

HOUSE BILL 122

E2, P1

(0lr0776)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Anderson, Barnes, Benson, Bronrott, Burns, Carter, Conaway, Conway, George, Glenn, Gutierrez, Guzzone, Harrison, Haynes, Huckler, Ivey, Kirk, Levi, McComas, McIntosh, Murphy, Nathan-Pulliam, O'Donnell, Oaks, Pena-Melnyk, Proctor, Ramirez, Robinson, Rosenberg, Ross, Schuler, Shank, Smigiel, Stukes, Tarrant, V. Turner, and Vallario**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Procedure~~ Office of the Public Defender – Board of Trustees of the
3 ~~Office of the Public Defender – Modification – Membership~~

4 FOR the purpose of repealing ~~a provision of law requiring~~ the requirement that the
5 Public Defender serve at the pleasure of the Board of Trustees of the Office of
6 the Public Defender; specifying that the ~~Governor~~ Board of Trustees, by a
7 ~~certain vote,~~ may remove the Public Defender for certain reasons, only on the
8 recommendation of the Board of Trustees, ~~only on the recommendation of the~~
9 ~~Board of Trustees;~~ providing that the Public Defender may serve for a certain
10 term; increasing the number of members of the Board of Trustees; altering the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 method of selection of the members ~~and chair~~ of the Board of Trustees;
 2 ~~requiring each member of the Board of Trustees to have demonstrated~~
 3 ~~commitment to indigent defense; increasing the number of members of the~~
 4 ~~Board of Trustees who are required to be active attorneys admitted to practice~~
 5 ~~before the Court of Appeals of Maryland; prohibiting a prosecutor, judge, or law~~
 6 ~~enforcement officer from being a member of the Board of Trustees; providing for~~
 7 ~~the staggering of terms of the Board of Trustees; specifying that at the end of a~~
 8 ~~term a member of the Board of Trustees continues to serve until a successor is~~
 9 ~~appointed and qualifies; authorizing the reappointment to the Board of Trustees~~
 10 ~~of a member whose term has expired; increasing the quorum of the Board of~~
 11 ~~Trustees; repealing provisions of law relating to regional advisory boards of the~~
 12 ~~Office of the Public Defender; requiring that the initial members of the Board of~~
 13 ~~Trustees be appointed on or before a certain date; specifying the terms of the~~
 14 ~~initial members of the Board of Trustees; providing that a member of the Board~~
 15 ~~of Trustees who is serving on the effective date of this Act shall continue to~~
 16 ~~serve until a successor is appointed and qualifies~~ *increasing the number of*
 17 *members of the Board of Trustees who are required to be active attorneys*
 18 *admitted to practice before the Court of Appeals of Maryland; requiring certain*
 19 *members of the Board of Trustees to have certain qualifications; prohibiting*
 20 *certain persons from serving on the Board of Trustees; providing for the*
 21 *staggering of terms of the Board of Trustees; specifying that at the end of a term*
 22 *a member of the Board of Trustees continues to serve until a successor is*
 23 *appointed and qualifies; authorizing the reappointment to the Board of Trustees*
 24 *of a member whose term has expired; providing for the manner of appointing a*
 25 *member to fill a vacancy on the Board of Trustees; increasing the requirements*
 26 *for a quorum of the Board of Trustees; ~~altering the number of members of the~~*
 27 *~~Board of Trustees that are required to make a request in order to call for an~~*
 28 *~~additional meeting; requiring that the initial members of the Board of Trustees~~*
 29 *~~be appointed on or before a certain date; specifying the terms of the initial~~*
 30 *~~members of the Board of Trustees; providing that a member of the Board of~~*
 31 *~~Trustees who is serving on the effective date of this Act shall continue to serve~~*
 32 *~~until a successor is appointed and qualifies; providing that the Public Defender~~*
 33 *~~who is serving on the effective date of this Act may continue to serve for a certain~~*
 34 *~~time and may be reappointed after the expiration of the Public Defender's term;~~*
 35 and generally relating to the Office of the Public Defender.

36 BY repealing and reenacting, with amendments,
 37 Article – Criminal Procedure
 38 Section 16–203(a) and 16–301
 39 Annotated Code of Maryland
 40 (2008 Replacement Volume and 2009 Supplement)

41 ~~BY repealing~~
 42 ~~Article – Criminal Procedure~~
 43 ~~Section 16–303 and 16–304~~
 44 ~~Annotated Code of Maryland~~
 45 ~~(2008 Replacement Volume and 2009 Supplement)~~

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

3 **Article – Criminal Procedure**

4 16–203.

5 (a) (1) The head of the Office is the Public Defender.

6 (2) The Public Defender shall be appointed by [and serve at the
7 pleasure of] the Board of Trustees.

