

CHAPTER 15

(Senate Bill 37)

AN ACT concerning

Criminal Procedure Article Additions

FOR the purpose of adding three new titles to the Criminal Procedure Article of the Annotated Code of Maryland, to be designated and known as “Title 14. Office of the State Prosecutor”, “Title 15. Office of the State’s Attorney”, and “Title 16. Office of the Public Defender”; revising, restating, and recodifying certain laws applicable to the Office of the State Prosecutor, including laws concerning the establishment of the Office, the eligibility of individuals to be nominated and appointed to be the State Prosecutor, the establishment and membership of the State Prosecutor Selection and Disabilities Commission, the filling of vacancies in the Office, the reprimand or removal of the State Prosecutor, the general powers and duties of the State Prosecutor, investigations, reports, and prosecutions of the Office, the budget and staff of the Office, and meetings with the Attorney General and State’s Attorneys; revising, restating, and recodifying certain laws applicable to the Office of the State’s Attorney, including laws concerning the duties of the State’s Attorney, the subpoena power in a criminal investigation, and the appointment of an interim State’s Attorney, the establishment of the State’s Attorneys’ Coordination Council, the establishment of the Office of the State’s Attorneys’ Coordinator, the duties of the Coordinator, and the salary, expenses, staffing, and other matters regarding the State’s Attorneys for Allegany County, Anne Arundel County, Baltimore County, Calvert County, Caroline County, Carroll County, Cecil County, Charles County, Dorchester County, Frederick County, Garrett County, Harford County, Howard County, Kent County, Montgomery County, Prince George’s County, Queen Anne’s County, St. Mary’s County, Somerset County, Talbot County, Washington County, Wicomico County, and Worcester County; revising, restating, and recodifying certain laws applicable to the Office of the Public Defender, including laws concerning the establishment of the Office of the Public Defender, Office personnel, representation of indigent individuals, termination of representation, representation in federal court, duties and powers of the Public Defender, panel attorneys, privileged communications, eligibility for services, reimbursement for services, liens, the Board of Trustees of the Office of the Public Defender, regional advisory boards, reports of the Public Defender, and appropriations; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; and generally relating to laws of the

State relating to the Office of the State Prosecutor, the Office of the State's Attorney, and the Office of the Public Defender.

BY repealing

Article 10 – Legal Officials

In its entirety

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 27A – Public Defender

In its entirety

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article – State Government

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

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to

Article – Criminal Procedure

Section 14–101 through 14–114, inclusive, and the new title “Title 14. Office of the State Prosecutor”; 15–101 through 15–424, inclusive, and the various subtitles to be under the new title “Title 15. Office of the State's Attorney”; and 16–101 through 16–403, inclusive, and the various subtitles to be under the new title “Title 16. Office of the Public Defender”

Annotated Code of Maryland

(2001 Volume and 2007 Supplement)

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

Article 10

In its entirety

Article 27A

In its entirety

Article – State Government

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

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

Article – Criminal Procedure

TITLE 14. OFFICE OF THE STATE PROSECUTOR.

14-101. “COMMISSION” DEFINED.

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

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

14-102. OFFICE OF THE STATE PROSECUTOR.

(A) ESTABLISHED.

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

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

(B) ELIGIBILITY.

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

(I) EXECUTES AN AFFIDAVIT THAT THE INDIVIDUAL WILL NOT ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL OFFICE DURING THE PERIOD OF SERVICE AS THE STATE PROSECUTOR AND FOR AT LEAST 3 YEARS IMMEDIATELY AFTER THE INDIVIDUAL LAST SERVES AS THE STATE PROSECUTOR; AND

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

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

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

(C) NOMINATION; APPOINTMENT; TENURE.

(1) THE STATE PROSECUTOR SHALL BE:

(I) NOMINATED BY THE COMMISSION; AND

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

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

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

(D) REMOVAL.

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

(1) MISCONDUCT IN OFFICE;

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

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

(E) SALARY.

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

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

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

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

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

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

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

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

Defined term: “Commission” § 14–101

14–103. STATE PROSECUTOR SELECTION AND DISABILITIES COMMISSION.

(A) ESTABLISHED.

THERE IS A STATE PROSECUTOR SELECTION AND DISABILITIES COMMISSION.

(B) MEMBERSHIP.

THE COMMISSION CONSISTS OF:

(1) THE ATTORNEY GENERAL; AND

(2) SIX INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(I) TWO INDIVIDUALS SHALL BE APPOINTED FROM A LIST OF TWO OR MORE NOMINEES SUBMITTED BY THE PRESIDENT OF THE SENATE:

1. ONLY ONE OF THE INDIVIDUALS APPOINTED SHALL BE A LAWYER; AND

2. NONE OF THE NOMINEES MAY BE A MEMBER OF THE GENERAL ASSEMBLY OR A FULL-TIME STATE EMPLOYEE;

(II) TWO INDIVIDUALS SHALL BE APPOINTED FROM A LIST OF TWO OR MORE NOMINEES SUBMITTED BY THE SPEAKER OF THE HOUSE OF DELEGATES:

1. ONLY ONE OF THE INDIVIDUALS APPOINTED SHALL BE A LAWYER; AND

2. NONE OF THE NOMINEES MAY BE A MEMBER OF THE GENERAL ASSEMBLY OR A FULL-TIME STATE EMPLOYEE;

(III) ONE INDIVIDUAL WHO:

1. SHALL BE APPOINTED FROM A LIST OF ONE OR MORE NOMINEES SUBMITTED BY THE BOARD OF GOVERNORS OF THE MARYLAND STATE BAR ASSOCIATION; AND

2. IS A LAWYER ADMITTED TO PRACTICE LAW IN THE STATE; AND

(IV) ONE INDIVIDUAL WHO:

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

2. IS A STATE'S ATTORNEY AT THE TIME OF APPOINTMENT AND THROUGHOUT THE INDIVIDUAL'S TERM ON THE COMMISSION.

(C) APPOINTMENT.

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

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

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

(D) TENURE.

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

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

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

(4) AN APPOINTED MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

(E) CHAIR.

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

(F) VACANCIES.

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

(G) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

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

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

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

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

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

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

In subsection (d)(2) of this section, the reference to terms being “staggered as required by the terms in effect for members on October 1, 2008” is substituted for the former obsolete reference to the initial terms of the initial appointees. This substitution is not intended to alter the term of any member of the Commission. *See* § 5 of Ch. 15, Acts of 2008. The terms of the members serving on October 1, 2008, end as follows: (1) two members on December 31, 2009; (2) two members on December 31, 2011; and (3) two members on December 31, 2013.

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

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

Defined term: “Commission” § 14–101

14-104. FILLING VACANCIES IN OFFICE OF STATE PROSECUTOR.

(A) RECOMMENDATIONS.

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

- (1) SEEK AND REVIEW APPLICATIONS OF PROPOSED NOMINEES;**
- (2) NOTIFY AND REQUEST RECOMMENDATIONS FROM THE MARYLAND STATE BAR ASSOCIATION; AND**
- (3) SEEK RECOMMENDATIONS FROM MEMBERS OF THE COMMISSION AND INTERESTED CITIZENS AND GROUPS.**

(B) NOMINATIONS.

THE COMMISSION SHALL:

- (1) INTERVIEW AND EVALUATE EACH ELIGIBLE APPLICANT; AND**
- (2) NOMINATE TO THE GOVERNOR, ON A VOTE TAKEN BY SECRET BALLOT, ONE OR MORE INDIVIDUALS WHOM A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION FINDS TO BE LEGALLY AND PROFESSIONALLY QUALIFIED.**

(C) REPORT TO GOVERNOR.

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

(D) REJECTION OF NOMINEE.

- (1) (I) THE GOVERNOR MAY REJECT A NOMINEE FOR CAUSE.**
 - (II) IF A NOMINEE IS REJECTED FOR CAUSE, THE COMMISSION SHALL SUBMIT ANOTHER NOMINEE.**
- (2) IF THE GOVERNOR REJECTS A NOMINEE:**

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

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

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

(4) THE COMMISSION MAY MAKE THE STATEMENT PUBLIC.

(E) TIME OF APPOINTMENT OR REJECTION.

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

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

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

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

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

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

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (d)(3) of this section appears to be inconsistent with subsection (d)(4). Subsection (d)(3) states that a rejection statement "shall be confidential and privileged, unless the privilege is deemed waived by the Commission by the acts of the nominee in presenting to the public the reason for rejection". Subsection (d)(4), however, states without qualification that the Commission "may make the statement public".

Defined term: "Commission" § 14-101

14-105. REPRIMAND OR REMOVAL.

(A) AUTHORITY OF COMMISSION.

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

- (1) MISCONDUCT IN OFFICE;**
- (2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE; OR**
- (3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.**

(B) CONFIDENTIAL AND PRIVILEGED PROCEEDINGS AND EVIDENCE.

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

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

(C) INVESTIGATIONS; HEARINGS.

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

(2) THE COMMISSION MAY:

- (I) CONDUCT HEARINGS;**
- (II) ADMINISTER OATHS AND AFFIRMATIONS;**
- (III) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF EVIDENCE; AND**

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

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

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

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

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

Defined terms: "Commission" § 14-101
"Person" § 1-101

14-106. GENERAL POWERS AND DUTIES OF STATE PROSECUTOR.

THE STATE PROSECUTOR HAS THE POWERS AND DUTIES ESTABLISHED UNDER §§ 14-107 THROUGH 14-111 OF THIS TITLE.

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

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

14-107. INVESTIGATIONS.

(A) IN GENERAL.

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

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

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

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

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

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

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

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

- (I) THE GOVERNOR;**
- (II) THE ATTORNEY GENERAL;**
- (III) THE GENERAL ASSEMBLY;**
- (IV) THE STATE ETHICS COMMISSION; OR**
- (V) A STATE'S ATTORNEY.**

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

(B) BY REQUEST ONLY.

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

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

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

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

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

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

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

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

14-108. REPORTS.

(A) REPORT OF ALLEGED VIOLATIONS.

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

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

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

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

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

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

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

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

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

14-109. PROSECUTIONS.

(A) IN GENERAL.

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

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

(B) APPEALS AND POSTCONVICTION PROCEEDINGS.

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

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

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

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

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

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

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

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

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

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

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

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

Defined term: “County” § 1–101

14–111. VENUE.

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

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

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

Defined term: "County" § 1-101

14-112. BUDGET AND STAFF.

(A) BUDGET.

THE BUDGET OF THE STATE PROSECUTOR AND THE OFFICE OF THE STATE PROSECUTOR SHALL BE A PART OF THE BUDGET OF THE OFFICE OF THE ATTORNEY GENERAL.

(B) STAFF.

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

(C) PRIVATE PRACTICE OF LAW PROHIBITED.

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

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

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

(I) THE OFFICE OF THE ATTORNEY GENERAL;

(II) THE DEPARTMENT OF STATE POLICE; AND

(III) OTHER STATE AND LAW ENFORCEMENT UNITS.

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

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-1208.

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

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

14-113. MEETINGS WITH ATTORNEY GENERAL AND STATE'S ATTORNEYS.

THE STATE PROSECUTOR SHALL MEET AND CONFER REGULARLY WITH THE ATTORNEY GENERAL AND THE STATE'S ATTORNEYS.

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

The former reference to "various" State's Attorneys is deleted as surplusage.

14-114. ANNUAL REPORT.

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

- (1) THE GOVERNOR;**
- (2) THE ATTORNEY GENERAL; AND**
- (3) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–1210.

TITLE 15. OFFICE OF THE STATE'S ATTORNEY.

SUBTITLE 1. DEFINITIONS; GENERAL DUTIES AND POWERS.

15–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) COORDINATOR.

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

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

(C) COUNCIL.

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

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

(D) STATE’S ATTORNEY.

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

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

The definition of the term “State’s Attorney” in former Art. 10, § 39A(d) was applicable only to former Art. 10, § 39A, which is revised in § 15–108 of this subtitle. However, the term “State’s Attorney” was also used in other provisions of former Art. 10 that are revised in this title. In this subsection, the former phrase “[f]or the purpose of this section” is deleted

and the definition of "State's Attorney" is made applicable throughout this title. No substantive change is intended.

Also in this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only a human being and not the other entities including in the defined term "person" can hold the office of State's Attorney.

15-102. DUTY TO REPRESENT STATE.

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

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

The former references to "the City of Baltimore" and "city" are deleted in light of the defined term "county" in § 1-101 of this article.

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

15-103. DUTY TO ASSIST COMPTROLLER AND STATE TREASURER.

(A) IN GENERAL.

A STATE'S ATTORNEY:

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

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

(B) COMPENSATION.

FOR THE SERVICES DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND PROFESSIONAL SERVICES IN THE COLLECTION OF STATE REVENUE, THE

COMPTROLLER MAY ALLOW A STATE'S ATTORNEY 5% OF ALL MONEY SUED FOR AND PAID INTO THE STATE TREASURY.

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

In subsection (a) of this section, the former references to a State's Attorney in "the several counties and the City of Baltimore" and "the said city" are deleted in light of the defined term "county" in § 1-101 of this article.

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

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

15-104. DUTY TO POST BOND.

(A) AMOUNT OF BOND.

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

(B) CONDITIONS OF BOND.

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

(1) PERFORMING THE DUTIES OF THE OFFICE; AND

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

(C) REQUIREMENT OF DEPOSIT; PREMIUMS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In item (2) of this section, the reference to the Division “of Parole and Probation” is added for clarity. For provisions regarding the preparation of a presentence investigation report, *see* § 6–112 of the Correctional Services Article.

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

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

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

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

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

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

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

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

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

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

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

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO ALLEGANY COUNTY, ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, CALVERT COUNTY, GARRETT COUNTY, MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, WASHINGTON COUNTY, OR WORCESTER COUNTY.

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

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

(2) THE ACCOUNTING SHALL INCLUDE:

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

(II) THE EXPENSES THAT WERE INCURRED.

(3) THE ACCOUNTING MAY INCLUDE:

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

(II) AN APPEARANCE FEE PROVIDED BY LAW; AND

(III) REASONABLE COMPENSATION FOR OTHER SERVICES PERFORMED.

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

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

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

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

(C) COUNTY TO LEVY AND COLLECT CERTIFIED AMOUNT.

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

(1) APPROVE THE ACCOUNTING; AND

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

(D) EFFECT OF SECTION.

