

# HOUSE BILL 121

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By: **Delegates Anderson, Barnes, Cardin, Glenn, Olszewski, Ramirez, Ross, Schuler, Smigiel, Stukes, Tarrant, Vallario, and Waldstreicher**  
Introduced and read first time: January 18, 2010  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Office of the Public Defender – Eligibility for Services – Authorization to**  
3 **Access Agency Records**

4 FOR the purpose of authorizing the Office of the Public Defender to make cooperative  
5 agreements with the Department of Labor, Licensing, and Regulation, the  
6 Comptroller, and the State Department of Assessments and Taxation to allow  
7 the Office to have certain access to certain information regarding applicants for  
8 services of the Office; and generally relating to eligibility for services of the  
9 Office of the Public Defender.

10 BY repealing and reenacting, with amendments,  
11 Article – Criminal Procedure  
12 Section 16–210  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume and 2009 Supplement)

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

17 **Article – Criminal Procedure**

18 16–210.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Eligibility for the services of the Office shall be determined by the  
2 need of the applicant.

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

6 (3) Financial ability shall be determined by:

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

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

9 (iii) the nature of the offense;

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

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

12 and

13 (vi) any other foreseeable expense.

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

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

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

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

21 (c) (1) The Office shall investigate the financial status of an applicant  
22 when the circumstances warrant.

23 (2) The Office may:

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

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

1                   (III) MAKE COOPERATIVE AGREEMENTS WITH THE  
2 DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE COMPTROLLER,  
3 AND THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO ALLOW THE  
4 OFFICE TO HAVE IMMEDIATE COMPUTER OR ELECTRONIC ACCESS TO  
5 INFORMATION REGARDING THE EMPLOYMENT STATUS, INCOME, AND REAL  
6 PROPERTY OWNERSHIP OF APPLICANTS.

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2010.