8 **(3) ~~ONLY ON THE RECOMMENDATION OF~~ BY A VOTE OF AT LEAST**
9 **~~SEVEN MEMBERS, THE BOARD OF TRUSTEES, THE GOVERNOR~~ MAY REMOVE**
10 **THE PUBLIC DEFENDER FOR:**

11 (I) MISCONDUCT IN OFFICE;

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

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

16 **[(3)] (4)** To qualify for appointment as Public Defender, an individual
17 shall be an attorney admitted to practice law in the State by the Court of Appeals of
18 Maryland who has engaged in the practice of law for at least 5 years before
19 appointment.

20 **[(4)] (5)** The Public Defender shall receive the same salary as a judge
21 of a circuit court.

22 **[(5)] (6)** The Public Defender may not engage in the private practice
23 of law.

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

25 16–301.

26 (a) There is a Board of Trustees of the Office of the Public Defender.

27 (b) ~~(1)~~ The Board of Trustees consists of [three] **13** members appointed by
28 ~~the Governor, 12 OF WHOM EACH REPRESENT A PUBLIC DEFENDER DISTRICT,~~
29 ~~AND THE 13TH OF WHOM IS THE CHAIR.~~

1 ~~(2) THE BAR ASSOCIATION OF EACH COUNTY SHALL SUBMIT TO~~
 2 ~~THE GOVERNOR THE NAMES OF THREE INDIVIDUALS FOR CONSIDERATION FOR~~
 3 ~~AN OPEN POSITION ON THE BOARD OF TRUSTEES REPRESENTING THE PUBLIC~~
 4 ~~DEFENDER DISTRICT IN WHICH THE COUNTY IS LOCATED.~~

5 ~~(3) THE GOVERNOR SHALL CHOOSE THE MEMBERS OF THE~~
 6 ~~BOARD OF TRUSTEES, OTHER THAN THE CHAIR, FROM AMONG THE NAMES~~
 7 ~~SUBMITTED BY THE BAR ASSOCIATIONS.~~

8 (c) (1) Each member of the Board of Trustees shall be a resident of the
 9 State ~~AND HAVE DEMONSTRATED COMMITMENT TO INDIGENT DEFENSE.~~

10 ~~(2) [Two members] EACH MEMBER of the Board of Trustees shall be~~
 11 ~~AN active [attorneys] ATTORNEY admitted to practice before the Court of Appeals of~~
 12 ~~Maryland.~~

13 ~~(3) A PROSECUTOR, JUDGE, OR LAW ENFORCEMENT OFFICER~~
 14 ~~MAY NOT BE A MEMBER OF THE BOARD OF TRUSTEES.~~

15 (2) NINE 11 MEMBERS OF THE BOARD OF TRUSTEES SHALL BE
 16 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE
 17 SENATE AND SHALL INCLUDE A REPRESENTATIVE OF EACH JUDICIAL CIRCUIT
 18 OF THE STATE.

19 (3) SIX ALL MEMBERS OF THE BOARD OF TRUSTEES APPOINTED
 20 BY THE GOVERNOR SHALL BE ACTIVE ATTORNEYS ADMITTED TO PRACTICE
 21 BEFORE THE COURT OF APPEALS OF MARYLAND.

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

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

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

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

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

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

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

6 ~~(9)~~ (7) A MEMBER OF THE BOARD OF TRUSTEES MAY NOT BE:

7 (I) A CURRENT MEMBER OR EMPLOYEE OF:

8 1. THE JUDICIAL BRANCH; OR

9 2. A LAW ENFORCEMENT AGENCY IN THE STATE; OR

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

12 2. THE ATTORNEY GENERAL OF MARYLAND; OR

13 3. THE STATE PROSECUTOR.

14 (d) (1) The term of ~~a~~ AN APPOINTED member of the Board of Trustees is
 15 3 years.

16 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
 17 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF
 18 TRUSTEES ON ~~JUNE~~ OCTOBER 1, 2010.

19 (3) A VACANCY OCCURRING ON THE BOARD OF TRUSTEES
 20 DURING THE TERM OF A MEMBER SHALL BE FILLED FOR THE REMAINDER OF THE
 21 UNEXPIRED TERM IN THE SAME MANNER AS PROVIDED FOR APPOINTMENTS IN
 22 THIS SECTION.

23 ~~(3)~~ (4) AT THE END OF A TERM A MEMBER CONTINUES TO
 24 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

25 ~~(4)~~ (5) A MEMBER WHOSE TERM HAS EXPIRED MAY BE
 26 REAPPOINTED TO THE BOARD OF TRUSTEES.

27 ~~[(2)] (5)~~ ~~A vacancy occurring on the Board of Trustees during the~~
 28 ~~term of a member shall be filled by the Governor IN ACCORDANCE WITH~~
 29 ~~SUBSECTION (B) OF THIS SECTION for the remainder of the unexpired term.~~

1 (e) ~~[(1)~~ The Board of Trustees annually shall elect a chair from among its
2 members.