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

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

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

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

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

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

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

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

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

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

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

Typically, the budget request for a State’s Attorney’s office is annually submitted directly to the county government without examination or certification by the circuit court in the county. Additionally, the references in this section to the “judges of the circuit court”, the “clerk of the board of county commissioners”, and “county commissioners” may be dated and are inapplicable to many modern county governments and the

courts. For example, Dorchester, Harford, Howard, Talbot, and Wicomico counties and Baltimore City are not exempted from this section and are not governed by a board of county commissioners.

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

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

15-108. SUBPOENA POWER IN CRIMINAL INVESTIGATION.

(A) LIMITED PURPOSE; SERVICE.

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

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

(B) RIGHT TO ATTORNEY.

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

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

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

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

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

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

(D) EFFECT OF SECTION.

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

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

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

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

Also in subsection (c)(1) of this section, the reference to the circuit court of the county "served by the State's Attorney" is substituted for the former reference to the circuit court of the county "in which the State's Attorney serves under § 34 of this article" for brevity, clarity, and consistency within this title.

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

15-109. INTERIM STATE'S ATTORNEY.

(A) POWER TO APPOINT.

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

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

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

(B) COMPENSATION.

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

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

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

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

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

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

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

SUBTITLE 2. STATE’S ATTORNEYS’ COORDINATION COUNCIL.

15–201. ESTABLISHED.

THERE IS A STATE’S ATTORNEYS’ COORDINATION COUNCIL.

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

15-202. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE COUNCIL CONSISTS OF:

- (1) THE ATTORNEY GENERAL;**
- (2) THE STATE'S ATTORNEY FOR ANNE ARUNDEL COUNTY;**
- (3) THE STATE'S ATTORNEY FOR BALTIMORE CITY;**
- (4) THE STATE'S ATTORNEY FOR BALTIMORE COUNTY;**
- (5) THE STATE'S ATTORNEY FOR MONTGOMERY COUNTY;**
- (6) THE STATE'S ATTORNEY FOR PRINCE GEORGE'S COUNTY;**
- (7) THE STATE'S ATTORNEY FOR ALLEGANY COUNTY, FREDERICK COUNTY, GARRETT COUNTY, OR WASHINGTON COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES;**
- (8) THE STATE'S ATTORNEY FOR CALVERT COUNTY, CHARLES COUNTY, OR ST. MARY'S COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES;**
- (9) THE STATE'S ATTORNEY FOR CAROLINE COUNTY, CECIL COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, OR TALBOT COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES;**
- (10) THE STATE'S ATTORNEY FOR CARROLL COUNTY, HARFORD COUNTY, OR HOWARD COUNTY WHO IS CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES; AND**
- (11) THE STATE'S ATTORNEY FOR DORCHESTER COUNTY, SOMERSET COUNTY, WICOMICO COUNTY, OR WORCESTER COUNTY WHO IS**

CHOSEN BY A MAJORITY VOTE OF THE STATE'S ATTORNEYS FOR THOSE COUNTIES.

(B) TENURE.

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

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

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

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

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

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

(C) MEMBERSHIP NOT OFFICE OF PROFIT.

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

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

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

In subsection (b)(6) of this section, the reference to "subsection (a) of this section" is added for clarity.

Defined terms: "Council" § 15-101

"County" § 1-101

"State's Attorney" § 15-101

15-203. OFFICERS.

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

- (1) SHALL SERVE FOR A TERM OF 2 YEARS; AND**
- (2) ARE ELIGIBLE FOR REELECTION.**

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

The references to "chair" and "vice chair" are substituted for the former references to "chairman" and "vice chairman", respectively, because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable.

Defined term: "Council" § 15-101

15-204. QUORUM; MEETINGS; STAFF.

(A) QUORUM.

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

(B) MEETINGS.

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

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

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

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

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

(C) COORDINATOR SECRETARY TO COUNCIL.

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

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

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

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

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

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

15-205. REGULATIONS.

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

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

The only changes are in style.

Defined term: "Council" § 15-101

SUBTITLE 3. STATE'S ATTORNEYS' COORDINATOR.

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

(A) ESTABLISHED.

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

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

(B) ELIGIBILITY.

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

(C) SALARY.

THE COORDINATOR SHALL RECEIVE THE SALARY PROVIDED IN THE STATE BUDGET.

(D) RESTRICTIONS.

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

(E) STAFF.

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

(F) SUBMISSION OF BUDGET.

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

(G) COOPERATION FROM STATE AND LOCAL UNITS.

EACH UNIT OF STATE AND LOCAL GOVERNMENT SHALL COOPERATE TO THE EXTENT PRACTICABLE WITH THE COORDINATOR AND THE STAFF OF THE COORDINATOR IN THE DISCHARGE OF THE COORDINATOR'S DUTIES.

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

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

In subsection (f) of this section, the phrase "each fiscal year" is substituted for the former phrase "beginning with the fiscal year 1979" for brevity.

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

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

15–302. DUTIES OF COORDINATOR.

THE COORDINATOR SHALL:

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

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

(I) LEGAL RESEARCH;

(II) TECHNICAL ASSISTANCE;

(III) TECHNICAL AND PROFESSIONAL PUBLICATIONS; AND

(IV) THE COMPILING AND DISSEMINATING OF INFORMATION CONCERNING AND THE ADVISING OF STATE’S ATTORNEYS ABOUT DEVELOPMENTS IN THE CRIMINAL LAW AND THE ADMINISTRATION OF CRIMINAL JUSTICE RELATING TO THE DUTIES OF THE OFFICE OF STATE’S ATTORNEY;

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

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

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

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

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

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

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

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

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

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

Defined terms: "Coordinator" § 15-101

"Council" § 15-101

"State's Attorney" § 15-101

SUBTITLE 4. COUNTYWIDE PROVISIONS.

15-401. COMPENSATION — IN GENERAL.

(A) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY FOR A COUNTY SHALL RECEIVE:

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

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

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

(B) OTHER COMPENSATION PROHIBITED.

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

(2) ANY FEES TO WHICH THE STATE'S ATTORNEY MAY BE ENTITLED SHALL BE:

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

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

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

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

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

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

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

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

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

15-402. ALLEGANY COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN ALLEGANY COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND IN EFFECT ON DECEMBER 31 OF THE YEAR IMMEDIATELY BEFORE THE START OF THE STATE'S ATTORNEY'S TERM OF OFFICE.

(C) DUTIES.

AS DETERMINED BY THE STATE'S ATTORNEY, THE STATE'S ATTORNEY, A DEPUTY STATE'S ATTORNEY, OR AN ASSISTANT STATE'S ATTORNEY SHALL:

(1) PRESENT CASES TO THE GRAND JURY; AND

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

(D) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

THE STATE'S ATTORNEY MAY APPOINT:

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

(2) AS MANY ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COMMISSIONERS AUTHORIZE AND FUND.

(E) INVESTIGATORS.

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

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

(F) RESTRICTION ON PRACTICE.

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

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

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

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

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

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

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

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

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

15–403. ANNE ARUNDEL COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY:

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

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY:

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

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

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

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

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

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

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

(D) OTHER STAFF.

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

(E) RESTRICTION ON PRACTICE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15–404. BALTIMORE COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.

(B) SALARY.

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

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

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

(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.

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

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

(III) SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL, THE STATE'S ATTORNEY SHALL SET THE SALARIES OF THE DEPUTY STATE'S ATTORNEYS.

(2) (I) AS AUTHORIZED BY THE COUNTY EXECUTIVE, THE STATE'S ATTORNEY MAY APPOINT ASSISTANT STATE'S ATTORNEYS.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL, THE STATE'S ATTORNEY SHALL SET THE SALARIES OF THE ASSISTANT STATE'S ATTORNEYS.

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

(D) OTHER STAFF.

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

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

(E) RESTRICTION ON PRACTICE.

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

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

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

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

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

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

15-405. CALVERT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CALVERT COUNTY.

(B) SALARY.

(1) THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

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

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

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

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

(II) SHALL PERFORM WORK AS DIRECTED BY THE STATE'S ATTORNEY; AND

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

(D) RESTRICTION ON PRACTICE.

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

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

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

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

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

15-406. CAROLINE COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CAROLINE COUNTY.

(B) SALARY; EXPENSES.

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

(2) THE STATE'S ATTORNEY IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.

(C) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

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

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

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

15-407. CARROLL COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CARROLL COUNTY.

(B) SALARY; OFFICE; EXPENSES.

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

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

(2) THE COUNTY COMMISSIONERS SHALL:

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

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY:

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

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

(2) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF BOTH THE STATE'S ATTORNEY AND THE RESIDENT JUDGE OF THE CIRCUIT COURT OF THE COUNTY

CONSIDER IT NECESSARY AND THE JUDGE APPROVES, THE STATE’S ATTORNEY MAY APPOINT AN ASSISTANT STATE’S ATTORNEY.

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

(D) RESTRICTION ON PRACTICE.

THE STATE’S ATTORNEY SHALL SERVE FULL TIME.

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

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

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

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

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

15–408. CECIL COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CECIL COUNTY.

(B) SALARY; EXPENSES.

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

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

(II) THE SAME BENEFITS AS A FULL-TIME COUNTY EMPLOYEE.

(2) THE STATE’S ATTORNEY:

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

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

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

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

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

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

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

(II) SERVE PART TIME; AND

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

(D) OTHER STAFF.

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

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

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

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

(E) RESTRICTION ON PRACTICE.

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

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

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

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

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

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

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

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

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

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

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

15-409. CHARLES COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN CHARLES COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS EQUAL TO THE SALARY OF A CIRCUIT COURT JUDGE.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY IS ENTITLED TO REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED DURING THE PERFORMANCE OF THE DUTIES OF THE OFFICE.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS.

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS AND PARAGRAPH (3) OF THIS SUBSECTION, THE STATE'S ATTORNEY SHALL SET THE SALARY FOR POSITIONS APPOINTED UNDER THIS SUBSECTION.

(3) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY MAY NOT EXCEED THE SALARY OF THE STATE'S ATTORNEY.

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

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

(II) SHALL PERFORM WORK AS DIRECTED BY THE STATE'S ATTORNEY OR AS AUTHORIZED BY LAW; AND

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

(D) OTHER STAFF.

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

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

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

(E) RESTRICTION ON PRACTICE.

(1) THE STATE'S ATTORNEY:

(I) SHALL SERVE FULL TIME; AND

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

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

2. OTHERWISE ENGAGE IN THE PRIVATE PRACTICE OF LAW.

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

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

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

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

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

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

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

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

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

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

15-410. DORCHESTER COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.

(B) SALARY; EXPENSES.

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

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

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

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

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

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

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

(D) OTHER STAFF.

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

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

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

(E) RESTRICTION ON PRACTICE.**THE STATE'S ATTORNEY:**

- (1) SHALL SERVE FULL TIME;**
- (2) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW; AND**
- (3) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, MAY NOT APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.**

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

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

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

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

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

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

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

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

15-411. FREDERICK COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN FREDERICK COUNTY.

(B) SALARY; OFFICE; EXPENSES.

(1) THE STATE'S ATTORNEY'S ANNUAL SALARY IS EQUAL TO THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) THE COUNTY COMMISSIONERS SHALL:

(I) PROVIDE AN OFFICE IN THE COURTHOUSE FOR THE STATE'S ATTORNEY;

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

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

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

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

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

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

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

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

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

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

(D) OTHER STAFF.

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

(2) EMPLOYEES APPOINTED UNDER THIS SUBSECTION SHALL:

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

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

(E) RESTRICTION ON PRACTICE.

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

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

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

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

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

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

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

15-412. GARRETT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN GARRETT COUNTY.

(B) SALARY; EXPENSES.

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

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

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

(C) ASSISTANT STATE'S ATTORNEYS.

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

(2) AN ASSISTANT STATE'S ATTORNEY SHALL:

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

AND

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

(D) INVESTIGATORS; OTHER STAFF.

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

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

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

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

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

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY SHALL SERVE FULL TIME.

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

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

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

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

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

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

15-413. HARFORD COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN HARFORD COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE'S ATTORNEY'S SALARY IS \$98,500.

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

(I) FOR THE PERIOD ENDING EACH DECEMBER;

(II) FOR ALL REGIONS; AND

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

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

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

(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.

(1) THE STATE’S ATTORNEY MAY APPOINT:

(I) NOT MORE THAN TWO DEPUTY STATE’S ATTORNEYS;

AND

(II) THE NUMBER OF ASSISTANT STATE’S ATTORNEYS AUTHORIZED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

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

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

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

(III) HAVE THE SAME LEGAL POWERS AS THE STATE’S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.

(D) OTHER STAFF.

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

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

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

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

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

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

(E) RESTRICTION ON PRACTICE.

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

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

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

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

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

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

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

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

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

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

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (e) of this section, which revises former Art. 10, § 40(m)(2)(iii), the prohibition against the State’s Attorney “appear[ing] as counsel or represent[ing] any party before a court or unit of the State or a political subdivision” apparently includes lobbying professionally. This prohibition therefore may be broader than the second sentence of former Art. 10, § 40(m)(2)(iii), which states “[t]he intent is that the State’s Attorney may not engage in the private practice of law in any manner”.

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

15–414. HOWARD COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN HOWARD COUNTY.

(B) SALARY.

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS AUTHORIZED BY THE COUNTY EXECUTIVE.

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

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

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

(III) SHALL HAVE THE SAME LEGAL POWER AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS; AND

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

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

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY EMPLOY AN ADMINISTRATIVE ASSISTANT WHO MAY:

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

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

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

(E) AUDIT.

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

(2) THE FINANCIAL AUDIT SHALL BE:

(I) SUBMITTED TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL; AND

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

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

(F) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

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

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

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

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section, which concerns an administrative assistant in the office who collects child support moneys, may be obsolete. The Office of the State's Attorney has

not collected or distributed child support moneys for several years. The Division of Human Resources in the State Office of the Attorney General now performs this function.

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

15-415. KENT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN KENT COUNTY.

(B) SALARY; EXPENSES.

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

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

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

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

(II) AT THE END OF EACH FISCAL YEAR:

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

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY EMPLOY ONE OR MORE DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS WHO SHALL:

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

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

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(D) CRIMINAL INVESTIGATOR; OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY EMPLOY A CRIMINAL INVESTIGATOR WHO SERVES AT THE PLEASURE OF THE STATE'S ATTORNEY.

