

HOUSE BILL 1231

E2

7lr2778

By: **Delegate Barron**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Indigent Defendants – Caseloads – Panel Attorney Program**

3 FOR the purpose of requiring the Office of the Public Defender to establish certain caseload
4 standards; prohibiting the Office from providing representation to a certain indigent
5 defendant or party if representation violates a certain caseload standard except
6 under certain circumstances; requiring a panel attorney to provide representation to
7 an indigent defendant or party who is denied representation by the Office for a
8 violation of a certain caseload standard; making conforming changes; and generally
9 relating to indigent defendants.

10 BY transferring

11 Article – Criminal Procedure

12 Section 16–208

13 Annotated Code of Maryland

14 (2008 Replacement Volume and 2016 Supplement)

15 to be

16 Article – State Government

17 Section 9–3301 to be under the new subtitle “Subtitle 33. Maryland Private Panel
18 Attorney Program”

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2016 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Criminal Procedure

23 Section 16–101(a) and (f)

24 Annotated Code of Maryland

25 (2008 Replacement Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Criminal Procedure

28 Section 16–204

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2016 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – State Government
5 Section 9–3301(a)(1) and (d)(2) through (4)
6 Annotated Code of Maryland
7 (2014 Replacement Volume and 2016 Supplement)
8 (As enacted by Section 1 of this Act)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That Section(s) 16–208 of Article – Criminal Procedure of the Annotated Code of Maryland
11 be transferred to be Section(s) 9–3301 to be under the new subtitle “Subtitle 33. Maryland
12 Private Panel Attorney Program” of Article – State Government of the Annotated Code of
13 Maryland.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
15 as follows:

16 **Article – Criminal Procedure**

17 16–101.

18 (a) In this title the following words have the meanings indicated.

19 (f) “Panel attorney” means an attorney who is eligible for appointment as an
20 attorney for an indigent individual.

21 16–204.

22 (a) Representation of an indigent individual may be provided in accordance with
23 this title by the Public Defender or, subject to the supervision of the Public Defender, by
24 the deputy public defender, district public defenders, assistant public defenders, or panel
25 attorneys.

26 (b) (1) Indigent defendants or parties shall be provided representation under
27 this title in:

28 (i) a criminal or juvenile proceeding in which a defendant or party
29 is alleged to have committed a serious offense;

30 (ii) a criminal or juvenile proceeding in which an attorney is
31 constitutionally required to be present prior to presentment being made before a
32 commissioner or judge;

33 (iii) a postconviction proceeding for which the defendant has a right
34 to an attorney under Title 7 of this article;

1 (iv) any other proceeding in which confinement under a judicial
2 commitment of an individual in a public or private institution may result;

3 (v) a proceeding involving children in need of assistance under §
4 3–813 of the Courts Article; or

5 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part
6 III of the Family Law Article, including:

7 1. for a parent, a hearing in connection with guardianship or
8 adoption;

9 2. a hearing under § 5–326 of the Family Law Article for
10 which the parent has not waived the right to notice; and

11 3. an appeal.

12 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
13 representation shall be provided to an indigent individual in all stages of a proceeding listed
14 in paragraph (1) of this subsection, including, in criminal proceedings, custody,
15 interrogation, bail hearing before a District Court or circuit court judge, preliminary
16 hearing, arraignment, trial, and appeal.

17 (ii) Representation is not required to be provided to an indigent
18 individual at an initial appearance before a District Court commissioner.

19 **(C) (1) THE OFFICE OF THE PUBLIC DEFENDER SHALL ESTABLISH**
20 **CASELOAD STANDARDS FOR THE PUBLIC DEFENDER, THE DEPUTY PUBLIC**
21 **DEFENDER, A DISTRICT PUBLIC DEFENDER, AND AN ASSISTANT PUBLIC DEFENDER.**

22 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,**
23 **THE PUBLIC DEFENDER, THE DEPUTY PUBLIC DEFENDER, A DISTRICT PUBLIC**
24 **DEFENDER, OR AN ASSISTANT PUBLIC DEFENDER MAY NOT REPRESENT AN**
25 **INDIGENT DEFENDANT OR PARTY IF REPRESENTATION VIOLATES THE CASELOAD**
26 **STANDARDS ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION.**

27 **(3) A PANEL ATTORNEY SHALL PROVIDE REPRESENTATION TO AN**
28 **INDIGENT DEFENDANT OR PARTY WHO IS DENIED REPRESENTATION UNDER**
29 **PARAGRAPH (2) OF THIS SUBSECTION.**

30 **(4) IF THE STATE BUDGET DOES NOT INCLUDE SUFFICIENT FUNDING**
31 **TO COVER PROFESSIONAL FEES AND EXPENSES FOR PANEL ATTORNEYS ACCORDING**
32 **TO SCHEDULES PREPARED UNDER § 16–207(B)(2) OF THIS SUBTITLE, THE PUBLIC**
33 **DEFENDER, THE DEPUTY PUBLIC DEFENDER, A DISTRICT PUBLIC DEFENDER, OR AN**

1 ASSISTANT PUBLIC DEFENDER MAY PROVIDE THE REPRESENTATION REQUIRED
2 UNDER THIS SECTION.

3 **Article – State Government**

4 **SUBTITLE 33. MARYLAND PRIVATE PANEL ATTORNEY PROGRAM.**

5 9–3301.

6 (a) (1) Subject to the authority and supervision of the Public Defender, each
7 district public defender shall maintain a confidential list of private attorneys available to
8 be appointed as attorneys for indigent individuals eligible for representation under [this
9 title] **TITLE 16 OF THE CRIMINAL PROCEDURE ARTICLE.**

10 (d) (2) The Office shall authorize payment of fees and expenses according to
11 schedules prepared under § 16–207(b)(2) of [this subtitle] **THE CRIMINAL PROCEDURE**
12 **ARTICLE** and from funds appropriated by the State budget.

13 (3) A panel attorney may not receive a fee for services in addition to that
14 provided in accordance with [this title] **TITLE 16 OF THE CRIMINAL PROCEDURE**
15 **ARTICLE.**

16 (4) To be compensated for fees or expenses that the Public Defender
17 disapproves or that exceed those authorized for payment, a panel attorney may seek a
18 review by a regional advisory board **UNDER TITLE 16 OF THE CRIMINAL PROCEDURE**
19 **ARTICLE.**

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2017.