

# HOUSE BILL 1515

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By: **Delegate Anderson**

Introduced and read first time: February 17, 2016

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Office of the Public Defender – Indigency Determinations**

3 FOR the purpose of providing that an individual who is determined by a District Court  
4 commissioner to be qualified for a certain court–appointed attorney at a certain time  
5 is eligible for the services of the Office of the Public Defender, subject to a certain  
6 provision of law; and generally relating to the Office of the Public Defender.

7 BY repealing and reenacting, with amendments,

8 Article – Criminal Procedure

9 Section 16–210

10 Annotated Code of Maryland

11 (2008 Replacement Volume and 2015 Supplement)

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

14 **Article – Criminal Procedure**

15 16–210.

16 (a) An individual may apply for services of the Office as an indigent individual, if  
17 the individual states in writing under oath or affirmation that the individual, without  
18 undue financial hardship, cannot provide the full payment of an attorney and all other  
19 necessary expenses of representation in proceedings listed under § 16–204(b) of this  
20 subtitle.

21 (b) For an individual whose assets and net annual income are less than 100  
22 percent of the federal poverty guidelines, eligibility for services of the Office may be  
23 determined without an assessment regarding the need of the applicant.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) For an individual whose assets and net annual income equal or exceed  
2 100 percent of the federal poverty guidelines, eligibility for the services of the Office shall  
3 be determined by the need of the applicant.

4 (2) Need shall be measured according to the financial ability of the  
5 applicant to engage and compensate a competent private attorney and to provide all other  
6 necessary expenses of representation.

7 (3) Financial ability shall be determined by:

8 (i) the nature, extent, and liquidity of assets;

9 (ii) the disposable net income of the applicant;

10 (iii) the nature of the offense;

11 (iv) the length and complexity of the proceedings;

12 (v) the effort and skill required to gather pertinent information; and

13 (vi) any other foreseeable expense.

14 (4) If eligibility cannot be determined before the Office or a panel attorney  
15 begins representation, the Office may represent an applicant provisionally.

16 (5) If the Office subsequently determines that an applicant is ineligible:

17 (i) the Office shall inform the applicant; and

18 (ii) the applicant shall be required to engage the applicant's own  
19 attorney and reimburse the Office for the cost of the representation provided.

20 **(D) SUBJECT TO SUBSECTION (C)(5) OF THIS SECTION, AN INDIVIDUAL WHO**  
21 **IS DETERMINED BY A DISTRICT COURT COMMISSIONER TO BE QUALIFIED FOR A**  
22 **COURT-APPOINTED ATTORNEY AT INITIAL APPEARANCE IS ELIGIBLE FOR THE**  
23 **SERVICES OF THE OFFICE.**

24 **[(d)](E)** (1) The Office shall investigate the financial status of an applicant  
25 when the circumstances warrant.

26 (2) The Office may:

27 (i) require an applicant to execute and deliver written requests or  
28 authorizations that are necessary under law to provide the Office with access to confidential  
29 records of public or private sources that are needed to evaluate eligibility; and

1                   (ii) on request, obtain information without charge from a public  
2 record office or other unit of the State, county, or municipal corporation.

3                   (3) (i) The Office may submit requests to the Department of Labor,  
4 Licensing, and Regulation and the Comptroller for information regarding the employment  
5 status and income of applicants.

6                   (ii) Each request shall be accompanied by an authorization for  
7 release of information that is:

8                                   1. in a form acceptable to the agency to which the request is  
9 submitted; and

10                                   2. signed by the applicant.

11                   (iii) The Department of Labor, Licensing, and Regulation and the  
12 Comptroller shall comply with requests for information made by the Office under this  
13 paragraph.

14                   (iv) Requests and responsive information may be exchanged by  
15 facsimile transmission.

16                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2016.