONAL ADVISORY BOARDS:**

15 **(1) THE FIRST SHALL ADVISE PUBLIC DEFENDER DISTRICTS ONE,**
16 **EIGHT, AND NINE, WHICH ENCOMPASS BALTIMORE CITY, BALTIMORE COUNTY,**
17 **AND HARFORD COUNTY;**

18 **(2) THE SECOND SHALL ADVISE PUBLIC DEFENDER DISTRICTS**
19 **TWO AND THREE, WHICH ENCOMPASS CAROLINE COUNTY, CECIL COUNTY,**
20 **DORCHESTER COUNTY, KENT COUNTY, QUEEN ANNE’S COUNTY, SOMERSET**
21 **COUNTY, TALBOT COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY;**

22 **(3) THE THIRD SHALL ADVISE PUBLIC DEFENDER DISTRICTS**
23 **FOUR, FIVE, AND SEVEN, WHICH ENCOMPASS ANNE ARUNDEL COUNTY,**
24 **CALVERT COUNTY, CHARLES COUNTY, PRINCE GEORGE’S COUNTY, AND ST.**
25 **MARY’S COUNTY; AND**

26 **(4) THE FOURTH SHALL ADVISE PUBLIC DEFENDER DISTRICTS**
27 **SIX, TEN, ELEVEN, AND TWELVE, WHICH ENCOMPASS ALLEGANY COUNTY,**
28 **CARROLL COUNTY, FREDERICK COUNTY, GARRETT COUNTY, HOWARD**
29 **COUNTY, MONTGOMERY COUNTY, AND WASHINGTON COUNTY.**

30 **(D) QUALIFICATION OF MEMBERS.**

1 (II) ON NOTICE BY THE PUBLIC DEFENDER;

2 (III) ON NOTICE BY THE DISTRICT PUBLIC DEFENDER FROM
3 A DISTRICT REPRESENTED BY THAT REGIONAL ADVISORY BOARD; OR

4 (IV) AT THE REQUEST OF AT LEAST THREE MEMBERS OF THE
5 REGIONAL ADVISORY BOARD.

6 (I) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

7 A MEMBER OF A REGIONAL ADVISORY BOARD:

8 (1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE
9 REGIONAL ADVISORY BOARD; BUT

10 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
11 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE
12 BUDGET.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27A, § 10(b), (c), and (e).

15 In subsection (a) of this section, the reference to regional advisory boards
16 "of the Office" is added to state explicitly what was only implied in the
17 former law.

18 In subsection (f)(1) and (2) of this section, the references to "chair" are
19 substituted for the former references to "chairman" because SG § 2-1238
20 requires the use of words that are neutral as to gender to the extent
21 practicable.

22 In subsection (g) of this section, the former phrase "for all business" is
23 deleted as surplusage.

24 In subsection (i)(2) of this section, the reference to reimbursement "for
25 expenses under the Standard State Travel Regulations, as provided in
26 the State budget" is substituted for the former reference to
27 reimbursement "for necessary expenses, including travel, actually
28 incurred in the performance of their duties" to conform to the terminology
29 used in this and other revised articles.

30 Defined terms: "District" § 16-101

31 "Office" § 16-101

32 "Regional advisory board" § 16-101

33 **16-304. DUTIES OF REGIONAL ADVISORY BOARDS.**

1 **EACH REGIONAL ADVISORY BOARD SHALL:**

2 (1) **STUDY AND OBSERVE THE OPERATION OF DISTRICT PUBLIC**
3 **DEFENDER OFFICES; AND**

4 (2) **ADVISE THE PUBLIC DEFENDER AND DISTRICT PUBLIC**
5 **DEFENDERS ON PANELS OF ATTORNEYS, FEES, AND OTHER MATTERS ABOUT**
6 **THE OPERATION OF DISTRICT PUBLIC DEFENDER OFFICES AND THE PUBLIC**
7 **DEFENDER SYSTEM.**

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 27A, § 10(d).

