

HOUSE BILL 1277

P4, P1

11r2213
CF SB 757

By: **Delegate Henson**

Introduced and read first time: February 8, 2021

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2021

CHAPTER _____

1 AN ACT concerning

2 **State Personnel Management System – Office of the Public Defender –**
3 **Placement**

4 FOR the purpose of establishing that the deputy public defender of the Office of the Public
5 Defender is in the executive service in the State Personnel Management System;
6 establishing that each district public defender of the Office is in the management
7 service in the State Personnel Management System; authorizing the Public Defender
8 to employ, rather than appoint, assistant public defenders; establishing that
9 assistant public defenders employed by the Office are in the professional service in
10 the State Personnel Management System; authorizing that assistant public
11 defenders employed by the Office be terminated or disciplined only for cause in
12 accordance with certain provisions of law; repealing a provision of law that required
13 assistant public defenders to serve at the pleasure of the Public Defender; requiring
14 the Public Defender to employ, rather than appoint, certain employees of the Office;
15 establishing that employees of the Office are in the executive, management,
16 professional, or skilled service in the State Personnel Management System;
17 authorizing that employees employed by the Office be terminated or disciplined only
18 for cause in accordance with certain provisions of law; repealing a provision of law
19 that excludes attorneys in the Office from certain grievance procedures in the State
20 Personnel Management System; requiring that the Public Defender assign each
21 appointee or employee of the Office to the appropriate employment category within
22 the State Personnel Management System on or before a certain date; and generally
23 relating to the personnel of the Office of the Public Defender in the State Personnel
24 Management System.

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 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 16–203
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2020 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – State Personnel and Pensions
8 Section 12–102
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2020 Supplement)

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

13 **Article – Criminal Procedure**

14 16–203.

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

16 (2) The Public Defender shall be appointed by the Board of Trustees.

17 (3) By a vote of at least seven members, the Board of Trustees may remove
18 the Public Defender for:

19 (i) misconduct in office;

20 (ii) persistent failure to perform the duties of the Office; or

21 (iii) conduct prejudicial to the proper administration of justice.

22 (4) To qualify for appointment as Public Defender, an individual shall be
23 an attorney admitted to practice law in the State by the Court of Appeals of Maryland who
24 has engaged in the practice of law for at least 5 years before appointment.

25 (5) The Public Defender shall receive the same salary as a judge of a circuit
26 court.

27 (6) The Public Defender may not engage in the private practice of law.

28 (7) The Public Defender serves for a term of 6 years.

29 (b) (1) With the approval of the Board of Trustees, the Public Defender shall
30 appoint:

1 (i) a deputy public defender **WHO IS IN THE EXECUTIVE SERVICE**
2 **OF THE STATE PERSONNEL MANAGEMENT SYSTEM**; and

3 (ii) one district public defender for each district of the District Court,
4 **EACH OF WHOM IS IN THE MANAGEMENT SERVICE OF THE STATE PERSONNEL**
5 **MANAGEMENT SYSTEM**.

6 (2) The deputy public defender and each district public defender shall have
7 the same qualifications as the Public Defender.

8 (3) A district public defender shall:

9 (i) assist the Public Defender to perform the duties of the Office; and

10 (ii) subject to the supervision of the Public Defender, be in charge of
11 the public defender offices in the district for which the district public defender is appointed.

12 (c) (1) With the advice of the district public defenders, the Public Defender
13 may [appoint] **EMPLOY** assistant public defenders in accordance with the State budget.

14 (2) To qualify for [appointment] **EMPLOYMENT** as an assistant public
15 defender, an individual shall be an attorney and admitted to practice law in the State by
16 the Court of Appeals of Maryland.

17 **(3) (I) ASSISTANT PUBLIC DEFENDERS ARE IN THE PROFESSIONAL**
18 **SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM AND MAY BE**
19 **TERMINATED OR OTHERWISE DISCIPLINED ONLY FOR CAUSE IN ACCORDANCE WITH**
20 **TITLE 11 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

21 **(II) ASSISTANT PUBLIC DEFENDERS MAY NOT ENGAGE IN THE**
22 **PRIVATE PRACTICE OF CRIMINAL LAW.**

23 (d) The deputy public [defender,] **DEFENDER AND** district public defenders[, and
24 assistant public defenders]:

25 (1) shall serve at the pleasure of the Public Defender; and

26 (2) may not engage in the private practice of criminal law.

27 (e) The Public Defender shall [appoint] **EMPLOY** investigators, stenographic
28 assistants, clerical assistants, and other personnel as may be required to assist the Public
29 Defender and the district public defenders to perform the duties of the Office in accordance
30 with the State budget.

31 **(F) (1) SUBJECT TO SUBSECTIONS (B)(1) AND (C)(3) OF THIS SECTION,**

1 ALL OTHER EMPLOYEES IN THE OFFICE ARE IN THE EXECUTIVE, MANAGEMENT,
2 PROFESSIONAL, OR SKILLED SERVICE OF THE STATE PERSONNEL MANAGEMENT
3 SYSTEM.

4 (2) EMPLOYEES IN THE PROFESSIONAL OR SKILLED SERVICE MAY BE
5 TERMINATED OR OTHERWISE DISCIPLINED ONLY FOR CAUSE IN ACCORDANCE WITH
6 TITLE 11 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

7 [(f)] (G) (1) Subject to paragraph (2) of this subsection, the Public Defender
8 shall establish and maintain suitable offices in the State.

9 (2) At least one Public Defender's office shall be in each district.

10 [(g)] (H) The number of positions, compensation, and expenses for the Office
11 shall be in accordance with the State budget.

12 Article – State Personnel and Pensions

13 12–102.

14 (a) Except as otherwise provided by law, this title applies to all employees in the
15 State Personnel Management System within the Executive Branch and independent
16 personnel systems.

17 (b) This title does not apply to:

18 (1) an employee who is appointed by the Governor whose appointment
19 requires the Governor's approval;

20 (2) an employee in the executive service of the State Personnel
21 Management System;

22 (3) a temporary employee;

23 (4) an attorney in the Office of the Attorney General [or the Office of the
24 Public Defender];

25 (5) a State Police officer;

26 (6) an employee under § 7–601 of the Transportation Article who is subject
27 to a collective bargaining agreement that contains another grievance procedure;

28 (7) an employee, including a member of a faculty, who is subject to a
29 contract or regulation governing teacher tenure;

30 (8) a member of the faculty, an officer, or an administrative employee of

1 Baltimore City Community College;

2 (9) a student employee;

3 (10) an individual who, as an inmate or patient in an institution, is
4 employed by the State; or

5 (11) an administrative law judge in the Office of Administrative Hearings.

6 SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 1, 2022,
7 the Public Defender shall assign each appointee or employee of the Office to the appropriate
8 employment category in accordance with Section 1 of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.