

SENATE BILL 735

E2

5lr2515

By: **Senator Zirkin**

Introduced and read first time: February 13, 2015

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 18, 2015

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2015

CHAPTER _____

1 AN ACT concerning

2 **Office of the Public Defender – Eligibility – Requirements**

3 FOR the purpose of requiring the Office of the Public Defender to investigate the financial
4 status of each applicant; requiring the Office to require a certain applicant to execute
5 and deliver certain requests or authorizations that are needed in order to evaluate
6 eligibility for services of the Office; requiring the Office to submit certain requests to
7 the Department of Labor, Licensing, and Regulation ~~and the Comptroller~~ for certain
8 information; authorizing the exchange of certain information by electronic format
9 approved by a certain agency; and generally relating to the Office of the Public
10 Defender.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 16–210
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2014 Supplement)

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

18 **Article – Criminal Procedure**

19 16–210.

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

6 (b) For an individual whose assets and net annual income are less than 100
7 percent of the federal poverty guidelines, eligibility for services of the Office may be
8 determined without an assessment regarding the need of the applicant.

9 (c) (1) For an individual whose assets and net annual income equal or exceed
10 100 percent of the federal poverty guidelines, eligibility for the services of the Office shall
11 be determined by the need of the applicant.

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

15 (3) Financial ability shall be determined by:

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

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

18 (iii) the nature of the offense;

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

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

21 (vi) any other foreseeable expense.

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

24 (5) If the Office subsequently determines that an applicant is 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 (d) (1) The Office shall investigate the financial status of [an] EACH applicant
29 [when the circumstances warrant].

30 (2) The Office [may] SHALL:

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

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

6 (3) (i) **1.** The Office [may] **SHALL** submit requests to the
 7 Department of Labor, Licensing, and Regulation ~~and the Comptroller~~ for information
 8 regarding the employment status and income of applicants.

9 **2. THE OFFICE MAY SUBMIT REQUESTS TO THE**
 10 **COMPTROLLER FOR INFORMATION REGARDING THE EMPLOYMENT STATUS AND**
 11 **INCOME OF APPLICANTS.**

12 (ii) Each request shall be accompanied by an authorization for
 13 release of information that is:

- 14 1. in a form acceptable to the agency to which the request is
 15 submitted; and
- 16 2. signed by the applicant.

17 (iii) The Department of Labor, Licensing, and Regulation and the
 18 Comptroller shall comply with requests for information made by the Office under this
 19 paragraph.

20 (iv) Requests and responsive information may be exchanged by
 21 facsimile transmission **OR AN ELECTRONIC FORMAT APPROVED BY THE AGENCY TO**
 22 **WHICH THE REQUEST IS SUBMITTED.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 24 October 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.