

HOUSE BILL 122

E2, P1

0lr0776

By: **Delegates Anderson, Barnes, Benson, Bronrott, Burns, Carter, Conaway, Conway, George, Glenn, Gutierrez, Guzzone, Harrison, Haynes, Hucker, 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**

Introduced and read first time: January 18, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of repealing a provision of law requiring that the Public Defender
5 serve at the pleasure of the Board of Trustees of the Office of the Public
6 Defender; specifying that the Governor may remove the Public Defender for
7 certain reasons, only on the recommendation of the Board of Trustees;
8 increasing the number of members of the Board of Trustees; altering the
9 method of selection of the members and chair of the Board of Trustees;
10 requiring each member of the Board of Trustees to have demonstrated
11 commitment to indigent defense; increasing the number of members of the
12 Board of Trustees who are required to be active attorneys admitted to practice
13 before the Court of Appeals of Maryland; prohibiting a prosecutor, judge, or law
14 enforcement officer from being a member of the Board of Trustees; providing for
15 the staggering of terms of the Board of Trustees; specifying that at the end of a
16 term a member of the Board of Trustees continues to serve until a successor is
17 appointed and qualifies; authorizing the reappointment to the Board of Trustees
18 of a member whose term has expired; increasing the quorum of the Board of
19 Trustees; repealing provisions of law relating to regional advisory boards of the
20 Office of the Public Defender; requiring that the initial members of the Board of
21 Trustees be appointed on or before a certain date; specifying the terms of the
22 initial members of the Board of Trustees; providing that a member of the Board
23 of Trustees who is serving on the effective date of this Act shall continue to
24 serve until a successor is appointed and qualifies; and generally relating to the
25 Office of the Public Defender.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Criminal Procedure
 3 Section 16–203(a) and 16–301
 4 Annotated Code of Maryland
 5 (2008 Replacement Volume and 2009 Supplement)

6 BY repealing
 7 Article – Criminal Procedure
 8 Section 16–303 and 16–304
 9 Annotated Code of Maryland
 10 (2008 Replacement Volume and 2009 Supplement)

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

13 **Article – Criminal Procedure**

14 16–203.

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

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

18 **(3) ONLY ON THE RECOMMENDATION OF THE BOARD OF**
 19 **TRUSTEES, THE GOVERNOR MAY REMOVE THE PUBLIC DEFENDER FOR:**

20 **(I) MISCONDUCT IN OFFICE;**

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

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

25 **[(3)] (4)** To qualify for appointment as Public Defender, an individual
 26 shall be an attorney admitted to practice law in the State by the Court of Appeals of
 27 Maryland who has engaged in the practice of law for at least 5 years before
 28 appointment.

29 **[(4)] (5)** The Public Defender shall receive the same salary as a judge
 30 of a circuit court.

31 **[(5)] (6)** The Public Defender may not engage in the private practice
 32 of law.

1 16-301.

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

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

6 **(2) THE BAR ASSOCIATION OF EACH COUNTY SHALL SUBMIT TO**
7 **THE GOVERNOR THE NAMES OF THREE INDIVIDUALS FOR CONSIDERATION FOR**
8 **AN OPEN POSITION ON THE BOARD OF TRUSTEES REPRESENTING THE PUBLIC**
9 **DEFENDER DISTRICT IN WHICH THE COUNTY IS LOCATED.**

10 **(3) THE GOVERNOR SHALL CHOOSE THE MEMBERS OF THE**
11 **BOARD OF TRUSTEES, OTHER THAN THE CHAIR, FROM AMONG THE NAMES**
12 **SUBMITTED BY THE BAR ASSOCIATIONS.**

13 (c) (1) Each member of the Board of Trustees shall be a resident of the
14 State **AND HAVE DEMONSTRATED COMMITMENT TO INDIGENT DEFENSE.**

15 (2) [Two members] **EACH MEMBER** of the Board of Trustees shall be
16 **AN active [attorneys] ATTORNEY** admitted to practice before the Court of Appeals of
17 Maryland.

18 **(3) A PROSECUTOR, JUDGE, OR LAW ENFORCEMENT OFFICER**
19 **MAY NOT BE A MEMBER OF THE BOARD OF TRUSTEES.**

20 (d) (1) The term of a member of the Board of Trustees is 3 years.

21 **(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**
22 **THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON JUNE 1,**
23 **2010.**

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

26 **(4) A MEMBER WHOSE TERM HAS EXPIRED MAY BE REAPPOINTED**
27 **TO THE BOARD OF TRUSTEES.**

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

31 (e) **[(1)** The Board of Trustees annually shall elect a chair from among its
32 members.

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

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

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

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

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

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

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

14 [16–303.

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

16 (b) Each regional advisory board consists of five members appointed by the
17 Governor.

18 (c) Of the four regional advisory boards:

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

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

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

28 (4) the fourth shall advise public defender districts six, ten, eleven,
29 and twelve, which encompass Allegany County, Carroll County, Frederick County,
30 Garrett County, Howard County, Montgomery County, and Washington County.

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

1 (1) a resident of a district represented by that regional advisory board;
2 and

3 (2) (i) a judge of a circuit court;

4 (ii) a judge of the District Court; or

5 (iii) an active attorney admitted to practice before the Court of
6 Appeals of Maryland.

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

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

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

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

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

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

17 (2) Additional meetings may be called:

18 (i) on notice by the chair;

19 (ii) on notice by the Public Defender;

20 (iii) on notice by the district public defender from a district
21 represented by that regional advisory board; or

22 (iv) at the request of at least three members of the regional
23 advisory board.

24 (i) A member of a regional advisory board:

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

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

1 [16–304.

2 Each regional advisory board shall:

3 (1) study and observe the operation of district public defender offices;
4 and

5 (2) advise the Public Defender and district public defenders on panels
6 of attorneys, fees, and other matters about the operation of district public defender
7 offices and the public defender system.]

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

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

12 (1) The members representing public defender districts one through four in
13 2012;

14 (2) The members representing public defender districts five through eight in
15 2013;

16 (3) The members representing public defender districts nine through twelve
17 in 2014; and

18 (4) The chair in 2014.

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

22 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 2010.