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

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

(E) RESTRICTION ON PRACTICE.

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

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

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

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

In subsection (e)(1) of this section, the former phrase "during the State's Attorney's term of office" is deleted as surplusage.

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

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

15-416. MONTGOMERY COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) SALARY; EXPENSES.

(1) THE COUNTY COUNCIL SHALL SET THE SALARY OF THE STATE'S ATTORNEY.

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

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT TWO DEPUTY STATE'S ATTORNEYS AND THE NUMBER OF ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COUNCIL APPROVES.

(2) EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY IS:

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

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

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

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

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

(4) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE

STATE'S ATTORNEY MAY FILE A PETITION IN CIRCUIT COURT FOR AUTHORITY TO APPOINT ADDITIONAL ASSISTANT STATE'S ATTORNEYS.

(II) THE STATE'S ATTORNEY SHALL:

1. INCLUDE THE REASONS FOR THE APPOINTMENT IN THE PETITION; AND

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

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

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

(D) SPECIAL INVESTIGATORS.

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

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

(II) THE STATE'S ATTORNEY SHALL:

1. INCLUDE THE REASONS FOR THE APPOINTMENT IN THE PETITION; AND

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

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

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

(4) A SPECIAL INVESTIGATOR APPOINTED UNDER THIS SUBSECTION:

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

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

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

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

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

(E) OTHER STAFF.

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

(2) THE EMPLOYEES APPOINTED UNDER THIS SUBSECTION ARE:

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

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

(F) RESTRICTION ON PRACTICE OR EMPLOYMENT.

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

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

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

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

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

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

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

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

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

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

15–417. PRINCE GEORGE’S COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.

(B) SALARY; EXPENSES.

(1) THE STATE’S ATTORNEY’S SALARY IS \$125,500.

(2) THE STATE’S ATTORNEY’S SALARY AND EXPENSES SHALL BE PAID IN EQUAL SEMIMONTHLY INSTALLMENTS.

(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.

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

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

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

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

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

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

(II) IN EQUAL SEMIMONTHLY INSTALLMENTS.

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

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

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

(D) OTHER STAFF.

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

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

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

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

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

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

**1. MAY ORGANIZE AND BARGAIN COLLECTIVELY;
AND**

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

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

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

2. THE FUNDING REQUIRED FOR A COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY THE STATE'S ATTORNEY UNDER THIS SUBPARAGRAPH IS SUBJECT TO THE APPROVAL OF THE COUNTY EXECUTIVE.

(E) RESTRICTION ON PRACTICE.

(1) EXCEPT IN CONNECTION WITH DUTIES OF THE OFFICE, THE STATE'S ATTORNEY OR A DEPUTY OR ASSISTANT STATE'S ATTORNEY MAY NOT

APPEAR AS COUNSEL OR REPRESENT ANY PARTY BEFORE A COURT OR UNIT OF THE STATE, OR POLITICAL SUBDIVISION OF THE STATE.

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

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

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

In subsection (b) of this section, the former references to salaries in calendar years 1999 through 2005 are deleted as obsolete.

In subsection (c)(6) of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (e)(1) of this section, the reference to a "unit" is substituted for the former reference to a "board, commission, or agency" for brevity.

Also in subsection (e)(1) of this section, the former reference to a "county" is deleted as included in the reference to a "political subdivision of the State".

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

15-418. QUEEN ANNE'S COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN QUEEN ANNE'S COUNTY.

(B) SALARY; EXPENSES.

(1) (I) THE STATE'S ATTORNEY'S SALARY IS EQUAL TO THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(II) THE SALARY SHALL BE SET BEFORE THE START OF THE ELECTED TERM OF OFFICE.

(2) THE STATE'S ATTORNEY IS ENTITLED TO REASONABLE EXPENSES AS PROVIDED IN THE COUNTY BUDGET FOR THE OPERATION OF THE OFFICE AND THE PERFORMANCE OF THE STATE'S ATTORNEY'S DUTIES.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT ONE OR MORE DEPUTY STATE'S ATTORNEYS OR ASSISTANT STATE'S ATTORNEYS.

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARY OF EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY.

(3) THE STATE'S ATTORNEY, DEPUTY STATE'S ATTORNEYS, OR ASSISTANT STATE'S ATTORNEYS SHALL PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER DUTIES IN RELATION TO THE GRAND JURY, THE CIRCUIT COURT, INCLUDING THE JUVENILE COURT, AND THE DISTRICT COURT THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT:

(1) ENGAGE IN THE PRIVATE PRACTICE OF LAW; OR

(2) EXCEPT IN CONNECTION WITH THE DUTIES OF THE OFFICE, APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.

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

In subsection (b)(1) of this section, the phrase "before the start of the elected term of office" is substituted for the former reference to "first assumes his or her position during his or her term of office" for brevity.

In subsection (c)(3) of this section, the former reference to "acts" is deleted in light of the reference to "duties". Similarly, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (d)(1) of this section, the former phrase "during the State's Attorney's tenure in office" is deleted as surplusage.

Also in subsection (d)(1) of this section, the former reference to "at any time in any jurisdiction" is deleted as unnecessary.

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

15-419. ST. MARY'S COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN ST. MARY'S COUNTY.

(B) SALARY; OFFICE; EXPENSES.

(1) (I) THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND AND SHALL BE PAID BIWEEKLY.

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

(2) (I) THE COUNTY COMMISSIONERS SHALL PROVIDE FOR THE ADMINISTRATIVE SUPPORT STAFF, INDEPENDENT OFFICE FACILITIES, OFFICE EQUIPMENT, SUPPLIES, BOOKS, AND OTHER ITEMS NECESSARY FOR THE OPERATION OF THE OFFICE.

(II) THE STATE'S ATTORNEY SHALL PRESENT VOUCHERS TO THE COUNTY COMMISSIONERS FOR THE PAYMENT OF OFFICE EXPENSES.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY MAY APPOINT ONE DEPUTY STATE'S ATTORNEY AND TWO OR MORE ASSISTANT STATE'S ATTORNEYS WHO:

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

(II) MAY BE FULL-TIME OR PART-TIME EMPLOYEES.

(2) THE STATE'S ATTORNEY SHALL PAY THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS BIWEEKLY FROM MONEY THAT THE COUNTY COMMISSIONERS APPROPRIATE EACH YEAR.

(D) OTHER STAFF.

(1) THE STATE'S ATTORNEY MAY APPOINT:

(I) ADMINISTRATIVE STAFF NECESSARY FOR THE OPERATION OF THE OFFICE; AND

(II) ONE OR MORE FULL-TIME OR PART-TIME INVESTIGATORS AS EMPLOYEES.

(2) THE STAFF APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN THE COUNTY MERIT SYSTEM.

(3) THE STATE'S ATTORNEY SHALL PAY THE SALARIES OF THE INVESTIGATORS APPOINTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION BIWEEKLY FROM MONEY THAT THE COUNTY COMMISSIONERS APPROPRIATE EACH YEAR.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT:

(1) ENGAGE IN THE PRIVATE PRACTICE OF LAW; AND

(2) EXCEPT IN CONNECTION WITH PERFORMING THE DUTIES OF THE OFFICE, APPEAR PROFESSIONALLY IN A CRIMINAL PROCEEDING IN THE STATE.

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

In subsections (c)(2) and (d)(3) of this section, the references to the requirement that the State's Attorney pay salaries of the deputy and assistant State's Attorneys and investigators from "money that the county commissioners appropriate each year" are substituted for the former reference to the requirement that the "County Commissioners shall make available to the State's Attorney an annual sum from which the State's Attorney shall appropriate salaries" for the deputy and assistant State's Attorneys and investigators for brevity.

In subsection (e) of this section, the former phrase "[d]uring his term of office" is deleted as surplusage.

Also in subsection (e) of this section, the former reference to practicing law "in any matter after December 31, 1982" is deleted as obsolete.

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

15-420. SOMERSET COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN SOMERSET COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS \$98,000.

(C) DEPUTY STATE'S ATTORNEY.

(1) THE STATE'S ATTORNEY MAY APPOINT A DEPUTY STATE'S ATTORNEY WHO SHALL:

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

AND

(II) PRESENT CASES TO THE GRAND JURY, SIGN INDICTMENTS AND CRIMINAL INFORMATIONS, AND PERFORM OTHER FUNCTIONS NECESSARY TO THE OPERATION OF THE OFFICE AND AS DIRECTED BY THE STATE'S ATTORNEY OR AS AUTHORIZED BY LAW.

(2) THE COUNTY COMMISSIONERS SHALL SET A SALARY FOR THE DEPUTY STATE'S ATTORNEY THAT MAY NOT EXCEED THE SALARY OF THE STATE'S ATTORNEY.

(D) OTHER STAFF.

THE STATE'S ATTORNEY MAY:

(1) APPOINT ONE OR MORE ASSISTANTS AT SALARIES THAT THE COUNTY COMMISSIONERS SET; AND

(2) HIRE ONE OR MORE INVESTIGATORS AT SALARIES PROVIDED IN THE COUNTY BUDGET.

(E) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY AND DEPUTY STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 10, § 40(t).

In subsection (c)(1) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsection (d)(2) of this section, the reference to "salaries provided in the county budget" is substituted for the former reference to "for which provision is made in the annual county budget" for clarity.

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

Also in subsection (e) of this section, the former reference to "at any time in any jurisdiction" is deleted as unnecessary.

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

15-421. TALBOT COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN TALBOT COUNTY.

(B) SALARY; EXPENSES.

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

(2) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S ATTORNEY IS ENTITLED TO A REASONABLE ALLOWANCE FOR THE EXPENSES OF OPERATING THE OFFICE, INCLUDING THE COSTS OF:

(I) ADMINISTRATIVE, CLERICAL, AND SECRETARIAL EXPENSES, INCLUDING SALARIES AND BENEFITS;

(II) TELEPHONE CHARGES;

(III) OFFICE SUPPLIES AND EQUIPMENT;

(IV) POSTAGE;

(V) TRAVEL, TRAINING, AND CONFERENCES;

(VI) BOOKS AND PUBLICATIONS; AND

(VII) PREMIUMS ON OFFICE BONDS.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

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

(II) EACH DEPUTY AND ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL:

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

2. RECEIVE THE COMPENSATION THAT THE COUNTY COUNCIL APPROVES; AND

3. HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO PRESENT CASES TO THE GRAND JURY AND PERFORM NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND THE OPERATION OF THE OFFICE.

(2) (I) THE STATE'S ATTORNEY MAY APPOINT SPECIAL ASSISTANT STATE'S ATTORNEYS AS THE STATE'S ATTORNEY CONSIDERS NECESSARY TO SERVE IN AN INVESTIGATION OR A CASE.

(II) A SPECIAL ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH:

1. SHALL SERVE ON A TEMPORARY BASIS;

2. SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, SHALL RECEIVE COMPENSATION FROM THE COUNTY COUNCIL IN THE FORM AND AMOUNT AUTHORIZED BY ORDER OF THE CIRCUIT COURT; AND

3. MAY NOT BE CONSIDERED TO HOLD AN OFFICE FOR PROFIT OR TO HAVE VACATED A PUBLIC OFFICE OR EMPLOYMENT IN ANOTHER STATE'S ATTORNEY'S OFFICE BY SERVING AS A SPECIAL ASSISTANT STATE'S ATTORNEY.

(3) (I) THE COUNTY MAY NOT COMPENSATE AN INDIVIDUAL WHO IS APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY AND IS EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL, THE OFFICE OF THE STATE PROSECUTOR, OR THE OFFICE OF THE STATE'S ATTORNEY IN ANOTHER COUNTY.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COUNTY MAY ENTER INTO AN AGREEMENT TO REIMBURSE THE APPROPRIATE GOVERNMENTAL UNIT FOR THE SERVICES OF AN INDIVIDUAL EMPLOYED BY THAT GOVERNMENTAL UNIT WHO IS APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(D) CRIMINAL INVESTIGATORS.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL, THE STATE'S ATTORNEY MAY APPOINT FULL-TIME OR PART-TIME CRIMINAL INVESTIGATORS.

(2) IF THE STATE'S ATTORNEY APPOINTS MORE THAN ONE CRIMINAL INVESTIGATOR, THE STATE'S ATTORNEY MAY DESIGNATE ONE AS CHIEF INVESTIGATOR AND ASSIGN OTHER RANKS AND TITLES TO THE OTHER CRIMINAL INVESTIGATORS.

(3) A CRIMINAL INVESTIGATOR WHO IS APPOINTED UNDER THIS SUBSECTION:

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

(II) IS SUBJECT TO THE REGULATIONS OF THE STATE'S ATTORNEY;

(III) SHALL PERFORM THE DUTIES THAT THE STATE'S ATTORNEY DESIGNATES;

(IV) SHALL TAKE AN OATH OF OFFICE THAT THE CLERK OF THE CIRCUIT COURT ADMINISTERS;

(V) SHALL MEET THE CRITERIA REGARDING TRAINING AND EXPERIENCE THAT THE STATE'S ATTORNEY REQUIRES;

(VI) MAY SERVE A SUMMONS OR SUBPOENA THAT THE STATE'S ATTORNEY ISSUES;

(VII) MAY WEAR OR DISPLAY APPROPRIATE METALLIC BADGES THAT THE STATE'S ATTORNEY AUTHORIZES; AND

(VIII) IS NOT SUBJECT TO TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.

(4) THE STATE'S ATTORNEY MAY DESIGNATE A CRIMINAL INVESTIGATOR AS A PEACE OFFICER IF THE CRIMINAL INVESTIGATOR MEETS THE SELECTION AND TRAINING STANDARDS OF THE POLICE TRAINING COMMISSION AS SET FORTH IN TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE.

(5) A CRIMINAL INVESTIGATOR DESIGNATED AS A PEACE OFFICER MAY NOT BE SUBJECT TO TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.

(6) IN ADDITION TO THE AUTHORITY, DUTIES, AND LIMITATIONS DESCRIBED UNDER PARAGRAPH (3) OF THIS SUBSECTION, A CRIMINAL INVESTIGATOR DESIGNATED AS A PEACE OFFICER MAY:

(I) ARREST A PERSON WHO COMMITS A CRIME IN THE COUNTY OR IN A MUNICIPAL CORPORATION IN THE COUNTY;

(II) SERVE A WARRANT, SUMMONS, OR SUBPOENA THAT THE DISTRICT COURT OF MARYLAND IN THE COUNTY OR A CIRCUIT COURT ISSUES; AND

(III) POSSESS AND CARRY A FIREARM, INCLUDING A HANDGUN, OR OTHER WEAPON THAT THE STATE'S ATTORNEY REQUIRES.

