

# SENATE BILL 97

E2, D1

0lr0936

---

By: ~~Senator Mooney~~ **Senators Mooney, Muse, Frosh, and Raskin**

Introduced and read first time: January 14, 2010

Assigned to: Judicial Proceedings

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2010

---

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

1 AN ACT concerning

2 **Office of the Public Defender – Board of Trustees – ~~Composition~~ Membership**

3 FOR the purpose of ~~altering the composition of the Board of Trustees of the Office of~~  
4 ~~the Public Defender; altering the manner by which members of the Board of~~  
5 ~~Trustees are appointed; establishing qualifications of members of the Board of~~  
6 ~~Trustees; establishing the number of members of the Board of Trustees~~  
7 ~~necessary for a quorum; authorizing a certain number of members of the Board~~  
8 ~~of Trustees to call for additional meetings; providing for diversity of~~  
9 ~~membership of the Board of Trustees; providing for the manner in which~~  
10 ~~vacancies are filled on the Board of Trustees~~ repealing the requirement that the  
11 Public Defender serve at the pleasure of the Board of Trustees of the Office of  
12 the Public Defender; specifying that the Board of Trustees may remove the  
13 Public Defender for certain reasons, only on the recommendation of the Board of  
14 Trustees; providing that the Public Defender may serve for a certain term;  
15 increasing the number of members of the Board of Trustees; altering the  
16 method of selection of the members of the Board of Trustees; increasing the  
17 number of members of the Board of Trustees who are required to be active  
18 attorneys admitted to practice before the Court of Appeals of Maryland;  
19 requiring certain members of the Board of Trustees to have certain  
20 qualifications; prohibiting certain persons from serving on the Board of  
21 Trustees; providing for the staggering of terms of the Board of Trustees;  
22 specifying that at the end of a term a member of the Board of Trustees  
23 continues to serve until a successor is appointed and qualifies; authorizing the  
24 reappointment to the Board of Trustees of a member whose term has expired;  
25 providing for the manner of appointing a member to fill a vacancy on the Board

---

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.



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 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; and generally relating to the Board of Trustees of the Office of the Public Defender.

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

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

### **Article – Criminal Procedure**

#### 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.

1            ~~[(5)] (6)~~     The Public Defender may not engage in the private practice  
2 of law.

3            **(7)   THE PUBLIC DEFENDER SERVES FOR A TERM OF 6 YEARS.**  
4 16-301.

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

6            (b)     The Board of Trustees consists of [three] ~~THE FOLLOWING ELEVEN~~ **13**  
7 **[members appointed by the Governor.] MEMBERS;.**

8            ~~(1)   FOUR MEMBERS APPOINTED BY THE GOVERNOR;~~

9            ~~(2)   TWO MEMBERS APPOINTED BY THE CHIEF JUDGE OF THE~~  
10 ~~COURT OF APPEALS;~~

11            ~~(3)   ONE MEMBER APPOINTED BY THE PRESIDENT OF THE~~  
12 ~~SENATE;~~

13            ~~(4)   ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE;~~

14            ~~(5)   ONE MEMBER APPOINTED BY THE PRESIDENT OF THE~~  
15 ~~MARYLAND STATE BAR ASSOCIATION;~~

16            ~~(6)   ONE MEMBER APPOINTED BY THE DEAN OF THE UNIVERSITY~~  
17 ~~OF MARYLAND SCHOOL OF LAW; AND~~

18            ~~(7)   ONE MEMBER APPOINTED BY THE DEAN OF THE UNIVERSITY~~  
19 ~~OF BALTIMORE SCHOOL OF LAW;~~

20            (c)     (1)     Each member of the Board of Trustees shall be a resident of the  
21 State.

22            **(2)   NINE MEMBERS OF THE BOARD OF TRUSTEES SHALL BE**  
23 **APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE**  
24 **SENATE AND SHALL INCLUDE A REPRESENTATIVE OF EACH JUDICIAL CIRCUIT**  
25 **OF THE STATE.**

26            ~~(2) (3)~~ [Two] ~~AT LEAST NINE~~ **SIX** members of the Board of Trustees  
27 **APPOINTED BY THE GOVERNOR** shall be active attorneys admitted to practice before  
28 the Court of Appeals of Maryland.

~~(D) TO THE EXTENT PRACTICABLE, IN APPOINTING MEMBERS TO THE BOARD, THE APPOINTING AUTHORITIES SHALL ENSURE THAT:~~

~~(1) EACH GEOGRAPHIC REGION OF THE STATE IS REPRESENTED EQUITABLY; AND~~

~~(2) THE BOARD OF TRUSTEES COLLECTIVELY REFLECTS THE RACIAL, ETHNIC, AGE, AND GENDER DIVERSITY OF THE STATE~~

(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.

(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.

~~[(d)] (E)~~ (1) The term of ~~a~~ AN APPOINTED member of the Board of Trustees is 3 years.

**(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.**

~~(2)~~ **(3)** A vacancy occurring on the Board of Trustees during the term of a member shall be filled [by the Governor] for the remainder of the unexpired term **IN THE SAME MANNER AS PROVIDED FOR APPOINTMENTS IN THIS SECTION.**

**(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.**

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

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

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

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

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

~~[(h)] (I)~~ A member of the Board of Trustees:

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

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

**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.**

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

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

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

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

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

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

15        SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take  
16 effect October 1, 2010.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.