

# HOUSE BILL 122

E2, P1

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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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 16, 2010

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## CHAPTER \_\_\_\_\_

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~~ Board of Trustees, by a certain vote,  
7 may remove the Public Defender for certain reasons, ~~only on the~~  
8 ~~recommendation of the Board of Trustees~~; increasing the number of members of  
9 the Board of Trustees; altering the method of selection of the members and  
10 chair of the Board of Trustees; requiring each member of the Board of Trustees  
11 to have demonstrated commitment to indigent defense; increasing the number  
12 of members of the Board of Trustees who are required to be active attorneys  
13 admitted to practice before the Court of Appeals of Maryland; prohibiting a  
14 prosecutor, judge, or law enforcement officer from being a member of the Board  
15 of Trustees; providing for the staggering of terms of the Board of Trustees;  
16 specifying that at the end of a term a member of the Board of Trustees  
17 continues to serve until a successor is appointed and qualifies; authorizing the  
18 reappointment to the Board of Trustees of a member whose term has expired;  
19 increasing the quorum of the Board of Trustees; repealing provisions of law  
20 relating to regional advisory boards of the Office of the Public Defender;

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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.



1 requiring that the initial members of the Board of Trustees be appointed on or  
 2 before a certain date; specifying the terms of the initial members of the Board of  
 3 Trustees; providing that a member of the Board of Trustees who is serving on  
 4 the effective date of this Act shall continue to serve until a successor is  
 5 appointed and qualifies; and generally relating to the Office of the Public  
 6 Defender.

7 BY repealing and reenacting, with amendments,  
 8 Article – Criminal Procedure  
 9 Section 16–203(a) and 16–301  
 10 Annotated Code of Maryland  
 11 (2008 Replacement Volume and 2009 Supplement)

12 BY repealing  
 13 Article – Criminal Procedure  
 14 Section 16–303 and 16–304  
 15 Annotated Code of Maryland  
 16 (2008 Replacement Volume and 2009 Supplement)

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

19 **Article – Criminal Procedure**

20 16–203.

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

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

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

27 (I) MISCONDUCT IN OFFICE;

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

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

32 [(3)] (4) To qualify for appointment as Public Defender, an individual  
 33 shall be an attorney admitted to practice law in the State by the Court of Appeals of  
 34 Maryland who has engaged in the practice of law for at least 5 years before  
 35 appointment.

1                    **[(4)] (5)**        The Public Defender shall receive the same salary as a judge  
2 of a circuit court.

3                    **[(5)] (6)**        The Public Defender may not engage in the private practice  
4 of law.

5 16–301.

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

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

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

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

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

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

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

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

25                    **(2)**        **THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**  
26 **THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON JUNE 1,**  
27 **2010.**

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

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

1            **[(2)] (5)**     A vacancy occurring on the Board of Trustees during the  
2 term of a member shall be filled by the Governor **IN ACCORDANCE WITH**  
3 **SUBSECTION (B) OF THIS SECTION** for the remainder of the unexpired term.

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

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

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

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

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

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

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

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

19 **[16–303.**

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

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

23            (c)     Of the four regional advisory boards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24                   (2)    Additional meetings may be called:

25                   (i)    on notice by the chair;

26                   (ii)   on notice by the Public Defender;

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

29                   (iv)   at the request of at least three members of the regional  
30 advisory board.

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

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

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

6 [16-304.

7 Each regional advisory board shall:

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

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

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

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

17 (1) The members representing public defender districts one through four in  
18 2012;

19 (2) The members representing public defender districts five through eight in  
20 2013;

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

23 (4) The chair in 2014.

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

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