



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0757 - Office of the Public Defender (OPD)
Attorney Placement into State Merit-Based System
Before the Judicial Proceedings Committee
on March 4, 2021**

Mr. Chairman, Vice chair, and Members of the Committee:

The Office of the Public Defender (OPD) has the largest number of “at will” employees in the Executive Branch of Maryland State Government. Under the bill, OPD would be required to classify Assistant Public Defenders into the Professional Service category under the State Personnel Management System (SPMS). It would also place Deputy Public Defenders in the Executive Service and District Public Defenders in the Management Service under the SPMS.

In most of state government, employees are categorized as Executive, Managerial, Professional and Skilled. While Executive and Managerial employees are “at will” and serve at the pleasure of the Appointing Authority, the Professional and Skilled employees are protected from discipline and termination without cause.

Assistant Public Defenders with the OPD are currently categorized as “special appointees” which means they can be terminated at any time, and for no reason. This legislation attempts to bring the OPD in line with the rest of the state by requiring that state employees who would typically be described as professional, management or executive service be so categorized at the OPD. For Assistant Public Defenders, a move into the professional service would mean that they could only be hired based on merit and terminated or disciplined “for cause”.

Assistant Public Defenders meet the definition of the professional service under the State Personnel Management System in the same way Social Workers in their Office do—who have already been appropriately categorized as professional service.

Under State Personnel Law, Professional Service is defined in SPP 6-402 as follows:

(a) Except as otherwise provided by law, a position in the Executive Branch of State government is in the professional service if the position:

(1) requires knowledge of an advanced type in a field of science or learning customarily acquired by a course of specialized intellectual instruction and study; and

(2) normally requires a professional license, advanced degree, or both.

(b) The professional service includes any other position that is determined by the Secretary to be in the professional service.

This bill is important. If an employee is constantly looking over their shoulder with the thought that they could be terminated without just-cause, they are less likely to have high morale; they become more fearful on the job, and they know there are minimal protections from being terminated for reasons completely unrelated to their job performance. It is one thing to ask high-level state officials to take this risk. It is something else to impose that risk on professionally qualified, long-term employees with non-political jobs.

We do have one technical amendment which was left out of the original draft. It provides access to the grievance procedure for attorneys in the OPD which is in line with the original intent of the Bill.

SB 757 is common sense, and it is the right thing to do for these state employees. Assistant Public Defenders fulfil the duty of ensuring all Marylanders have access to indigent defense, regardless of who is Governor. That's how we should want this system to work. Let's make sure our Public Defenders have the opportunity to serve out their careers as other state employees do, without the fear of being terminated for no reason at all.

For these reasons, I ask for a favorable report on SB 757 from this committee.

Respectfully,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

Jill P. Carter