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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,

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 state governments, 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:

- (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.

I'd like to offer for consideration one technical amendment. This Amendment provides access to the grievance procedure for attorneys in the OPD which is in line with the original intent of the Bill. The Department of Budget and Management is requesting an additional amendment to this Legislation prospective to new hires only. I respectfully ask this committee to reject this amendment proposal. There are no legal obstacles to converting current state employees into the merit system. This proposed amendment would set up a situation where newly hired assistant public defenders have more rights than assistant public defenders who have dedicated many years to the office. These employees were hired based on meeting the minimum qualifications for the position, just as merit system employees are. It would not be fair to deny existing employees from these rights and defeat the purpose of legislation.

HB 1277 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.

Sincerely,



Shaneka Henson, District 30 Delegate