10 Defined terms: “District” § 16–101
11 “Regional advisory board” § 16–101

12 **SUBTITLE 4. REPORT; APPROPRIATIONS; SEVERABILITY.**

13 **16–401. ANNUAL REPORT OF PUBLIC DEFENDER.**

14 **(A) RECIPIENTS.**

15 **ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE PUBLIC DEFENDER**
16 **SHALL SUBMIT A REPORT TO:**

17 (1) **THE BOARD OF TRUSTEES;**

18 (2) **THE GOVERNOR; AND**

19 (3) **IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT**
20 **ARTICLE, THE GENERAL ASSEMBLY.**

21 **(B) CONTENT.**

22 **THE REPORT SHALL INCLUDE:**

23 (1) **PERTINENT DATA ABOUT THE OPERATIONS OF THE OFFICE,**
24 **INCLUDING PROJECTED NEEDS, A BREAKDOWN OF THE NUMBER AND TYPE OF**
25 **CASES HANDLED, AND RELATIVE DISPOSITIONS; AND**

26 (2) **RECOMMENDATIONS FOR STATUTORY CHANGES, INCLUDING**
27 **CHANGES IN THE CRIMINAL LAW OR MARYLAND RULES TO CONTROL CRIME**
28 **AND IMPROVE THE CRIMINAL JUSTICE SYSTEM.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27A, § 11.

3 In subsection (b)(2) of this section, the former reference to changes "as
4 may be appropriate or necessary" is deleted as surplusage.

5 Defined terms: "Board of Trustees" § 16-101
6 "Office" § 16-101

7 **16-402. APPROPRIATIONS.**

8 **FUNDS FOR CARRYING OUT THIS TITLE SHALL BE AS PROVIDED IN THE**
9 **STATE BUDGET.**

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27A, § 13.

12 The former reference to "provisions of" this title and the former phrase
13 "from time to time" are deleted as surplusage.

14 **16-403. SEVERABILITY.**

15 (A) **SEVERABILITY.**

16 **THE PROVISIONS OF THIS TITLE ARE SEVERABLE.**

17 (B) **EFFECT ON OTHER PROVISIONS.**

18 **THE INVALIDITY OF A PROVISION OF THIS TITLE DOES NOT AFFECT**
19 **OTHER PROVISIONS THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID**
20 **PROVISION.**

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the first sentence of former Art. 27A, § 12.

23 In subsection (b) of this section, the former references to
24 "unconstitutional" and "unconstitutionality" are deleted as implicit within
25 the terms "invalid" and "invalidity".

26 Also in subsection (b) of this section, the former phrases "sentence[s],
27 clause[s], section[s], or part[s]" are deleted as implicit within the term
28 "provision[s]".

29 Also in subsection (b) of this section, the former phrase "or their
30 application to other persons or circumstances" is deleted as surplusage.

1 Also in subsection (b) of this section, the former reference to “impair” the
2 provisions is deleted as included in the reference to “affect” the
3 provisions.

4 The second sentence of former Art. 27A, § 12, which declared that the
5 legislative intent of this title would have been adopted if the invalid or
6 unconstitutional provision, sentence, clause, section or part had not been
7 included therein, is deleted as duplicative of this section.

8 GENERAL REVISOR’S NOTE TO SUBTITLE:

9 Former Art. 27A, § 14, which provided for local exemptions to the provisions of
10 Article 27A, is deleted as obsolete. The Public Defender provides services in all
11 counties within the State, and no county implemented or maintained a separate or
12 different system before September 1, 1971.

13 GENERAL REVISOR’S NOTE TO TITLES 14, 15, AND 16:

14 This revision contains three revised titles of the Criminal Procedure Article.

15 The Department of Legislative Services is charged with revising the law in a
16 clear, concise, and organized manner, without changing the effect of the law. One
17 precept of code revision has been that, once something is said, it should be said in the
18 same way every time. To that end, the Criminal Procedure Article Additions Review
19 Committee conformed the language and organization of Titles 14, 15, and 16 to that of
20 the rest of the Criminal Procedure Article and other previously enacted revised
21 articles to the extent possible.

22 It is the manifest intent both of the General Assembly and the Criminal
23 Procedure Article Additions Review Committee that this bulk revision of the
24 substantive laws regarding the Office of the State Prosecutor, the Office of the State’s
25 Attorney, and the Office of the Public Defender render no substantive change. The
26 guiding principle of the preparation of Titles 14, 15, and 16 of the Criminal Procedure
27 Article is that state in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

28 [T]he principle function of a Code is to reorganize the statutes and state them in
29 simpler form. Consequently any changes made in them by Code are presumed to
30 be for the purpose of clarity rather than change of meaning. Therefore, even a
31 change in the phraseology of a statute by a codification thereof will not
32 ordinarily modify the law, unless the change is so radical and material that the
33 intention of the Legislature to modify the law appears unmistakably from the
34 language of the Code. (citations omitted).

35 Accordingly, except to the extent that changes, which are noted in Revisor’s Notes,
36 clarify the former law, the enactment of these Titles 14, 15, and 16 in no way is
37 intended to make any change to the substantive law of Maryland relating to the Office

1 of the State Prosecutor, the Office of the State’s Attorney, or the Office of the Public
2 Defender.