(E) RESTRICTION ON PRACTICE.

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

(2) AN ATTORNEY APPOINTED AS A SPECIAL ASSISTANT STATE'S ATTORNEY UNDER SUBSECTION (C)(2) OF THIS SECTION MAY NOT BE PRECLUDED FROM THE PRIVATE PRACTICE OF CRIMINAL LAW.

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

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

In subsection (c)(1)(ii)3 of this section, the former reference to “acts” is deleted in light of the reference to “duties”. Similarly, the former reference to “proper” is deleted in light of the reference to “necessary”.

In subsection (c)(3) of this section, the references to an “individual” are substituted for the former references to a “person” because the position of a special assistant State’s Attorney can be held only by a human being.

In subsection (c)(3)(ii) of this section, the term “governmental unit” is substituted for the former term “county, agency, or other governmental body” for consistency with other provisions in this subtitle and in other revised articles.

In subsection (d)(2) of this section, the former reference to the State’s Attorney’s ability to assign other ranks and titles to investigators “as the State’s Attorney may deem appropriate” is deleted as unnecessary.

In subsection (e)(2) of this section, the phrase “private practice of criminal law” is substituted for the former phrase “accepting a criminal case in the private practice of the attorney” for brevity.

Also in subsection (e)(2) of this section, the former phrase “by virtue of the person’s service on a temporary basis” is deleted as unnecessary in light of the requirement that each special assistant State’s Attorney shall serve “on a temporary basis”.

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

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

15-422. WASHINGTON COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

(B) SALARY.

THE STATE'S ATTORNEY'S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(C) DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(1) THE STATE'S ATTORNEY SHALL APPOINT:

(I) AT LEAST ONE BUT NOT MORE THAN TWO DEPUTY STATE'S ATTORNEYS; AND

(II) AS MANY ASSISTANT STATE'S ATTORNEYS THAT ARE APPROVED BY THE COUNTY COMMISSIONERS AND PROVIDED FOR IN THE COUNTY BUDGET.

(2) THE COUNTY COMMISSIONERS SHALL SET THE SALARIES OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(3) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL SERVE AT THE PLEASURE OF THE STATE'S ATTORNEY.

(4) UNDER THE DIRECTION OF THE STATE'S ATTORNEY OR IN THE STATE'S ATTORNEY'S ABSENCE, THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS SHALL HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO:

(I) PERFORM ACTS AND DUTIES IN RELATION TO ALL CRIMINAL PROCEEDINGS; AND

(II) REPRESENT THE STATE IN ALL PROCEEDINGS IN RELATION TO THE GRAND JURY, CIRCUIT COURT, DISTRICT COURT OF MARYLAND, AND UNITS OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(D) RESTRICTION ON PRACTICE.

THE STATE'S ATTORNEY MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

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

In subsection (c)(2) of this section, the reference to "set" the salaries for the deputy and assistant State's Attorneys is substituted for the former references to the salaries "are to be determined by" the County Commissioners for brevity.

In subsection (c)(4)(ii) of this section, the reference to "a political subdivision of the State" is substituted for the former reference to "any county or political subdivision" to conform to the terminology used throughout this subtitle.

In subsection (d) of this section, the former reference to "during his tenure of office" is deleted as surplusage.

Also in subsection (d) of this section, the former reference to "at any time in any jurisdiction" is deleted as unnecessary.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that former Art. 10, § 40(v)(4), which is revised in subsection (c)(4)(ii) of this section, relates in part to the duty of the State's Attorney to "represent the State in all proceedings in relation to grand jury, circuit court, the District Court, boards, commissions or agencies of this State or any county or political subdivision". This provision may be overbroad and overlap with authority of the Office of the County Attorney.

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

15-423. WICOMICO COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN WICOMICO COUNTY.

(B) SALARY; EXPENSES; OFFICE.

(1) THE STATE'S ATTORNEY'S SALARY IS 90% OF THE ANNUAL SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) AFTER RECEIVING A VOUCHER SUBMITTED BY THE STATE'S ATTORNEY, THE COUNTY COUNCIL SHALL PAY ALL EXPENSES THAT THE STATE'S ATTORNEY CONSIDERS NECESSARY FOR THE CONDUCT OF THE OFFICE, INCLUDING CLERICAL AND SECRETARIAL EXPENSES, TELEPHONE CHARGES, OFFICE SUPPLIES, POSTAGE, AND PREMIUMS ON OFFICIAL BONDS.

(3) THE STATE'S ATTORNEY SHALL MAINTAIN AND STAFF AN OFFICE IN THE WICOMICO COUNTY COURTHOUSE.

(C) ASSISTANT STATE'S ATTORNEYS.

(1) SUBJECT TO THE TERMS, CONDITIONS, AND SALARIES AS APPROVED BY THE COUNTY COUNCIL, THE STATE'S ATTORNEY MAY APPOINT ASSISTANT STATE'S ATTORNEYS WHO SHALL:

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

(II) HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO REPRESENT THE STATE BEFORE THE GRAND JURY AND IN CRIMINAL PROCEEDINGS.

(2) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE'S ATTORNEY MAY APPOINT SPECIAL ASSISTANT STATE'S ATTORNEYS TO SERVE FOR ONE OR MORE CASES:

(I) WITH THE PRIOR APPROVAL OF THE RESIDENT JUDGE OF THE CIRCUIT COURT AND THE COUNTY COUNCIL; AND

(II) SUBJECT TO THE TERMS, CONDITIONS, AND SALARIES THAT THE COUNTY COUNCIL APPROVES.

(D) RESTRICTION ON PRACTICE.

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

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

In subsection (b)(2) of this section, the former phrase "[f]rom and after the date of the enactment of this section" is deleted as surplusage.

In subsection (c)(1)(ii) of this section, the former reference to “the trial of” criminal proceedings is deleted as surplusage.

In subsection (c)(2) of this section, the reference to a special assistant State’s Attorney serving for “one or more cases” is substituted for the former reference to “a particular case or series of cases” for brevity.

In subsection (c)(2)(ii) of this section, the former requirement that the County Council “set” the terms, conditions, and salaries of special assistant State’s Attorneys is deleted in light of the requirement that the County Council “approves” the terms, conditions, and salaries.

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

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

15–424. WORCESTER COUNTY.

(A) SCOPE.

THIS SECTION APPLIES ONLY IN WORCESTER COUNTY.

(B) SALARY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE STATE’S ATTORNEY’S SALARY IS 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(2) BY ENACTING AN ORDINANCE BEFORE THE ELECTION FILING DEADLINE FOR THE NEXT TERM OF OFFICE FOR THE STATE’S ATTORNEY, THE COUNTY COMMISSIONERS MAY SET THE SALARY AT AN AMOUNT EXCEEDING 90% OF THE SALARY OF A JUDGE OF THE DISTRICT COURT OF MARYLAND.

(C) DEPUTY AND ASSISTANT STATE’S ATTORNEYS.

(1) (I) THE STATE'S ATTORNEY MAY APPOINT THE NUMBER OF FULL-TIME OR PART-TIME DEPUTY STATE'S ATTORNEYS AND ASSISTANT STATE'S ATTORNEYS THAT THE COUNTY COMMISSIONERS APPROVE.

(II) THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

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

2. HAVE THE SAME LEGAL POWERS AS THE STATE'S ATTORNEY TO PRESENT CASES TO THE GRAND JURY, REPRESENT THE STATE IN CRIMINAL PROCEEDINGS, AND PERFORM NECESSARY DUTIES IN RELATION TO THE GRAND JURY AND OPERATION OF THE OFFICE.

(III) THE COUNTY COMMISSIONERS SHALL APPROVE THE COMPENSATION OF THE DEPUTY AND ASSISTANT STATE'S ATTORNEYS.

(2) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, WITH THE APPROVAL OF THE RESIDENT CIRCUIT COURT JUDGE OF THE COUNTY, THE STATE'S ATTORNEY MAY APPOINT TWO MEMBERS OF THE BAR OF WORCESTER COUNTY AS ASSISTANT STATE'S ATTORNEYS.

(II) ONE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL RECEIVE A SALARY SET BY THE BOARD OF COUNTY COMMISSIONERS THAT MAY NOT BE LESS THAN \$16,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.

(III) THE OTHER ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL RECEIVE A SALARY THAT MAY NOT BE LESS THAN \$12,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.

(3) (I) IN ADDITION TO THE ASSISTANT STATE'S ATTORNEYS APPOINTED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, WITH THE PRIOR APPROVAL OF THE RESIDENT CIRCUIT COURT JUDGE OF THE COUNTY AND THE BOARD OF COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT ADDITIONAL ASSISTANT STATE'S ATTORNEYS AS THE STATE'S ATTORNEY CONSIDERS NECESSARY.

(II) THE SALARY OF AN ASSISTANT STATE'S ATTORNEY APPOINTED UNDER THIS PARAGRAPH SHALL BE SET AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS.

(D) SPECIAL INVESTIGATORS.

(1) IF AUTHORIZED BY AN ORDINANCE ENACTED BY THE COUNTY COMMISSIONERS, THE STATE'S ATTORNEY MAY APPOINT TWO SPECIAL INVESTIGATORS WHO:

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

(II) SHALL PERFORM WORK AS DIRECTED BY AND UNDER THE SUPERVISION OF THE STATE'S ATTORNEY; AND

(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SHALL RECEIVE A SALARY DETERMINED BY THE COUNTY COMMISSIONERS.

(2) THE SALARY OF ONE SPECIAL INVESTIGATOR APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE LESS THAN \$12,000, INCLUDING ANY STATE OR FEDERAL FUNDS PROVIDED FOR THE POSITION.

(E) RESTRICTION ON PRACTICE OR EMPLOYMENT.

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

(2) (I) THE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER SUBSECTION (C)(2)(II) OF THIS SECTION SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(II) THE ASSISTANT STATE'S ATTORNEY APPOINTED UNDER SUBSECTION (C)(2)(III) OF THIS SECTION MAY ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(3) A SPECIAL INVESTIGATOR APPOINTED UNDER SUBSECTION (D) OF THIS SECTION SHALL SERVE FULL TIME AND MAY NOT ENGAGE IN OTHER EMPLOYMENT.

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

In subsection (c)(1)(ii)2 of this section, the former reference to “acts” is deleted in light of the reference to “duties”. Similarly, the former reference to “proper” is deleted in light of the reference to “necessary”.

Also in subsection (c)(1)(ii)2 of this section, the former reference to “the trial of” criminal proceedings is deleted as surplusage.

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

In subsection (e)(1) of this section, the former reference to the requirement that the State’s Attorney serves full time “[a]fter December 31, 1998” is deleted as obsolete.

In subsection (e)(2)(i) of this section, the former phrase “at any time in any jurisdiction during his tenure of office” is deleted as unnecessary.

In subsection (e)(3) of this section, the requirement that a special investigator “serve full time” is substituted for the former requirement that a special investigator “devote his full time and attention to his duty ... during the time he is employed as a special investigator” for brevity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section may be outdated. Currently, the Office of State’s Attorney has two deputy State’s Attorneys and five assistant State’s Attorneys. The salary amounts stated in subsection (c) of this section are no longer valid. In addition, there is no longer a resident circuit court judge in the county. Instead, there are three judges, one of whom is the administrative judge.

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

GENERAL REVISOR’S NOTE TO SUBTITLE:

Former Art. 10, § 40 did not contain a specific subsection relating to the Office of State’s Attorney for Baltimore City. Consequently, that omission is reflected in this revision. Unlike the 23 other counties, the law regarding the salaries of the State’s Attorney, the deputy State’s Attorney, and assistant State’s Attorneys and the appointment of deputy and assistant State’s Attorneys in Baltimore City is found in the Maryland Constitution and in the Baltimore City Charter, and it has been acknowledged by the Maryland Court of Special Appeals.

Article V, § 9 of the Maryland Constitution states:

“... the State’s Attorney for Baltimore City shall have the power to appoint a Deputy and such other Assistants as the Supreme Bench of Baltimore City may

authorize or approve and until otherwise provided by the General Assembly, the said State's Attorney, Deputy and Assistants shall receive the following annual salaries: State's Attorney, seven thousand five hundred dollars; Deputy State's Attorney, five thousand dollars; Assistant State's Attorneys, four thousand dollars each; said salaries, or such salaries as the General Assembly may subsequently provide and such expenses for conducting the Office of the State's Attorney as the Supreme Bench of Baltimore City may authorize or approve shall be paid by the Mayor and City Council of Baltimore to the extent that the total of them exceeds the fees of his office, or as the General Assembly shall otherwise provide, and the Mayor and City Council of Baltimore shall not be liable for appearance fees to the State's Attorney."

Subsequent constitutional amendments in 1912, 1924, 1943, and 1976 provided specific salary amounts or authorized "such salaries as the General Assembly may subsequently provide."

Further, law concerning the salaries of the employees of the Office of State's Attorney in Baltimore City is in the Baltimore City Charter. Article VI, § 16 of the current Baltimore City Charter states:

"The Board of Estimates is hereby authorized and empowered to fix the salaries of the State's Attorney, the Deputy State's Attorney, and Assistant State's Attorneys of Baltimore City, in amounts not less than those prescribed by the Constitution of Maryland."

According to the Budget Director for Baltimore City, staffing and office expenses of the Office of the State's Attorney are reflected in the Office's budget request included in the Board's Ordinance of Estimates that the Board submits to the City Council for approval.

Finally, legal authority of the State's Attorney to appoint deputy and assistant State's Attorneys in Baltimore City has been addressed by the Court of Special Appeals. In *State v. Aquilla*, 18 Md. App. 487, 1973 (cert. denied, September 18, 1973) the court recognized that the Deputy State's Attorneys and Assistant State's Attorneys for Baltimore City are appointed pursuant to Article V, § 9 of the State Constitution. The court upheld the legitimacy of the State's Attorney for Baltimore City to appoint Special Assistant State's Attorneys under the authorization and with the approval of the Supreme Bench of Baltimore City to present cases to the grand jury concerning irregularities in the Traffic Division of the Municipal Court for the City.

TITLE 16. OFFICE OF THE PUBLIC DEFENDER.