3 (2)~~]~~ The chair shall preside over and represent the interests of the
4 Board of Trustees in carrying out this title.

5 (f) ~~[Two]~~ **SEVEN** members of the Board of Trustees are a quorum.

6 (g) (1) The Board of Trustees shall hold at least one regular annual
7 meeting at a time and place that the chair designates.

8 (2) Additional meetings shall be held as necessary and may be called
9 on notice by the chair or at the request of at least ~~two~~ **FOUR** ~~two~~ members of the Board
10 of Trustees.

11 (h) A member of the Board of Trustees:

12 (1) may not receive compensation for serving on the Board of Trustees;
13 but

14 (2) is entitled to reimbursement for expenses under the Standard
15 State Travel Regulations, as provided in the State budget.

16 ~~[(16-303)~~

17 (a) ~~There are four regional advisory boards of the Office.~~

18 (b) ~~Each regional advisory board consists of five members appointed by the~~
19 ~~Governor.~~

20 (c) ~~Of the four regional advisory boards:~~

21 (1) ~~the first shall advise public defender districts one, eight, and nine,~~
22 ~~which encompass Baltimore City, Baltimore County, and Harford County;~~

23 (2) ~~the second shall advise public defender districts two and three,~~
24 ~~which encompass Caroline County, Cecil County, Dorchester County, Kent County,~~
25 ~~Queen Anne's County, Somerset County, Talbot County, Wicomico County, and~~
26 ~~Worcester County;~~

27 (3) ~~the third shall advise public defender districts four, five, and~~
28 ~~seven, which encompass Anne Arundel County, Calvert County, Charles County,~~
29 ~~Prince George's County, and St. Mary's County; and~~

1 ~~(4) the fourth shall advise public defender districts six, ten, eleven,~~
2 ~~and twelve, which encompass Allegany County, Carroll County, Frederick County,~~
3 ~~Garrett County, Howard County, Montgomery County, and Washington County.~~

4 ~~(d) Each member of a regional advisory board shall be:~~

5 ~~(1) a resident of a district represented by that regional advisory board;~~
6 ~~and~~

7 ~~(2) (i) a judge of a circuit court;~~

8 ~~(ii) a judge of the District Court; or~~

9 ~~(iii) an active attorney admitted to practice before the Court of~~
10 ~~Appeals of Maryland.~~

11 ~~(e) (1) The term of a member of a regional advisory board is 3 years.~~

12 ~~(2) A vacancy occurring on a regional advisory board during the term~~
13 ~~of a member shall be filled by the Governor for the remainder of the unexpired term.~~

14 ~~(f) (1) The Governor shall annually designate a chair of each regional~~
15 ~~advisory board from among the members of that regional advisory board.~~

16 ~~(2) The chair shall preside over and represent the interests of that~~
17 ~~regional advisory board in carrying out this title.~~

18 ~~(g) Three members of a regional advisory board are a quorum.~~

19 ~~(h) (1) Each regional advisory board shall hold at least one regular annual~~
20 ~~meeting at a time and place that the chair designates.~~

21 ~~(2) Additional meetings may be called:~~

22 ~~(i) on notice by the chair;~~

23 ~~(ii) on notice by the Public Defender;~~

24 ~~(iii) on notice by the district public defender from a district~~
25 ~~represented by that regional advisory board; or~~

26 ~~(iv) at the request of at least three members of the regional~~
27 ~~advisory board.~~

28 ~~(i) A member of a regional advisory board:~~

1 ~~(1) may not receive compensation for serving on the regional advisory~~
2 ~~board; but~~

3 ~~(2) is entitled to reimbursement for expenses under the Standard~~
4 ~~State Travel Regulations, as provided in the State budget.]~~

5 ~~[16 304.~~

6 ~~Each regional advisory board shall:~~

7 ~~(1) study and observe the operation of district public defender offices;~~
8 ~~and~~

9 ~~(2) advise the Public Defender and district public defenders on panels~~
10 ~~of attorneys, fees, and other matters about the operation of district public defender~~
11 ~~offices and the public defender system.]~~

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

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

16 ~~(1) The members representing public defender districts one through four in~~
17 ~~2012;~~

18 ~~(2) The members representing public defender districts five through eight in~~
19 ~~2013;~~

20 ~~(3) The members representing public defender districts nine through twelve~~
21 ~~in 2014; and~~

22 ~~(4) The chair in 2014.~~

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

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

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

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

1 SECTION 5. AND BE IT FURTHER ENACTED, That the Public Defender who
2 is serving on the effective date of this Act may continue to serve until 6 years after the
3 effective date of this Act and may be reappointed after the expiration of the Public
4 Defender's term.

5 SECTION ~~5.~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect ~~June~~ ~~October~~ June 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.