3 Throughout Titles 15 and 16, as in other revised articles, the word “regulations”
4 generally is substituted for the former references to “rules and regulations” to
5 distinguish, to the extent possible, between regulations of executive units and rules of
6 judicial or legislative units and to establish consistency in the use of the words. This
7 substitution conforms to the practice of the Division of State Documents.

8 In many provisions in these titles, as in other revised articles, the word “unit” is
9 substituted for former references to governmental entities such as an “agency”,
10 “board”, or “commission”. In revised articles of the Code, the word “unit” is used as the
11 general term for an organization in government because it is broad enough to include
12 all such entities.

13 References to current units and positions are substituted for obsolete references
14 to entities and positions that have been abolished or have otherwise ceased to exist.

15 Also throughout these titles, references to the “chair” of a committee or other
16 unit are substituted for former references to “chairman” in accordance with the style
17 manual of the Office of Policy Analysis of the Department of Legislative Services. SG §
18 2–1238(11) requires the Office of Policy Analysis to include in the style manual “a
19 drafting rule that requires, to the extent practicable, the use of words that are neutral
20 as to gender except for a subject matter that specifically applies only to one gender and
21 except for a name or organizational title”.

22 In some instances, the staff of the Department of Legislative Services may
23 create “Special Revisor’s Notes” to reflect the substantive effect of legislation enacted
24 during the 2008 Session on some provisions of these titles.

25 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intention of the
26 General Assembly that, except as expressly provided in this Act, this Act shall be
27 construed as a nonsubstantive revision, and may not otherwise be construed to render
28 any substantive change in the law of the State.

29 SECTION 4. AND BE IT FURTHER ENACTED, That the catchlines, captions,
30 Revisor’s Notes, Special Revisor’s Notes, and General Revisor’s Notes contained in this
31 Act are not law and may not be considered to have been enacted as a part of this Act.

32 SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act
33 affects the term of office of an appointed or elected member of any commission, office,
34 department, agency, or other unit. An individual who is a member of a unit on the
35 effective date of this Act shall remain a member for the balance of the term to which
36 appointed or elected, unless the member sooner dies, resigns, or is removed under
37 provisions of law.

38 SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly
39 provided to the contrary in this Act, any transaction or employment status affected by

1 or flowing from any change of nomenclature or any statute amended, repealed, or
2 transferred by this Act and validly entered into or existing before the effective date of
3 this Act and every right, duty, or interest flowing from a statute amended, repealed, or
4 transferred by this Act remains valid after the effective date of this Act and may be
5 terminated, completed, consummated, or enforced as required or allowed by any
6 statute amended, repealed, or transferred by this Act as though the repeal,
7 amendment, or transfer had not occurred. If a change in nomenclature involves a
8 change in name or designation of any State unit, the successor unit shall be considered
9 in all respects as having the powers and obligations granted the former unit.

10 SECTION 7. AND BE IT FURTHER ENACTED, That the continuity of every
11 commission, office, department, agency, or other unit is retained. The personnel,
12 records, files, furniture, fixtures, and other properties and all appropriations, credits,
13 assets, liabilities, and obligations of each retained unit are continued as the personnel,
14 records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities,
15 and obligations of the unit under the laws enacted by this Act.

16 SECTION 8. AND BE IT FURTHER ENACTED, That, except as expressly
17 provided to the contrary in this Act, any person licensed, registered, certified, or issued
18 a permit or certificate by any commission, office, department, agency, or other unit
19 established or continued by any statute amended, repealed, or transferred by this Act
20 is considered for all purposes to be licensed, registered, certified, or issued a permit or
21 certificate by the appropriate unit continued under this Act for the duration of the
22 term for which the license, registration, certification, or permit was issued, and may
23 renew that authorization in accordance with the appropriate renewal provisions of this
24 Act.

25 SECTION 9. AND BE IT FURTHER ENACTED, That this Act does not
26 rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is
27 or was in effect on the effective date of this Act concerning the practice and procedure
28 in and the administration of the appellate courts and the other courts of this State.

29 SECTION 10. AND BE IT FURTHER ENACTED, That the publisher of the
30 Annotated Code of Maryland, in consultation with and subject to the approval of the
31 Department of Legislative Services, shall correct, with no further action required by
32 the General Assembly, cross-references and terminology rendered incorrect by this
33 Act or by any other Act of the General Assembly of 2008 that affects provisions
34 enacted by this Act. The publisher shall adequately describe any such correction in an
35 editor's note following the section affected.

36 SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take
37 effect October 1, 2008.