SUBTITLE 1. DEFINITIONS; SCOPE OF TITLE.

16-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(a).

(B) BOARD OF TRUSTEES.

“BOARD OF TRUSTEES” MEANS THE BOARD OF TRUSTEES OF THE OFFICE OF THE PUBLIC DEFENDER ESTABLISHED UNDER § 16-301 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the “Board of Trustees of the Office of the Public Defender”.

(C) DISTRICT.

“DISTRICT” MEANS AN AREA CONFORMING TO THE GEOGRAPHIC BOUNDARIES OF A DISTRICT COURT DISTRICT ESTABLISHED IN § 1-602 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(c).

The former reference to an area “comprising one or more political subdivisions” is deleted as unnecessary in light of the reference to an area “conforming to the geographic boundaries of a District Court district established in § 1-602 of the Courts Article”.

(D) INDIGENT INDIVIDUAL.

“INDIGENT INDIVIDUAL” MEANS AN INDIVIDUAL WHO QUALIFIES AS AN INDIGENT INDIVIDUAL UNDER § 16-210 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a definition of the term “indigent individual”.

(E) OFFICE.

(1) “OFFICE” MEANS THE OFFICE OF THE PUBLIC DEFENDER.

(2) “OFFICE” INCLUDES EACH DISTRICT OFFICE AND BRANCH OFFICE OF THE PUBLIC DEFENDER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(b).

The former reference to offices "as are deemed necessary and hereinafter described" is deleted as surplusage.

Defined term: "District" § 16-101

(F) PANEL ATTORNEY.

"PANEL ATTORNEY" MEANS AN ATTORNEY WHO IS ELIGIBLE FOR APPOINTMENT AS AN ATTORNEY FOR AN INDIGENT INDIVIDUAL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(e), as it related to an attorney who qualifies and is eligible for appointment as counsel for an indigent individual.

The former reference to an attorney who "qualifies" for appointment as counsel to an indigent individual is deleted as implied in the reference to an attorney who "is eligible" for appointment.

The former reference to an indigent individual "as defined by this article" is deleted as surplusage.

The reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

Defined term: "Indigent individual" § 16-101

(G) REGIONAL ADVISORY BOARD.

"REGIONAL ADVISORY BOARD" MEANS A PUBLIC DEFENDER REGIONAL ADVISORY BOARD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 10(a).

(H) SERIOUS OFFENSE.

"SERIOUS OFFENSE" MEANS:

- (1) A FELONY;**

(2) A MISDEMEANOR OR OFFENSE PUNISHABLE BY CONFINEMENT FOR MORE THAN 3 MONTHS OR A FINE OF MORE THAN \$500;

(3) A DELINQUENT ACT THAT WOULD BE A SERIOUS OFFENSE IF COMMITTED BY AN ADULT; OR

(4) AN OFFENSE IN WHICH, IN THE OPINION OF THE COURT, THE COMPLEXITY OF THE MATTER OR THE YOUTH, INEXPERIENCE, OR MENTAL CAPACITY OF THE ACCUSED REQUIRES REPRESENTATION OF THE ACCUSED BY AN ATTORNEY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27A, § 2(h).

In item (3) of this subsection, the phrase "if committed by an adult" is substituted for the former phrase "except for the age of the person involved" for clarity.

REVISOR'S NOTE TO SECTION:

Former Art. 27A, § 2(d), which defined "district public defender" as "the district public defender of each of the various districts described in subsection (c) of this section", is deleted because it merely repeated the ordinary meaning of the term "district public defender".

16-102. SCOPE OF TITLE.

EXCEPT AS OTHERWISE PROVIDED IN § 16-206 OF THIS TITLE, THIS TITLE APPLIES ONLY TO REPRESENTATION IN OR WITH RESPECT TO THE COURTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27A, § 4(c).

The reference to "§ 16-206 of this title", which contains provisions concerning representation by the Office of an indigent individual in federal court, is added for clarity.

SUBTITLE 2. OFFICE OF THE PUBLIC DEFENDER.

16-201. POLICY OF STATE.

IT IS THE POLICY OF THE STATE TO:

(1) PROVIDE FOR THE REALIZATION OF THE CONSTITUTIONAL GUARANTEES OF COUNSEL IN THE REPRESENTATION OF INDIGENT INDIVIDUALS, INCLUDING RELATED NECESSARY SERVICES AND FACILITIES, IN CRIMINAL AND JUVENILE PROCEEDINGS IN THE STATE;

(2) ASSURE THE EFFECTIVE ASSISTANCE AND CONTINUITY OF COUNSEL TO INDIGENT ACCUSED INDIVIDUALS TAKEN INTO CUSTODY AND INDIGENT INDIVIDUALS IN CRIMINAL AND JUVENILE PROCEEDINGS BEFORE THE COURTS OF THE STATE; AND

(3) AUTHORIZE THE OFFICE OF THE PUBLIC DEFENDER TO ADMINISTER AND ASSURE ENFORCEMENT OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 1.

In the introductory language of this section, the former reference to the statement that it is "hereby declared to be" the policy of the State is deleted as surplusage.

In item (1) of this section, the reference to the defined term "indigent individual[s]" is substituted for the former reference to "indigents" to conform to the terminology used throughout this title.

In item (3) of this section, the former reference to the "provisions of" this title is deleted as surplusage.

Also in item (3) of this section, the former reference to the enforcement of this title "in accordance with its terms" is deleted as implicit in the reference to "enforcement of this title".

Defined term: "Indigent individual" § 16-101

16-202. OFFICE OF THE PUBLIC DEFENDER ESTABLISHED.

THERE IS AN OFFICE OF THE PUBLIC DEFENDER IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27A, § 3(a).

16-203. OFFICE PERSONNEL.

(A) PUBLIC DEFENDER AS HEAD OF OFFICE; QUALIFICATIONS; SALARY.

(1) THE HEAD OF THE OFFICE IS THE PUBLIC DEFENDER.

(2) THE PUBLIC DEFENDER SHALL BE APPOINTED BY AND SERVE AT THE PLEASURE OF THE BOARD OF TRUSTEES.

(3) TO QUALIFY FOR APPOINTMENT AS PUBLIC DEFENDER, AN INDIVIDUAL SHALL BE AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE STATE BY THE COURT OF APPEALS OF MARYLAND WHO HAS ENGAGED IN THE PRACTICE OF LAW FOR AT LEAST 5 YEARS BEFORE APPOINTMENT.

(4) THE PUBLIC DEFENDER SHALL RECEIVE THE SAME SALARY AS A JUDGE OF A CIRCUIT COURT.

(5) THE PUBLIC DEFENDER MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF LAW.

(B) DEPUTY AND DISTRICT PUBLIC DEFENDERS.

(1) WITH THE APPROVAL OF THE BOARD OF TRUSTEES, THE PUBLIC DEFENDER SHALL APPOINT:

(I) A DEPUTY PUBLIC DEFENDER; AND

(II) ONE DISTRICT PUBLIC DEFENDER FOR EACH DISTRICT OF THE DISTRICT COURT.

(2) THE DEPUTY PUBLIC DEFENDER AND EACH DISTRICT PUBLIC DEFENDER SHALL HAVE THE SAME QUALIFICATIONS AS THE PUBLIC DEFENDER.

(3) A DISTRICT PUBLIC DEFENDER SHALL:

(I) ASSIST THE PUBLIC DEFENDER TO PERFORM THE DUTIES OF THE OFFICE; AND

(II) SUBJECT TO THE SUPERVISION OF THE PUBLIC DEFENDER, BE IN CHARGE OF THE PUBLIC DEFENDER OFFICES IN THE DISTRICT FOR WHICH THE DISTRICT PUBLIC DEFENDER IS APPOINTED.

(C) APPOINTMENT OF ASSISTANT PUBLIC DEFENDERS.

(1) WITH THE ADVICE OF THE DISTRICT PUBLIC DEFENDERS, THE PUBLIC DEFENDER MAY APPOINT ASSISTANT PUBLIC DEFENDERS IN ACCORDANCE WITH THE STATE BUDGET.

(2) TO QUALIFY FOR APPOINTMENT AS AN ASSISTANT PUBLIC DEFENDER, AN INDIVIDUAL SHALL BE AN ATTORNEY AND ADMITTED TO PRACTICE LAW IN THE STATE BY THE COURT OF APPEALS OF MARYLAND.

(D) CONDITIONS OF SERVICE OF DEPUTY, DISTRICT, AND ASSISTANT PUBLIC DEFENDERS.

THE DEPUTY PUBLIC DEFENDER, DISTRICT PUBLIC DEFENDERS, AND ASSISTANT PUBLIC DEFENDERS:

(1) SHALL SERVE AT THE PLEASURE OF THE PUBLIC DEFENDER;
AND

(2) MAY NOT ENGAGE IN THE PRIVATE PRACTICE OF CRIMINAL LAW.

(E) OTHER PERSONNEL.

THE PUBLIC DEFENDER SHALL APPOINT INVESTIGATORS, STENOGRAPHIC ASSISTANTS, CLERICAL ASSISTANTS, AND OTHER PERSONNEL AS MAY BE REQUIRED TO ASSIST THE PUBLIC DEFENDER AND THE DISTRICT PUBLIC DEFENDERS TO PERFORM THE DUTIES OF THE OFFICE IN ACCORDANCE WITH THE STATE BUDGET.

(F) OFFICES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE PUBLIC DEFENDER SHALL ESTABLISH AND MAINTAIN SUITABLE OFFICES IN THE STATE.

(2) AT LEAST ONE PUBLIC DEFENDER'S OFFICE SHALL BE IN EACH DISTRICT.

(G) POSITIONS, COMPENSATION, AND EXPENSES.

THE NUMBER OF POSITIONS, COMPENSATION, AND EXPENSES FOR THE OFFICE SHALL BE IN ACCORDANCE WITH THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 3(b), (c), (d), (e), and the second through fifth sentences of (a).

In subsection (a)(4) of this section, the former reference to an "associate" judge, which does not exist on the circuit court, is deleted as erroneous.

In subsection (b)(2) of this section, the former phrase "to be eligible for appointment" is deleted as surplusage.

In subsection (c)(1) of this section, the standard code revision phrase "in accordance with the State budget" is substituted for the former phrase "in such number as authorized by the budget" for consistency and for accuracy, in light of the absence in the budget of a specified number of assistant public defenders that may be appointed. Similarly, in subsection (e) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "as provided in the budget"; and in subsection (g) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "as provided in the executive budget as specified in Article III, § 52(4)(b) of the Constitution of the State of Maryland, which shall be subject to approval by the General Assembly".

In subsection (e) of this section, the phrase "to perform" is substituted for the former phrase "for the proper performance of" for brevity.

In subsection (g) of this section, the reference to "compensation" is substituted for the former reference to "salaries" to conform to the terminology used throughout this title.

Defined terms: "Board of Trustees" § 16-101

"District" § 16-101

"Office" § 16-101

16-204. REPRESENTATION OF INDIGENT INDIVIDUAL.

(A) PROVIDERS OF REPRESENTATION.

REPRESENTATION OF AN INDIGENT INDIVIDUAL MAY BE PROVIDED IN ACCORDANCE WITH THIS TITLE BY THE PUBLIC DEFENDER OR, SUBJECT TO THE SUPERVISION OF THE PUBLIC DEFENDER, BY THE DEPUTY PUBLIC DEFENDER, DISTRICT PUBLIC DEFENDERS, ASSISTANT PUBLIC DEFENDERS, OR PANEL ATTORNEYS.

(B) PROCEEDINGS FOR WHICH REPRESENTATION SHALL BE PROVIDED.

(1) INDIGENT DEFENDANTS OR PARTIES SHALL BE PROVIDED REPRESENTATION UNDER THIS TITLE IN:

(I) A CRIMINAL OR JUVENILE PROCEEDING IN WHICH A DEFENDANT OR PARTY IS ALLEGED TO HAVE COMMITTED A SERIOUS OFFENSE;

(II) A CRIMINAL OR JUVENILE PROCEEDING IN WHICH AN ATTORNEY IS CONSTITUTIONALLY REQUIRED TO BE PRESENT PRIOR TO PRESENTMENT BEING MADE BEFORE A COMMISSIONER OR JUDGE;

(III) A POSTCONVICTION PROCEEDING FOR WHICH THE DEFENDANT HAS A RIGHT TO AN ATTORNEY UNDER TITLE 7 OF THIS ARTICLE;

(IV) ANY OTHER PROCEEDING IN WHICH CONFINEMENT UNDER A JUDICIAL COMMITMENT OF AN INDIVIDUAL IN A PUBLIC OR PRIVATE INSTITUTION MAY RESULT;

(V) A PROCEEDING INVOLVING CHILDREN IN NEED OF ASSISTANCE UNDER § 3-813 OF THE COURTS ARTICLE; OR

(VI) A FAMILY LAW PROCEEDING UNDER TITLE 5, SUBTITLE 3, PART II OR PART III OF THE FAMILY LAW ARTICLE, INCLUDING:

1. FOR A PARENT, A HEARING IN CONNECTION WITH GUARDIANSHIP OR ADOPTION;

2. A HEARING UNDER § 5-326 OF THE FAMILY LAW ARTICLE FOR WHICH THE PARENT HAS NOT WAIVED THE RIGHT TO NOTICE; AND

3. AN APPEAL.

(2) REPRESENTATION SHALL BE PROVIDED TO AN INDIGENT INDIVIDUAL IN ALL STAGES OF A PROCEEDING LISTED IN PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING, IN CRIMINAL PROCEEDINGS, CUSTODY, INTERROGATION, PRELIMINARY HEARING, ARRAIGNMENT, TRIAL, AND APPEAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 4(b), (d)(1), and the second sentence of (a).

In subsection (b)(1)(i) of this section, the former phrase "before the District Court of Maryland, the various circuit courts within the State of Maryland, and the Court of Special Appeals" is deleted as surplusage.

In subsection (b)(1)(ii) and (iii) of this section, the references to an “attorney” are substituted for the former references to a “counsel” to conform to the terminology used throughout this title.

In subsection (b)(1)(iv) of this section, the reference to “confinement” is substituted for the former reference “possible incarceration” to conform to the terminology used throughout this title.

Defined terms: “District” § 16–101
“Indigent individual” § 16–101
“Panel attorney” § 16–101
“Serious offense” § 16–101

16–205. TERMINATION OF REPRESENTATION.

