

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 97

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Senator Mooney” and substitute “Senators Mooney, Muse, Frosh, and Raskin”.

AMENDMENT NO. 2

On page 1, in line 2, before “Public” insert “Office of the”; in the same line, before “Board” insert “;”; in the same line, strike “Composition” and substitute “Membership”; strike beginning with “altering” in line 3 down through “Trustees” in line 10 and substitute “repealing the requirement that the Public Defender serve at the pleasure of the Board of Trustees of the Office of the Public Defender; specifying that the Board of Trustees may remove the Public Defender for certain reasons, only on the recommendation of the Board of Trustees; providing that the Public Defender may serve for a certain term; increasing the number of members of the Board of Trustees; altering the method of selection of the members of the Board of Trustees; increasing the number of members of the Board of Trustees who are required to be active attorneys admitted to practice before the Court of Appeals of Maryland; requiring certain members of the Board of Trustees to have certain qualifications; prohibiting certain persons from serving on the Board of Trustees; providing for the staggering of terms of the Board of Trustees; specifying that at the end of a term a member of the Board of Trustees continues to serve until a successor is appointed and qualifies; authorizing the reappointment to the Board of Trustees of a member whose term has expired; providing for the manner of appointing a member to fill a vacancy on the Board of Trustees; increasing the requirements for a quorum of the Board of Trustees; altering the number of members of the Board of Trustees that are required to make a request in order to call for an additional meeting; requiring that the initial members of the Board of Trustees be appointed on or before a certain date; specifying the terms of the initial members of the Board of Trustees; providing that a member of the Board of Trustees who is serving on the effective date of this Act shall continue to”

(Over)

serve until a successor is appointed and qualifies; providing that the Public Defender who is serving on the effective date of this Act may continue to serve for a certain time"; strike beginning with "the" in line 10 down through the second "of" in line 11; and in line 14, after "Section" insert "16-203(a) and".

AMENDMENT NO. 3

On page 1, after line 19, insert:

"16-203.

(a) (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) BY A VOTE OF AT LEAST SEVEN MEMBERS, THE BOARD OF TRUSTEES MAY REMOVE THE PUBLIC DEFENDER FOR:

(I) MISCONDUCT IN OFFICE;

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

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

(4) 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)]~~ **(5)** The Public Defender shall receive the same salary as a judge of a circuit court.

~~[(5)]~~ **(6)** The Public Defender may not engage in the private practice of law.

(7) THE PUBLIC DEFENDER SERVES FOR A TERM OF 6 YEARS.;

in line 22, strike “**THE FOLLOWING ELEVEN**” and substitute “**13**”; and in line 23, strike the colon and substitute a period.

On pages 1 and 2, strike in their entirety the lines beginning with line 24 on page 1 through line 11 on page 2, inclusive.

On page 2, after line 13, insert:

“(2) NINE MEMBERS OF THE BOARD OF TRUSTEES SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE AND SHALL INCLUDE A REPRESENTATIVE OF EACH JUDICIAL CIRCUIT OF THE STATE.”;

in line 14, strike “(2)” and substitute “**(3)**”; in the same line, strike “**AT LEAST NINE**” and substitute “**SIX**”; in the same line, after “Trustees” insert “**APPOINTED BY THE GOVERNOR**”; and strike beginning with “**(D)**” in line 16 down through “**STATE**” in line 21 and substitute:

“(4) ONE MEMBER SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE.

“(5) ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES.

(Over)

(6) ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF MARYLAND SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.

(7) ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF BALTIMORE SCHOOL OF LAW, OR THE DEAN'S DESIGNEE.

(8) EACH MEMBER APPOINTED TO THE BOARD OF TRUSTEES SHALL:

(I) HAVE SIGNIFICANT EXPERIENCE IN CRIMINAL DEFENSE OR OTHER MATTERS RELEVANT TO THE WORK OF THE BOARD OF TRUSTEES; OR

(II) HAVE DEMONSTRATED A STRONG COMMITMENT TO QUALITY REPRESENTATION OF INDIGENT DEFENDANTS, INCLUDING JUVENILE RESPONDENTS.

(9) A MEMBER OF THE BOARD OF TRUSTEES MAY NOT BE:

(I) A CURRENT MEMBER OR EMPLOYEE OF:

1. THE JUDICIAL BRANCH; OR

2. A LAW ENFORCEMENT AGENCY IN THE STATE; OR

(II) 1. A STATE'S ATTORNEY OF A COUNTY OR MUNICIPAL CORPORATION OF THE STATE;

2. THE ATTORNEY GENERAL OF MARYLAND; OR

3. THE STATE PROSECUTOR.

AMENDMENT NO. 4

On page 2, in lines 22 and 26, in each instance, strike the bracket; in the same lines, strike “(E)” and “(F)”, respectively; in line 22, strike “a” and substitute “**AN APPOINTED**”; after line 22, insert:

“(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON OCTOBER 1, 2010.”;

in line 23, strike “(2)” and substitute “**(3)**”; and after line 25, insert:

“(4) AT THE END OF A TERM A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.”

“(5) A MEMBER WHOSE TERM HAS EXPIRED MAY BE REAPPOINTED TO THE BOARD OF TRUSTEES.”

On page 3, in lines 1, 2, and 7, in each instance, strike the bracket; in the same lines, strike “(G)”, “(H)”, and “(I)”, respectively; in line 1, strike “Two”; and in the same line, strike “SIX” and substitute “**SEVEN**”.

AMENDMENT NO. 5

On page 3, after line 11, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the initial members of the Board of Trustees shall be appointed on or before December 31, 2010.”

(Over)

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Board of Trustees shall expire as follows:

(1) the members appointed by the Governor representing judicial circuits one through four in 2012;

(2) the members appointed by the Governor representing judicial circuits five through eight in 2013; and

(3) the members appointed by the President of the Senate and the Speaker of the House of Delegates in 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That a member of the Board of Trustees who is serving on the effective date of this Act shall continue to serve until a successor is appointed and qualifies.

SECTION 5. AND BE IT FURTHER ENACTED, That the Public Defender who is serving on the effective date of this Act may continue to serve until 6 years after the effective date of this Act.”;

and in line 12, strike “2.” and substitute “6.”