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Appropriations Committee



The Maryland House of Delegates
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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

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Chair Maggie McIntosh
Vice Chair Mark S. Chang
Room 121
House Office Building
Annapolis, Maryland 21401

Honorable Members of the Appropriations Committee,

HB90 State Personnel Management System - Office of Public Defender - Placement and Collective Bargaining is similar to HB1277 which this committee heard and passed last year. That bill then passed the House 92-40. This legislation will serve to apply the rights, privileges, and protections of other state employees in the executive branch to those employed by the Maryland Office of Public Defender.

The Office of the Public Defender (OPD) has the largest number of “at will” employees in the Executive Branch of Maryland State Government. This bill would require OPD 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. It would also add OPD to the list of state agencies that are covered under collective bargaining. Allowing OPD employees the same rights and privileges as other similarly situated state employees.

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. Or like professionals who work in other state agencies and have advanced degrees and enjoy merit status and collective bargaining rights, like psychologists, psychiatrists, and physicians.

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

- (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.

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.

The importance of this bill has been made even more evident during this pandemic. While other agencies and employees were able to use the power of collective bargaining to create common sense solutions to workplace issues raised from COVID-19, employees at the OPD were not able to advocate for themselves in the same way. If we value the services of these public servants, then we must demonstrate that we value the public servants themselves. The Assistant Public Defenders, Paralegals, Social Workers, and Secretaries who work for the OPD deserve to be covered under collective bargaining law just like their peers in other state agencies under the executive branch.

HB 90 is common sense, and it is the right thing to do for these state employees. Assistant Public Defenders fulfill 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.

Sincerely,



Shaneka Henson, District 30A Delegate