REPRESENTATION OF AN INDIGENT INDIVIDUAL BY THE OFFICE OR BY A PANEL ATTORNEY SHALL CONTINUE UNTIL THE FINAL DISPOSITION OF THE CASE OR UNTIL THE ASSIGNED ATTORNEY IS RELIEVED BY THE PUBLIC DEFENDER OR ORDER OF THE COURT IN WHICH THE CASE IS PENDING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 27A, § 4(d)(2).

The defined term “panel attorney” is substituted for the former reference to “an attorney appointed by the Office” to conform to the terminology used throughout this title.

Defined terms: “Indigent individual” § 16–101
“Office” § 16–101
“Panel attorney” § 16–101

16–206. REPRESENTATION IN FEDERAL COURT.

(A) SCOPE.

THIS TITLE DOES NOT PROHIBIT THE OFFICE FROM REPRESENTING AN INDIGENT INDIVIDUAL IN FEDERAL COURT AT FEDERAL EXPENSE IF THE MATTER ARISES OUT OF OR IS RELATED TO AN ACTION PENDING OR RECENTLY PENDING IN A COURT OF CRIMINAL JURISDICTION OF THE STATE.

(B) COMPENSATION.

COMPENSATION PAID BY THE FEDERAL COURT TO THE PUBLIC DEFENDER, THE DEPUTY PUBLIC DEFENDER, A DISTRICT PUBLIC DEFENDER, OR AN ASSISTANT PUBLIC DEFENDER SHALL BE REMITTED TO THE GENERAL FUND OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 27A, § 4(c).

In subsection (a) of this section, the former reference to a federal court "of the United States" is deleted as surplusage.

Defined terms: "District" § 16-101
"Indigent individual" § 16-101
"Office" § 16-101

16-207. DUTIES AND POWERS OF PUBLIC DEFENDER.

(A) PRIMARY DUTY OF PUBLIC DEFENDER.

THE PRIMARY DUTY OF THE PUBLIC DEFENDER IS TO PROVIDE REPRESENTATION FOR INDIGENT INDIVIDUALS IN ACCORDANCE WITH THIS TITLE.

(B) GENERAL DUTIES.

THE PUBLIC DEFENDER SHALL:

(1) BE RESPONSIBLE GENERALLY FOR THE OPERATION OF THE OFFICE AND ALL DISTRICT OFFICES;

(2) PREPARE SCHEDULES OF PROFESSIONAL FEES AND EXPENSES FOR PANEL ATTORNEYS AND OTHER PROFESSIONAL AND TECHNICAL SERVICES RENDERED TO INDIGENT INDIVIDUALS OTHER THAN BY THE PUBLIC DEFENDER'S STAFF, TAKING INTO CONSIDERATION THE NATURE OF THE SERVICES, THE TIME SPENT, THE SKILL OR EXPERIENCE REQUIRED, AND ANY OTHER PERTINENT FACTOR;

(3) CONSULT AND COOPERATE WITH PROFESSIONAL GROUPS ABOUT THE CAUSES OF CRIMINAL CONDUCT AND THE DEVELOPMENT OF EFFECTIVE MEANS TO:

(I) REDUCE AND DISCOURAGE THE COMMISSION OF CRIME;

(II) REHABILITATE AND CORRECT INDIVIDUALS CHARGED AND CONVICTED OF CRIME;

(III) ADMINISTER CRIMINAL JUSTICE; AND

(IV) ADMINISTER AND CONDUCT THE OFFICE; AND

(4) MAINTAIN FINANCIAL AND STATISTICAL RECORDS ABOUT EACH CASE IN WHICH THE OFFICE PROVIDES LEGAL ASSISTANCE TO AN INDIGENT INDIVIDUAL, INCLUDING DATA TO CALCULATE ALL DIRECT AND INDIRECT COSTS TO THE OFFICE.

(C) GENERAL POWERS.

THE PUBLIC DEFENDER MAY:

(1) ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THIS TITLE AND PROMOTE THE EFFICIENT CONDUCT OF THE WORK AND GENERAL ADMINISTRATION OF THE OFFICE, ITS PROFESSIONAL STAFF, AND OTHER EMPLOYEES;

(2) MAKE NECESSARY ARRANGEMENTS TO COORDINATE SERVICES OF THE OFFICE WITH ANY FEDERAL PROGRAM TO PROVIDE AN ATTORNEY TO INDIGENT INDIVIDUALS;

(3) ARRANGE FOR THE OFFICE TO RECEIVE MONEY OR SERVICES AVAILABLE TO ASSIST IN THE DUTIES UNDER THIS TITLE; AND

(4) ACCEPT THE SERVICES OF VOLUNTEER WORKERS OR CONSULTANTS AT NO COMPENSATION OR AT NOMINAL OR TOKEN COMPENSATION AND REIMBURSE THEM FOR THEIR NECESSARY EXPENSES.

(D) SERVICES IN BALTIMORE CITY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN BALTIMORE CITY, THE PUBLIC DEFENDER MAY CONTRACT WITH PRIVATE OR PUBLIC ORGANIZATIONS TO PROVIDE LEGAL, ADMINISTRATIVE, OR TECHNICAL SERVICES FOR INDIGENT INDIVIDUALS.

(2) A CONTRACT SHALL REQUIRE THAT:

(I) THE LEVEL AND QUALITY OF THE WORK AT LEAST EQUAL THAT OF THE OFFICE; AND

(II) THE PUBLIC DEFENDER SUPERVISE AND CONTROL ALL SERVICES RENDERED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 5 and the first sentence of § 4(a).

In subsection (a) of this section, the defined term "indigent individual" is substituted for the former reference to "indigent defendant" because this title applies to a party who is the subject of a juvenile proceeding, civil commitment proceeding, or family law proceeding as well as to a defendant in a criminal proceeding.

In subsection (b)(3) of this section, the former reference to "bodies" is deleted in light of the reference to "groups".

In subsection (b)(4) of this section, the former reference to "keep" financial and statistical records is deleted in light of the reference to "maintain" the records.

Also in subsection (b)(4) of this section, the former reference to "proper" financial and statistical records is deleted as surplusage.

Also in subsection (b)(4) of this section, the phrase "costs to the Office" is substituted for the former phrase "costs incident to the operation of the office" for brevity.

In subsection (c)(1) of this section, the reference to the power of the Public Defender to "adopt regulations" is substituted for the former reference to the power to "formulate and adopt rules and regulations as are necessary" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to conform to the terminology used in other revised articles.

In subsection (c)(2) of this section, the reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

In subsection (c)(3) of this section, the former reference to "obligations" is deleted in light of the reference to "duties".

In subsection (c)(4) of this section, the former reference to "proper" expenses is deleted in light of the reference to "necessary" expenses.

In subsection (d)(1) of this section, the former phrase “from time to time” is deleted as surplusage.

Also in subsection (d)(1) of this section, the former phrase “that are equipped” is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that it is unclear whether subsection (d)(1) of this section allows a Public Defender to:

- (a) enter into a contract in Baltimore City;
- (b) enter into a contract with an organization that is located in Baltimore City; or
- (c) enter into a contract for services to be provided in Baltimore City.

Defined terms: “District” § 16–101
 “Indigent individual” § 16–101
 “Office” § 16–101
 “Panel attorney” § 16–101

16–208. PANEL ATTORNEYS.

(A) LIST OF AVAILABLE ATTORNEYS TO BE MAINTAINED.

(1) SUBJECT TO THE AUTHORITY AND SUPERVISION OF THE PUBLIC DEFENDER, EACH DISTRICT PUBLIC DEFENDER SHALL MAINTAIN A CONFIDENTIAL LIST OF PRIVATE ATTORNEYS AVAILABLE TO BE APPOINTED AS ATTORNEYS FOR INDIGENT INDIVIDUALS ELIGIBLE FOR REPRESENTATION UNDER THIS TITLE.

(2) EACH ATTORNEY ON THE LIST SHALL BE:

(I) ADMITTED TO PRACTICE LAW IN THE STATE; AND

(II) PLACED ON VARIOUS PANELS IN ACCORDANCE WITH QUALIFICATION CRITERIA THAT THE PUBLIC DEFENDER SETS FORTH, BASED ON:

1. THE NATURE AND COMPLEXITY OF THE OFFENSE REQUIRING REPRESENTATION;

2. THE TRIAL OR APPELLATE EXPERIENCE OF THE ATTORNEY; AND

3. ANY OTHER FACTOR NECESSARY TO ENSURE COMPETENT REPRESENTATION.

(B) REPRESENTATION OF INDIGENT INDIVIDUALS.

(1) EXCEPT IN CASES IN WHICH AN ATTORNEY IN THE OFFICE PROVIDES REPRESENTATION, THE DISTRICT PUBLIC DEFENDER, SUBJECT TO THE SUPERVISION OF THE PUBLIC DEFENDER, SHALL APPOINT AN ATTORNEY FROM AN APPROPRIATE PANEL TO REPRESENT AN INDIGENT INDIVIDUAL.

(2) PANEL ATTORNEYS SHALL BE USED AS MUCH AS PRACTICABLE.

(C) PRIMARY DUTY OF PANEL ATTORNEYS.

(1) THE PRIMARY DUTY OF A PANEL ATTORNEY IS TO THE INDIGENT INDIVIDUAL REPRESENTED BY THE PANEL ATTORNEY WITH THE SAME EFFECT AND PURPOSE AS THOUGH PRIVATELY ENGAGED BY THAT INDIVIDUAL AND WITHOUT REGARD TO THE USE OF PUBLIC FUNDS TO PROVIDE THE SERVICE.

(2) A PANEL ATTORNEY SHALL REPORT TO THE OFFICE AS THE REGULATIONS OF THE PUBLIC DEFENDER REQUIRE.

(3) THIS SUBSECTION DOES NOT PRECLUDE THE DESIGNATION OR ASSIGNMENT OF DIFFERENT INDIVIDUALS TO PERFORM VARIOUS PARTS OF THE SERVICE.

(D) COMPENSATION.

(1) A PANEL ATTORNEY SHALL FILE A PETITION TO BE COMPENSATED BY THE PUBLIC DEFENDER FOR FEES AND EXPENSES INCIDENT TO REPRESENTING INDIGENT INDIVIDUALS, INCLUDING INVESTIGATION, OTHER PRETRIAL PREPARATION, TRIAL, AND APPEAL.

(2) THE OFFICE SHALL AUTHORIZE PAYMENT OF FEES AND EXPENSES ACCORDING TO SCHEDULES PREPARED UNDER § 16-207(B)(2) OF THIS SUBTITLE AND FROM FUNDS APPROPRIATED BY THE STATE BUDGET.

(3) A PANEL ATTORNEY MAY NOT RECEIVE A FEE FOR SERVICES IN ADDITION TO THAT PROVIDED IN ACCORDANCE WITH THIS TITLE.

(4) TO BE COMPENSATED FOR FEES OR EXPENSES THAT THE PUBLIC DEFENDER DISAPPROVES OR THAT EXCEED THOSE AUTHORIZED FOR PAYMENT, A PANEL ATTORNEY MAY SEEK A REVIEW BY A REGIONAL ADVISORY BOARD.

(5) ALL FEES AND EXPENSES PAID TO PANEL ATTORNEYS, INCLUDING ANY AUTHORIZED BY A REGIONAL ADVISORY BOARD, SHALL BE PAID OUT OF FUNDS APPROPRIATED BY THE STATE BUDGET.

(E) STAFF AND TECHNICAL ASSISTANCE.

THE OFFICE MAY PROVIDE STAFF AND TECHNICAL ASSISTANCE TO A PANEL ATTORNEY APPOINTED TO REPRESENT AN INDIGENT INDIVIDUAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 6(a) through (e) and § 2(g) and (e), as it related to any attorney licensed to practice law in the State.

In subsection (a)(1) of this section, the reference to "attorneys" is substituted for the former reference to "counsel" to conform to the terminology used throughout this title.

In subsection (a)(2)(ii)2 of this section, the former reference to the "previous" trial or appellate experience is deleted as surplusage.

In subsection (c)(1) of this section, the defined term "indigent individual" is substituted for the former reference to "the individual defendant" to conform to the terminology used throughout this title.

Also in subsection (c)(1) of this section, the former reference to a panel attorney "appointed by the Office of the Public Defender" is deleted as unnecessary because all panel attorneys are appointed by the Office.

In subsection (c)(2) of this section, the former reference to a panel attorney "who is assigned to represent an indigent person under this article" is deleted as surplusage.

Also in subsection (c)(2) of this section, the former requirement that a panel attorney must report to the Office "on his representation of the indigent person" is deleted in light of the requirement that the panel attorney shall report "as the regulations of the Public Defender require".

In subsection (c)(3) of this section, the former phrase “from time to time” is deleted as surplusage.

In subsection (d)(1) of this section, the reference to “legal fees” is substituted for the former reference to “professional services” to conform to the terminology used throughout this subsection.

In subsection (d)(2) of this section, the reference to schedules “prepared under § 16–207(b)(2) of this subtitle” is substituted for the former reference to schedules “established from time to time by the Public Defender” for clarity.

In subsection (d)(3) of this section, the former reference to a panel attorney “who represents an indigent person under this article” is deleted as surplusage.

In subsection (d)(4) of this section, the former phrase “of his petition” is deleted as implicit in the word “review”.

In subsection (d)(5) of this section, the defined term “regional advisory board” is substituted for the former erroneous reference to “district advisory boards”.

Defined terms: “District” § 16–101
“Indigent individual” § 16–101
“Office” § 16–101
“Panel attorney” § 16–101
“Regional advisory board” § 16–101

16–209. PRIVILEGED COMMUNICATIONS.

(A) IN GENERAL.

COMMUNICATIONS BETWEEN AN INDIGENT INDIVIDUAL AND AN INDIVIDUAL IN THE OFFICE OR ENGAGED BY THE PUBLIC DEFENDER ARE PROTECTED BY THE ATTORNEY–CLIENT PRIVILEGE TO THE SAME EXTENT AS THOUGH AN ATTORNEY HAD BEEN PRIVATELY ENGAGED.

(B) USE OF COMMUNICATIONS FOR PREPARATION AND DISCLOSURE OF SOCIOLOGICAL DATA.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT PRECLUDE THE PUBLIC DEFENDER FROM USING MATERIAL IN THE PUBLIC DEFENDER’S FILES THAT IS OTHERWISE PRIVILEGED TO

PREPARE AND DISCLOSE STATISTICAL, CASE STUDY, AND OTHER SOCIOLOGICAL DATA.

