

## Chapter 393

(House Bill 121)

AN ACT concerning

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

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

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

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

### **Article – Criminal Procedure**

16–210.

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

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

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

(3) Financial ability shall be determined by:

- (i) the nature, extent, and liquidity of assets;
- (ii) the disposable net income of the applicant;
- (iii) the nature of the offense;
- (iv) the length and complexity of the proceedings;
- (v) the effort and skill required to gather pertinent information;

and

- (vi) any other foreseeable expense.

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

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

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

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

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

(2) The Office may:

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

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

~~(H) MAKE COOPERATIVE AGREEMENTS WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE COMPTROLLER, AND THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION TO ALLOW THE~~

~~OFFICE TO HAVE IMMEDIATE COMPUTER OR ELECTRONIC ACCESS TO INFORMATION REGARDING THE EMPLOYMENT STATUS, INCOME, AND REAL PROPERTY OWNERSHIP OF APPLICANTS.~~

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

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

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

2. SIGNED BY THE APPLICANT.

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

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

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

Approved by the Governor, May 4, 2010.