

HOUSE BILL 121

E2, P3

0lr0616

By: **Delegates Anderson, Barnes, Cardin, Glenn, Olszewski, Ramirez, Ross, Schuler, Smigiel, Stukes, Tarrant, Vallario, and Waldstreicher**

Introduced and read first time: January 18, 2010

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2010

CHAPTER _____

1 AN ACT concerning

2 **Office of the Public Defender – Eligibility for Services – ~~Authorization to~~**
3 **~~Access Agency Records~~ Requests for Employment Status and Income**
4 **Information**

5 FOR the purpose of authorizing the Office of the Public Defender to ~~make cooperative~~
6 ~~agreements with~~ submit requests to the Department of Labor, Licensing, and
7 Regulation, and the Comptroller, ~~and the State Department of Assessments and~~
8 ~~Taxation to allow the Office to have certain access to~~ for certain information
9 regarding applicants for services of the Office; requiring a certain request to be
10 accompanied by a certain authorization; requiring the Department of Labor,
11 Licensing, and Regulation and the Comptroller to comply with certain requests;
12 authorizing certain requests and responsive information to be exchanged by
13 facsimile transmission; and generally relating to eligibility for services of the
14 Office of the Public Defender.

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 16–210
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2009 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Criminal Procedure**

2 16–210.

3 (a) An individual may apply for services of the Office as an indigent
4 individual, if the individual states in writing under oath or affirmation that the
5 individual, without undue financial hardship, cannot provide the full payment of an
6 attorney and all other necessary expenses of representation in proceedings listed
7 under § 16–204(b) of this subtitle.

8 (b) (1) Eligibility for the services of the Office shall be determined by the
9 need of the applicant.

10 (2) Need shall be measured according to the financial ability of the
11 applicant to engage and compensate a competent private attorney and to provide all
12 other necessary expenses of representation.

13 (3) Financial ability shall be determined by:

14 (i) the nature, extent, and liquidity of assets;

15 (ii) the disposable net income of the applicant;

16 (iii) the nature of the offense;

17 (iv) the length and complexity of the proceedings;

18 (v) the effort and skill required to gather pertinent information;

19 and

20 (vi) any other foreseeable expense.

21 (4) If eligibility cannot be determined before the Office or a panel
22 attorney begins representation, the Office may represent an applicant provisionally.

23 (5) If the Office subsequently determines that an applicant is
24 ineligible:

25 (i) the Office shall inform the applicant; and

26 (ii) the applicant shall be required to engage the applicant's own
27 attorney and reimburse the Office for the cost of the representation provided.

28 (c) (1) The Office shall investigate the financial status of an applicant
29 when the circumstances warrant.

30 (2) The Office may:

1 (i) require an applicant to execute and deliver written requests
2 or authorizations that are necessary under law to provide the Office with access to
3 confidential records of public or private sources that are needed to evaluate eligibility;
4 ~~{and}~~

5 (ii) on request, obtain information without charge from a public
6 record office or other unit of the State, county, or municipal corporation;~~AND.~~

7 ~~(III) MAKE COOPERATIVE AGREEMENTS WITH THE~~
8 ~~DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE COMPTROLLER,~~
9 ~~AND THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO ALLOW THE~~
10 ~~OFFICE TO HAVE IMMEDIATE COMPUTER OR ELECTRONIC ACCESS TO~~
11 ~~INFORMATION REGARDING THE EMPLOYMENT STATUS, INCOME, AND REAL~~
12 ~~PROPERTY OWNERSHIP OF APPLICANTS.~~

13 (3) (I) THE OFFICE MAY SUBMIT REQUESTS TO THE
14 DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE
15 COMPTROLLER FOR INFORMATION REGARDING THE EMPLOYMENT STATUS AND
16 INCOME OF APPLICANTS.

17 (II) EACH REQUEST SHALL BE ACCOMPANIED BY AN
18 AUTHORIZATION FOR RELEASE OF INFORMATION THAT IS:

19 1. IN A FORM ACCEPTABLE TO THE AGENCY TO
20 WHICH THE REQUEST IS SUBMITTED; AND

21 2. SIGNED BY THE APPLICANT.

22 (III) THE DEPARTMENT OF LABOR, LICENSING, AND
23 REGULATION AND THE COMPTROLLER SHALL COMPLY WITH REQUESTS FOR
24 INFORMATION MADE BY THE OFFICE UNDER THIS PARAGRAPH.

25 (IV) REQUESTS AND RESPONSIVE INFORMATION MAY BE
26 EXCHANGED BY FACSIMILE TRANSMISSION.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2010.