

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 1017

(Senators Zirkin and Miller)

Judicial Proceedings

Rules and Executive Nominations

---

**Criminal Procedure - Office of the Public Defender - Definition of Serious  
Offense**

---

This bill alters the definition of a “serious offense” under provisions governing representation by the Office of the Public Defender (OPD) by removing the requirement that a misdemeanor or offense be punishable by confinement for more than three months or a fine of more than \$500. Under the bill, a serious offense includes a misdemeanor or offense punishable by confinement. The bill retains all other components of the existing statutory definition.

---

**Fiscal Summary**

**State Effect:** The bill does not materially affect State expenditures but may lead to operational efficiencies for OPD. Revenues are not affected.

**Local Effect:** The bill is not expected to materially affect local finances.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** In general, OPD provides State-funded legal representation to indigent individuals in criminal and juvenile proceedings. Section 16-204 of the Criminal Procedure Article specifies the types of proceedings in which OPD must provide representation to indigent defendants or parties, including a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a “serious offense.” A “serious offense” is defined as (1) a felony; (2) a misdemeanor or offense punishable by confinement *for more than three months or a fine of more than \$500*; (3) a delinquent act that would be a serious

offense if committed by an adult; or (4) an offense in which, in the opinion of the court, the complexity of the matter of the youth, inexperience, or mental capacity of the accused requires representation of the accused by an attorney.

**State Expenditures:** According to OPD, the current definition of “serious offense” is outdated and does not comply with constitutional requirements. OPD advises that it represents indigent individuals facing *any term of confinement*; thus, the bill’s removal of the three-month incarceration provision does not affect its caseloads. However, the bill’s removal of the requirement of fine-based eligibility for representation decreases OPD caseloads. The office was not able to produce comprehensive data to estimate the effect of the bill on OPD caseloads. However, the Department of Legislative Services advises that resources devoted to cases that are no longer eligible for OPD representation under the bill can be redirected to other OPD cases, which may result in operational efficiencies for OPD.

The caseload standards for OPD circuit court attorneys are 156, 191, and 140 for urban, rural, and suburban circuit court attorneys, respectively. In calendar 2018, 7 of OPD’s 12 districts (Baltimore City; the Lower Eastern Shore; Frederick and Washington counties; Harford County; Howard and Carroll counties; Prince George’s County; and Montgomery County) met the circuit court caseload standards. The caseloads standards for District Court attorneys are 728, 630, and 705 per attorney for urban, rural, and suburban District Court attorneys, respectively. In calendar 2018, 5 of 12 districts (Baltimore City; Frederick and Washington counties; Howard and Carroll counties; Southern Maryland; and Western Maryland) met the District Court caseload standards.

The bill’s provisions are not expected to have a material effect on District Court operations. District Court commissioners conduct OPD indigency determinations for OPD for individuals charged with a crime that carries a penalty of incarceration.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Legislative Services

**Fiscal Note History:** First Reader - March 19, 2019  
mm/kdm Third Reader - April 8, 2019

---

Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510