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Patrick Moran - President

**Testimony**  
**SB 757 - State Personnel Management System - Office of the Public Defender – Placement Favorable with Amendment**

AFSCME Council 3 supports SB 757. This legislation addresses the large number of “at-will” state employees in the Office of the Public Defender. SB 757 would provide that assistant public defenders who would otherwise be described as “professional” under the State Personnel Management System (SPMS) be removed from the category of “special appointee.”

Under State Personnel Law, a “Special Appointee” is described under 6-405 in SPP as:

- (1) a position to which an individual is directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;
- (2) a position to which an individual is directly appointed by the Board of Public Works;
- (3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;
- (4) a position that is assigned to the Government House;
- (5) a position that is assigned to the Governor's Office; and
- (6) any other position that is specified by law to be a special appointment.

The employees that this bill addresses fit in #6. While there may be reasons for the other 5 types of employees to be “special appointees”, it is hard to find one for the assistant public defenders.

There are roughly 425 assistant public defenders in Maryland, all of whom are categorized as “special appointees.” This means that they can be terminated at any time, and for no reason or regard for their job performance. Similarly situated state employees with professional licenses and advanced degrees fall under the “professional” service category under the SPMS; including psychologists in other state agencies or social workers in the OPD who all already have merit status. It is also worth noting that in 2010, the Maryland Senate passed SB 97 by a vote of 45-0 which repealed the “at-will” status of the Public Defender. This Bill was enacted under chapter 223 (2010) and now the Public Defender himself can only be terminated “for cause.”

This Bill is important because when employees are forced to operate in constant fear of being terminated from their job without just-cause, they are less likely to have high morale which diminishes their ability to have positive relationships at work. This Bill also requires merit-based hiring for assistant public defenders which will help to alleviate issues with transparency in the hiring process for these positions and will promote more equity.

There is a technical amendment needed in the Bill to ensure that these employees also have access to the grievance procedure under SPP 12-102.

Our assistant public defenders are dedicated professionals who deserve equal treatment in the workplace as other state employees. Please support SB 757.

Every AFSCME Maryland State and University contract guarantees a right to union representation.  
An employee has the right to a union representative if requested by the employee.  
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