

HOUSE BILL 112

E2

EMERGENCY BILL

2lr1445

By: **Delegate McDermott**

Introduced and read first time: January 20, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Public Defender – Representation**

3 FOR the purpose of establishing a certain exception to a requirement that
4 representation be provided by the Office of the Public Defender at all stages of
5 certain proceedings; making this Act an emergency measure; and generally
6 relating to representation by the Office of the Public Defender.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Procedure
9 Section 16–204
10 Annotated Code of Maryland
11 (2008 Replacement Volume and 2011 Supplement)

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

14 **Article – Criminal Procedure**

15 16–204.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

8 (v) a proceeding involving children in need of assistance under §
9 3–813 of the Courts Article; or

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

12 1. for a parent, a hearing in connection with
13 guardianship or adoption;

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

16 3. an appeal.

17 (2) **[Representation] EXCEPT FOR AN INITIAL APPEARANCE**
18 **BEFORE A DISTRICT COURT COMMISSIONER OR A JUDGE IN THE DISTRICT**
19 **COURT OR CIRCUIT COURT, REPRESENTATION** shall be provided to an indigent
20 individual in all stages of a proceeding listed in paragraph (1) of this subsection,
21 including, in criminal proceedings, custody, interrogation, preliminary hearing,
22 arraignment, trial, and appeal.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
24 measure, is necessary for the immediate preservation of the public health or safety,
25 has been passed by a yea and nay vote supported by three–fifths of all the members
26 elected to each of the two Houses of the General Assembly, and shall take effect from
27 the date it is enacted.