(2) MATERIAL USED TO PREPARE AND DISCLOSE SOCIOLOGICAL DATA MAY NOT DISCLOSE THE IDENTITY OF A PARTICULAR INDIGENT INDIVIDUAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 8.

In subsection (a) of this section, the reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

Also in subsection (a) of this section, the former reference to all communications being "fully" protected is deleted as surplusage.

Also in subsection (a) of this section, the defined term "indigent individual" is substituted for the former reference to "individual defendant" to conform to the terminology used throughout this title. Similarly, in subsection (b)(2) of this section, the defined term "indigent individual" is substituted for the former reference to "defendants".

Also in subsection (a) of this section, the former reference to the same "degree" is deleted in light of the reference to the same "extent".

Defined terms: "Indigent individual" § 16-101
"Office" § 16-101

16-210. ELIGIBILITY FOR SERVICES.

(A) APPLICATION AS INDIGENT INDIVIDUAL.

AN INDIVIDUAL MAY APPLY FOR SERVICES OF THE OFFICE AS AN INDIGENT INDIVIDUAL, IF THE INDIVIDUAL STATES IN WRITING UNDER OATH OR AFFIRMATION THAT THE INDIVIDUAL, WITHOUT UNDUE FINANCIAL HARDSHIP, CANNOT PROVIDE THE FULL PAYMENT OF AN ATTORNEY AND ALL OTHER NECESSARY EXPENSES OF REPRESENTATION IN PROCEEDINGS LISTED UNDER § 16-204(B) OF THIS SUBTITLE.

(B) DETERMINATION OF ELIGIBILITY.

(1) ELIGIBILITY FOR THE SERVICES OF THE OFFICE SHALL BE DETERMINED BY THE NEED OF THE APPLICANT.

(2) NEED SHALL BE MEASURED ACCORDING TO THE FINANCIAL ABILITY OF THE APPLICANT TO ENGAGE AND COMPENSATE A COMPETENT PRIVATE ATTORNEY AND TO PROVIDE ALL OTHER NECESSARY EXPENSES OF REPRESENTATION.

(3) FINANCIAL ABILITY SHALL BE DETERMINED BY:

(I) THE NATURE, EXTENT, AND LIQUIDITY OF ASSETS;

(II) THE DISPOSABLE NET INCOME OF THE APPLICANT;

(III) THE NATURE OF THE OFFENSE;

(IV) THE LENGTH AND COMPLEXITY OF THE PROCEEDINGS;

(V) THE EFFORT AND SKILL REQUIRED TO GATHER PERTINENT INFORMATION; AND

(VI) ANY OTHER FORESEEABLE EXPENSE.

(4) IF ELIGIBILITY CANNOT BE DETERMINED BEFORE THE OFFICE OR A PANEL ATTORNEY BEGINS REPRESENTATION, THE OFFICE MAY REPRESENT AN APPLICANT PROVISIONALLY.

(5) IF THE OFFICE SUBSEQUENTLY DETERMINES THAT AN APPLICANT IS INELIGIBLE:

(I) THE OFFICE SHALL INFORM THE APPLICANT; AND

(II) THE APPLICANT SHALL BE REQUIRED TO ENGAGE THE APPLICANT'S OWN ATTORNEY AND REIMBURSE THE OFFICE FOR THE COST OF THE REPRESENTATION PROVIDED.

(C) INVESTIGATION OF FINANCIAL STATUS.

(1) THE OFFICE SHALL INVESTIGATE THE FINANCIAL STATUS OF AN APPLICANT WHEN THE CIRCUMSTANCES WARRANT.

(2) THE OFFICE MAY:

(I) REQUIRE AN APPLICANT TO EXECUTE AND DELIVER WRITTEN REQUESTS OR AUTHORIZATIONS THAT ARE NECESSARY UNDER LAW

TO PROVIDE THE OFFICE WITH ACCESS TO CONFIDENTIAL RECORDS OF PUBLIC OR PRIVATE SOURCES THAT ARE NEEDED TO EVALUATE ELIGIBILITY; AND

(II) ON REQUEST, OBTAIN INFORMATION WITHOUT CHARGE FROM A PUBLIC RECORD OFFICE OR OTHER UNIT OF THE STATE, COUNTY, OR MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, §§ 2(f) and 7(a) and (b).

In subsection (a) of this section, former Art. 27A, § 2(f), which defined the term "indigent", is revised as a substantive section for clarity.

Also in subsection (a) of this section, the reference to representation "in proceedings listed under § 16-204(b) of this subtitle" is substituted for the former overly broad reference to representation for an individual who is "taken into custody or charged with a serious crime as herein defined under the laws of the State of Maryland or the laws and ordinances of any county, municipality, or Baltimore City".

In subsection (b)(1), (2), and (5) of this section, the references to an "applicant" are substituted for the former references to a "person" to conform to the terminology used throughout this section. Similarly, the references to an "applicant" are substituted for the former references to a "defendant" in subsections (b)(3)(ii) and (c) of this section and for an "indigent person" in subsection (b)(4) of this section.

In subsection (b)(1) of this section, the former reference to an "applicant seeking legal representation" is deleted as surplusage.

In subsection (b)(2) and (5)(ii) of this section, the references to an "attorney" are substituted for the former references to a "counsel" to conform to the terminology used throughout this title.

In subsection (b)(3) of this section, the reference to the financial ability of a person seeking legal representation to be "determined" by certain factors is substituted for the former reference to financial ability being "recognized to be a variable" of certain factors to conform to the terminology used throughout this subsection.

In subsection (b)(4) of this section, the reference to a "panel attorney" is added for clarity.

In subsection (b)(5)(ii) of this section, the reference to the cost of the “representation provided” is substituted for the former reference to the cost of the “services rendered to that time” for brevity.

In subsection (c)(2) of this section, the former phrase “in connection therewith” is deleted as surplusage.

In subsection (c)(2)(i) of this section, the former reference to “applicable” law is deleted as surplusage.

In subsection (c)(2)(ii) of this section, the reference to a “unit of the State, county, or municipal corporation” is substituted for the former reference to the “State or of any subdivision or agency thereof” to conform to the terminology used in other revised articles.

Also in subsection (c)(2)(ii) of this section, the phrase “without charge” is substituted for the former phrase “without payment of any fees ordinarily required by law” for brevity.

Defined terms: “County” § 1–101
“Indigent individual” § 16–101
“Office” § 16–101
“Panel attorney” § 16–101

16–211. REIMBURSEMENT FOR SERVICES.

(A) IN GENERAL.

(1) IF IT APPEARS THAT AN INDIGENT INDIVIDUAL HAS OR REASONABLY EXPECTS TO HAVE MEANS TO MEET SOME OF THE EXPENSES FOR SERVICES RENDERED, THE INDIGENT INDIVIDUAL SHALL REIMBURSE THE OFFICE:

(I) BY A SINGLE PAYMENT OR IN INSTALLMENTS; AND

(II) IN THE AMOUNT THAT THE INDIGENT INDIVIDUAL CAN REASONABLY BE EXPECTED TO PAY.

(2) A DEFAULT OR FAILURE BY AN INDIGENT INDIVIDUAL TO MAKE A PAYMENT MAY NOT AFFECT THE RENDERING OF SERVICES TO THE INDIGENT INDIVIDUAL.

(B) DEPARTMENT OF BUDGET AND MANAGEMENT TO SEEK REIMBURSEMENT.

THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, ON BEHALF OF THE PUBLIC DEFENDER AND IN THE NAME OF THE STATE, SHALL DO ALL THINGS NECESSARY TO COLLECT ALL REIMBURSEMENT MONEY DUE TO THE STATE FOR SERVICES RENDERED IN ACCORDANCE WITH THIS TITLE.

(C) REIMBURSEMENT IN CRIMINAL CASES.

(1) A COURT EXERCISING CRIMINAL JURISDICTION SHALL ORDER A DEFENDANT TO REIMBURSE THE STATE FOR SERVICES RENDERED TO THE DEFENDANT BY THE PUBLIC DEFENDER AS A TERM OR CONDITION OF A SENTENCE, JUDGMENT, OR PROBATION IMPOSED BY THE COURT, UNLESS THE COURT:

(I) AFFIRMATIVELY FINDS THAT THE DEFENDANT CANNOT MAKE THE REIMBURSEMENT; AND

(II) WAIVES THE TERM OR CONDITION.

(2) THE COURT SHALL ESTABLISH THE AMOUNT, TIME, AND METHOD OF PAYMENT.

(3) IN ALL OTHER CASES OF REIMBURSEMENT FOR SERVICES RENDERED, COLLECTION SHALL BE MADE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(D) REIMBURSEMENT IN CIVIL AND JUVENILE CASES.

(1) A COURT EXERCISING OTHER THAN CRIMINAL JURISDICTION SHALL ORDER AN INDIGENT INDIVIDUAL REPRESENTED BY THE PUBLIC DEFENDER TO REIMBURSE THE STATE FOR THE REASONABLE VALUE OF SERVICES RENDERED TO THE INDIGENT INDIVIDUAL IN AN AMOUNT THAT THE INDIGENT INDIVIDUAL MAY REASONABLY BE ABLE TO PAY.

(2) IF THE INDIGENT INDIVIDUAL IS A MINOR, THE COURT SHALL ORDER THE PARENTS, GUARDIAN, OR CUSTODIAN OF THE MINOR TO REIMBURSE THE STATE FOR THE REASONABLE VALUE OF SERVICES RENDERED IN AN AMOUNT THAT THE PARENTS, GUARDIAN, OR CUSTODIAN MAY REASONABLY BE ABLE TO PAY.

(3) THE COURT SHALL ESTABLISH THE AMOUNT, TIME, AND METHOD OF PAYMENT.

(E) OPPORTUNITY TO BE HEARD.

BEFORE ORDERING REIMBURSEMENT UNDER SUBSECTION (D) OF THIS SECTION, A COURT SHALL GRANT AN OPPORTUNITY TO BE HEARD TO THE INDIGENT INDIVIDUAL OR THE PARENTS, GUARDIAN, OR CUSTODIAN OF A MINOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 7(c), (f), (g), and (h).

In subsection (a)(1) of this section, the defined term "indigent individual" is substituted for the former reference to a "defendant" to reflect that this subsection applies to indigent individuals who are involved in juvenile or family court proceedings as well as in criminal proceedings.

In subsection (a)(2) of this section, the former reference to "reduce" the rendering of services is deleted as included in the reference to "affect" the rendering of services.

In subsection (b) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

In subsections (d) and (e) of this section, the references to the defined term "indigent individual" are substituted for the former references to "individual" to conform to the terminology used throughout this title.

Defined terms: "Indigent individual" § 16-101
"Office" § 16-101

16-212. LIENS.

(A) REASONABLE VALUE OF SERVICES.

THE REASONABLE VALUE OF THE SERVICES RENDERED TO AN INDIGENT INDIVIDUAL IN ACCORDANCE WITH THIS TITLE IS A LIEN ON REAL OR PERSONAL PROPERTY IN WHICH THE INDIGENT INDIVIDUAL HAS OR ACQUIRES AN INTEREST, EXCEPT FOR THE RESIDENCE OF THE INDIGENT INDIVIDUAL.

(B) PERFECTION OF LIEN.

TO PERFECT THE LIEN, THE PUBLIC DEFENDER SHALL SUBMIT TO THE COURT HAVING JURISDICTION IN THE MATTER AN AFFIDAVIT SETTING FORTH

THE SERVICES RENDERED TO THE INDIGENT INDIVIDUAL AND THEIR REASONABLE VALUE.

(C) HEARING.

(1) THE COURT SHALL SET A HEARING DATE AND SHALL NOTIFY THE INDIGENT INDIVIDUAL OF THE DATE AND THE FACT THAT THE PUBLIC DEFENDER FILED AN AFFIDAVIT TO PERFECT THE LIEN.

(2) THE INDIGENT INDIVIDUAL MAY:

(I) APPEAR;

(II) BE REPRESENTED BY AN ATTORNEY;

(III) PRESENT EVIDENCE; AND

(IV) EXAMINE WITNESSES.

(3) THE INDIGENT INDIVIDUAL MAY CONTEST THE AFFIDAVIT.

(4) IF THE COURT DETERMINES THAT THE PUBLIC DEFENDER IS NOT ENTITLED TO A LIEN, THE PROCEEDING SHALL BE DISMISSED.

(5) IF THE COURT DETERMINES THAT THE PUBLIC DEFENDER IS ENTITLED TO A LIEN, THE COURT SHALL DETERMINE THE REASONABLE VALUE OF THE SERVICES RENDERED TO THE INDIGENT INDIVIDUAL.

(D) RECORDING OF LIENS.

(1) ON ADJUDICATION, A LIEN SHALL BE FILED OR DOCKETED WITH THE CLERK OF THE CIRCUIT COURT OR DISTRICT COURT WHERE THE SERVICES WERE PERFORMED OR WHERE THE INDIGENT INDIVIDUAL WORKS OR RESIDES.

(2) THE LIEN SHALL:

(I) CONSTITUTE A LIEN ON THE INDIGENT INDIVIDUAL'S PROPERTY FOR 10 YEARS FROM THE DATE OF FILING OR DOCKETING UNLESS THE LIEN IS DISCHARGED SOONER; AND

(II) HAVE THE FORCE AND EFFECT OF A JUDGMENT AT LAW.

(3) (I) THE CLERKS OF THE CIRCUIT COURTS AND THE DISTRICT COURT SHALL PROVIDE SEPARATE BOOKS TO RECORD LIENS UNDER THIS SECTION.

(II) THE BOOKS SHALL BE PROPERLY INDEXED IN THE NAME OF THE DEBTOR.

(III) THE PUBLIC DEFENDER MAY NOT BE REQUIRED TO PAY FILING OR RECORDING FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 7(d) and (e).

Throughout this section, the defined term "indigent individual" is substituted for the former reference to a "defendant" to reflect that these subsections apply to indigent individuals who are involved in juvenile or family court proceedings as well as in criminal proceedings.

In subsection (a) of this section, the reference to "real or personal property" is substituted for the former reference to "any and all real property or personal" for brevity.

In subsection (c)(2)(ii) of this section, the reference to an "attorney" is substituted for the former reference to a "counsel" to conform to the terminology used throughout this title.

In subsection (c)(5) of this section, the former reference to "adjudge" is deleted in light of the reference to "determine".

