

HOUSE BILL 1277

P4, P1

11r2213
CF SB 757

By: **Delegate Henson**

Introduced and read first time: February 8, 2021

Assigned to: Appropriations

A BILL ENTITLED

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; requiring that the Public
19 Defender assign each appointee or employee of the Office to the appropriate
20 employment category within the State Personnel Management System on or before
21 a certain date; and generally relating to the personnel of the Office of the Public
22 Defender in the State Personnel Management System.

23 BY repealing and reenacting, with amendments,
24 Article – Criminal Procedure
25 Section 16–203
26 Annotated Code of Maryland
27 (2018 Replacement Volume and 2020 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Criminal Procedure**

3 16–203.

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

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

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

8 (i) misconduct in office;

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

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

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

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

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

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

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

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

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

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

27 (3) A district public defender shall:

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

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

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

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

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

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

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

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

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

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

22 **(F) (1) SUBJECT TO SUBSECTIONS (B)(1) AND (C)(3) OF THIS SECTION,
23 ALL OTHER EMPLOYEES IN THE OFFICE ARE IN THE EXECUTIVE, MANAGEMENT,
24 PROFESSIONAL, OR SKILLED SERVICE OF THE STATE PERSONNEL MANAGEMENT
25 SYSTEM.**

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

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

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

32 **[(g)] (H)** The number of positions, compensation, and expenses for the Office

1 shall be in accordance with the State budget.

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

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