

# SENATE BILL 532

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By: **Senators Muse, Frosh, and Raskin**

Introduced and read first time: February 4, 2010

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

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

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

25 BY repealing and reenacting, with amendments,  
26 Article – Criminal Procedure  
27 Section 16–203(a) and 16–301  
28 Annotated Code of Maryland  
29 (2008 Replacement Volume and 2009 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 THE BOARD OF**  
9 **TRUSTEES, THE GOVERNOR MAY REMOVE THE PUBLIC DEFENDER FOR:**

10 (I) MISCONDUCT IN OFFICE;

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

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

15 [(3)] (4) To qualify for appointment as Public Defender, an individual  
16 shall be an attorney admitted to practice law in the State by the Court of Appeals of  
17 Maryland who has engaged in the practice of law for at least 5 years before  
18 appointment.

19 [(4)] (5) The Public Defender shall receive the same salary as a judge  
20 of a circuit court.

21 [(5)] (6) The Public Defender may not engage in the private practice  
22 of law.

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

24 16–301.

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

26 (b) The Board of Trustees consists of [three] **13** members [appointed by the  
27 Governor].

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

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

5           (3)    **[Two] SIX** members of the Board of Trustees **APPOINTED BY THE**  
6 **GOVERNOR** shall be active attorneys admitted to practice before the Court of Appeals  
7 of Maryland.

8           (4)    **ONE MEMBER SHALL BE APPOINTED BY THE PRESIDENT OF**  
9 **THE SENATE.**

10          (5)    **ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE**  
11 **HOUSE OF DELEGATES.**

12          (6)    **ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF**  
13 **MARYLAND SCHOOL OF LAW.**

14          (7)    **ONE MEMBER SHALL BE THE DEAN OF THE UNIVERSITY OF**  
15 **BALTIMORE SCHOOL OF LAW.**

16          (8)    **EACH MEMBER APPOINTED TO THE BOARD OF TRUSTEES**  
17 **SHALL HAVE:**

18                (I)    **SIGNIFICANT EXPERIENCE IN CRIMINAL DEFENSE OR**  
19 **OTHER MATTERS RELEVANT TO THE WORK OF THE BOARD OF TRUSTEES; OR**

20                (II)   **DEMONSTRATED A STRONG COMMITMENT TO QUALITY**  
21 **REPRESENTATION OF INDIGENT DEFENDANTS, INCLUDING JUVENILE**  
22 **RESPONDENTS.**

23          (9)    **A MEMBER OF THE BOARD OF TRUSTEES MAY NOT BE:**

24                (I)    **A CURRENT MEMBER OR EMPLOYEE OF:**

25                    1.    **THE JUDICIAL BRANCH; OR**

26                    2.    **A LAW ENFORCEMENT AGENCY IN THE STATE; OR**

27                (II)    1.    **A STATE'S ATTORNEY OF A COUNTY OR**  
28 **MUNICIPAL CORPORATION OF THE STATE;**

29                    2.    **THE ATTORNEY GENERAL OF MARYLAND; OR**



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