In subsection (d) of this section, the former reference to circuit courts and the District Court "throughout the State" is deleted as surplusage.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in subsection (d) of this section, it is unclear when the 10-year period during which a lien on the defendant's property begins. The provision states "from the date of filing or docketing", but filing and docketing may occur on different dates.

Defined term: "Indigent individual" § 16-101

16-213. EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT PROHIBIT THE APPOINTMENT OF AN ATTORNEY TO REPRESENT AN INDIGENT INDIVIDUAL BY THE DISTRICT COURT, A CIRCUIT COURT, OR THE COURT OF SPECIAL APPEALS IF:

(1) THERE IS A CONFLICT IN LEGAL REPRESENTATION IN A MATTER INVOLVING MULTIPLE DEFENDANTS, AND ONE OF THE DEFENDANTS IS REPRESENTED BY OR THROUGH THE OFFICE; OR

(2) THE OFFICE DECLINES TO PROVIDE REPRESENTATION TO AN INDIGENT INDIVIDUAL ENTITLED TO REPRESENTATION UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 6(f).

In the introductory language of this section, the reference to "the District Court, a circuit court, or the Court of Special Appeals" is substituted for the former reference to "any court mentioned in § 4(b)(2) of this article" for clarity.

The Criminal Procedure Article Additions Review Committee notes, for consideration by the General Assembly, that in the list of courts specified in the introductory language of this section, the Court of Appeals is not mentioned.

Defined terms: "Indigent individual" § 16-101
"Office" § 16-101

SUBTITLE 3. BOARD OF TRUSTEES; REGIONAL ADVISORY BOARDS.

16-301. BOARD OF TRUSTEES.

(A) ESTABLISHED.

THERE IS A BOARD OF TRUSTEES OF THE OFFICE OF THE PUBLIC DEFENDER.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD OF TRUSTEES CONSISTS OF THREE MEMBERS APPOINTED BY THE GOVERNOR.

(C) QUALIFICATIONS OF MEMBERS.

(1) EACH MEMBER OF THE BOARD OF TRUSTEES SHALL BE A RESIDENT OF THE STATE.

(2) TWO MEMBERS OF THE BOARD OF TRUSTEES SHALL BE ACTIVE ATTORNEYS ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF THE BOARD OF TRUSTEES IS 3 YEARS.

(2) A VACANCY OCCURRING ON THE BOARD OF TRUSTEES DURING THE TERM OF A MEMBER SHALL BE FILLED BY THE GOVERNOR FOR THE REMAINDER OF THE UNEXPIRED TERM.

(E) CHAIR.

(1) THE BOARD OF TRUSTEES ANNUALLY SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(2) THE CHAIR SHALL PRESIDE OVER AND REPRESENT THE INTERESTS OF THE BOARD OF TRUSTEES IN CARRYING OUT THIS TITLE.

(F) QUORUM.

TWO MEMBERS OF THE BOARD OF TRUSTEES ARE A QUORUM.

(G) MEETINGS.

(1) THE BOARD OF TRUSTEES SHALL HOLD AT LEAST ONE REGULAR ANNUAL MEETING AT A TIME AND PLACE THAT THE CHAIR DESIGNATES.

(2) ADDITIONAL MEETINGS SHALL BE HELD AS NECESSARY AND MAY BE CALLED ON NOTICE BY THE CHAIR OR AT THE REQUEST OF AT LEAST TWO MEMBERS OF THE BOARD OF TRUSTEES.

(H) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD OF TRUSTEES:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE BOARD OF TRUSTEES; BUT

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 9(a), (b), and (d).

In subsection (a) of this section, the reference to the Board of Trustees "of the Office of the Public Defender" is added to state explicitly what was implied in the former law.

In subsections (e)(1) and (g) of this section, the references to "chair" are substituted for the former references to "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (f) of this section, the former reference to a quorum "for all business" is deleted as surplusage.

In subsection (h)(2) of this section, the reference to reimbursement "for expenses under the Standard State Travel Regulations, as provided in the State budget" is substituted for the former reference "for necessary expenses, including travel, actually incurred in the performance of their duties" to conform to the terminology used in this and other revised articles.

Defined term: "Board of Trustees" § 16-101

16-302. DUTIES OF BOARD OF TRUSTEES.

THE BOARD OF TRUSTEES SHALL:

- (1) STUDY AND OBSERVE THE OPERATION OF THE OFFICE;**
- (2) COORDINATE THE ACTIVITIES OF THE REGIONAL ADVISORY BOARDS; AND**
- (3) ADVISE THE PUBLIC DEFENDER ON PANELS OF ATTORNEYS, FEES, AND OTHER MATTERS ABOUT THE OPERATION OF THE PUBLIC DEFENDER SYSTEM.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 9(c).

In item (2) of this section, the defined term "regional advisory board[s]" is substituted for the former erroneous reference to "district advisory boards".

Defined terms: "Board of Trustees" § 16-101

"Office" § 16-101

"Regional advisory board" § 16-101

16-303. REGIONAL ADVISORY BOARDS.

(A) ESTABLISHED.

THERE ARE FOUR REGIONAL ADVISORY BOARDS OF THE OFFICE.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

EACH REGIONAL ADVISORY BOARD CONSISTS OF FIVE MEMBERS APPOINTED BY THE GOVERNOR.

(C) DISTRICTS.

OF THE FOUR REGIONAL ADVISORY BOARDS:

(1) THE FIRST SHALL ADVISE PUBLIC DEFENDER DISTRICTS ONE, EIGHT, AND NINE, WHICH ENCOMPASS BALTIMORE CITY, BALTIMORE COUNTY, AND HARFORD COUNTY;

(2) THE SECOND SHALL ADVISE PUBLIC DEFENDER DISTRICTS TWO AND THREE, WHICH ENCOMPASS CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY;

(3) THE THIRD SHALL ADVISE PUBLIC DEFENDER DISTRICTS FOUR, FIVE, AND SEVEN, WHICH ENCOMPASS ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES COUNTY, PRINCE GEORGE'S COUNTY, AND ST. MARY'S COUNTY; AND

(4) THE FOURTH SHALL ADVISE PUBLIC DEFENDER DISTRICTS SIX, TEN, ELEVEN, AND TWELVE, WHICH ENCOMPASS ALLEGANY COUNTY,

CARROLL COUNTY, FREDERICK COUNTY, GARRETT COUNTY, HOWARD COUNTY, MONTGOMERY COUNTY, AND WASHINGTON COUNTY.

(D) QUALIFICATION OF MEMBERS.

EACH MEMBER OF A REGIONAL ADVISORY BOARD SHALL BE:

(1) A RESIDENT OF A DISTRICT REPRESENTED BY THAT REGIONAL ADVISORY BOARD; AND

(2) (I) A JUDGE OF A CIRCUIT COURT;

(II) A JUDGE OF THE DISTRICT COURT; OR

(III) AN ACTIVE ATTORNEY ADMITTED TO PRACTICE BEFORE THE COURT OF APPEALS OF MARYLAND.

(E) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF A REGIONAL ADVISORY BOARD IS 3 YEARS.

(2) A VACANCY OCCURRING ON A REGIONAL ADVISORY BOARD DURING THE TERM OF A MEMBER SHALL BE FILLED BY THE GOVERNOR FOR THE REMAINDER OF THE UNEXPIRED TERM.

(F) CHAIR.

(1) THE GOVERNOR SHALL ANNUALLY DESIGNATE A CHAIR OF EACH REGIONAL ADVISORY BOARD FROM AMONG THE MEMBERS OF THAT REGIONAL ADVISORY BOARD.

(2) THE CHAIR SHALL PRESIDE OVER AND REPRESENT THE INTERESTS OF THAT REGIONAL ADVISORY BOARD IN CARRYING OUT THIS TITLE.

(G) QUORUM.

THREE MEMBERS OF A REGIONAL ADVISORY BOARD ARE A QUORUM.

(H) MEETINGS.

(1) EACH REGIONAL ADVISORY BOARD SHALL HOLD AT LEAST ONE REGULAR ANNUAL MEETING AT A TIME AND PLACE THAT THE CHAIR DESIGNATES.

(2) ADDITIONAL MEETINGS MAY BE CALLED:

(I) ON NOTICE BY THE CHAIR;

(II) ON NOTICE BY THE PUBLIC DEFENDER;

(III) ON NOTICE BY THE DISTRICT PUBLIC DEFENDER FROM A DISTRICT REPRESENTED BY THAT REGIONAL ADVISORY BOARD; OR

(IV) AT THE REQUEST OF AT LEAST THREE MEMBERS OF THE REGIONAL ADVISORY BOARD.

(I) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF A REGIONAL ADVISORY BOARD:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE REGIONAL ADVISORY BOARD; BUT

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 10(b), (c), and (e).

In subsection (a) of this section, the reference to regional advisory boards "of the Office" is added to state explicitly what was only implied in the former law.

In subsection (f)(1) and (2) of this section, the references to "chair" are substituted for the former references to "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (g) of this section, the former phrase "for all business" is deleted as surplusage.

In subsection (i)(2) of this section, the reference to reimbursement "for expenses under the Standard State Travel Regulations, as provided in

the State budget” is substituted for the former reference to reimbursement “for necessary expenses, including travel, actually incurred in the performance of their duties” to conform to the terminology used in this and other revised articles.

Defined terms: “District” § 16–101
“Office” § 16–101
“Regional advisory board” § 16–101

16–304. DUTIES OF REGIONAL ADVISORY BOARDS.

EACH REGIONAL ADVISORY BOARD SHALL:

(1) **STUDY AND OBSERVE THE OPERATION OF DISTRICT PUBLIC DEFENDER OFFICES; AND**

(2) **ADVISE THE PUBLIC DEFENDER AND DISTRICT PUBLIC DEFENDERS ON PANELS OF ATTORNEYS, FEES, AND OTHER MATTERS ABOUT THE OPERATION OF DISTRICT PUBLIC DEFENDER OFFICES AND THE PUBLIC DEFENDER SYSTEM.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 27A, § 10(d).

Defined terms: “District” § 16–101
“Regional advisory board” § 16–101

SUBTITLE 4. REPORT; APPROPRIATIONS; SEVERABILITY.

16–401. ANNUAL REPORT OF PUBLIC DEFENDER.

(A) **RECIPIENTS.**

ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE PUBLIC DEFENDER SHALL SUBMIT A REPORT TO:

- (1) **THE BOARD OF TRUSTEES;**
- (2) **THE GOVERNOR; AND**
- (3) **IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

(B) CONTENT.

THE REPORT SHALL INCLUDE:

(1) PERTINENT DATA ABOUT THE OPERATIONS OF THE OFFICE, INCLUDING PROJECTED NEEDS, A BREAKDOWN OF THE NUMBER AND TYPE OF CASES HANDLED, AND RELATIVE DISPOSITIONS; AND

(2) RECOMMENDATIONS FOR STATUTORY CHANGES, INCLUDING CHANGES IN THE CRIMINAL LAW OR MARYLAND RULES TO CONTROL CRIME AND IMPROVE THE CRIMINAL JUSTICE SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 11.

In subsection (b)(2) of this section, the former reference to changes "as may be appropriate or necessary" is deleted as surplusage.

Defined terms: "Board of Trustees" § 16-101
"Office" § 16-101

16-402. APPROPRIATIONS.

FUNDS FOR CARRYING OUT THIS TITLE SHALL BE AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27A, § 13.

The former reference to "provisions of" this title and the former phrase "from time to time" are deleted as surplusage.

16-403. SEVERABILITY.

(A) SEVERABILITY.

THE PROVISIONS OF THIS TITLE ARE SEVERABLE.

(B) EFFECT ON OTHER PROVISIONS.

THE INVALIDITY OF A PROVISION OF THIS TITLE DOES NOT AFFECT OTHER PROVISIONS THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27A, § 12.

In subsection (b) of this section, the former references to “unconstitutional” and “unconstitutionality” are deleted as implicit within the terms “invalid” and “invalidity”.

Also in subsection (b) of this section, the former phrases “sentence[s], clause[s], section[s], or part[s]” are deleted as implicit within the term “provision[s]”.

Also in subsection (b) of this section, the former phrase “or their application to other persons or circumstances” is deleted as surplusage.

Also in subsection (b) of this section, the former reference to “impair” the provisions is deleted as included in the reference to “affect” the provisions.

The second sentence of former Art. 27A, § 12, which declared that the legislative intent of this title would have been adopted if the invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, is deleted as duplicative of this section.

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 27A, § 14, which provided for local exemptions to the provisions of Article 27A, is deleted as obsolete. The Public Defender provides services in all counties within the State, and no county implemented or maintained a separate or different system before September 1, 1971.

GENERAL REVISOR'S NOTE TO TITLES 14, 15, AND 16:

This revision contains three revised titles of the Criminal Procedure Article.

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of code revision has been that, once something is said, it should be said in the same way every time. To that end, the Criminal Procedure Article Additions Review Committee conformed the language and organization of Titles 14, 15, and 16 to that of the rest of the Criminal Procedure Article and other previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Criminal Procedure Article Additions Review Committee that this bulk revision of the substantive laws regarding the Office of the State Prosecutor, the Office of the State's Attorney, and the Office of the Public Defender render no substantive change. The

guiding principle of the preparation of Titles 14, 15, and 16 of the Criminal Procedure Article is that state in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

[T]he principle function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted).

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of these Titles 14, 15, and 16 in no way is intended to make any change to the substantive law of Maryland relating to the Office of the State Prosecutor, the Office of the State's Attorney, or the Office of the Public Defender.

Throughout Titles 15 and 16, as in other revised articles, the word "regulations" generally is substituted for the former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

In many provisions in these titles, as in other revised articles, the word "unit" is substituted for former references to governmental entities such as an "agency", "board", or "commission". In revised articles of the Code, the word "unit" is used as the general term for an organization in government because it is broad enough to include all such entities.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

Also throughout these titles, references to the "chair" of a committee or other unit are substituted for former references to "chairman" in accordance with the style manual of the Office of Policy Analysis of the Department of Legislative Services. SG § 2-1238(11) requires the Office of Policy Analysis to include in the style manual "a drafting rule that requires, to the extent practicable, the use of words that are neutral as to gender except for a subject matter that specifically applies only to one gender and except for a name or organizational title".

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2008 Session on some provisions of these titles.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be

construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 4. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 7. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is

or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 10. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2008 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.