Drug courts, a forum designed to give addicted offenders a second chance, are under attack in Maryland -- and not by prosecutors.

The state's public defender says Maryland's drug courts give judges too much power and defendants too little protection, and yesterday she argued to the state's high court that the tribunals are not constitutional.

Public Defender Nancy S. Forster told the Court of Appeals that judges should not shed impartiality by sitting down with prosecutors, social workers and defense attorneys to try to help a defendant. She argued that judges should not be permitted to send a defendant to jail again and again without a full hearing each time, as she said judges in the drug courts do.

"There is no due process in drug treatment court," she said.

The case is the first legal challenge to the state's drug courts, and the arguments spurred a lively exchange about so-called problem-solving courts, which have become common in Maryland and across the country, with 41 in Maryland and more than 2,000 nationwide.

The state attorney general's office, which represents the courts, says they do not infringe on drug court defendants' individual rights.

Started in Florida two decades ago and rooted in the idea that providing treatment to some defendants may be better for them and for the community, drug courts have spawned similar courts for everything from truancy to mental illness.

Where ordinary criminal courts are adversarial, proceedings in problem-solving courts are supposed to be collaborative. Judges, prosecutors, social workers and defense lawyers work together to determine what's best for the defendant and the community. Defendants volunteer to have their cases handled in such courts rather than in ordinary courts; the charges that make a defendant eligible vary from jurisdiction to jurisdiction.

Maryland's first drug court was established in Baltimore in 1994. Calvert, Charles, Montgomery, Prince George's and St. Mary's counties have juvenile drug courts, and Montgomery and Prince George's have drug courts for adults as well.

In the appeals case, Robert Calvin Brown III pleaded guilty in a Baltimore drug court to heroin charges and was sentenced to 20 years in prison, almost all of which was
suspended. The judge placed Brown on probation for three years and ordered him into drug treatment as a condition of probation.

After being bounced from several treatment programs and being sanctioned with jail stays of 14 and 35 days, the judge decided that Brown wasn't complying with the drug court agreement. He revoked Brown's probation and sentenced him to eight years in prison.

The issue of the rights of individual defendants in drug courts drew more pointed questions from several of the judges. Judge Joseph F. Murphy Jr. noted that a judge's talking to one party without the other party being present, which might happen in a drug court case, has raised due-process concerns in other sorts of criminal proceedings. "Can you do that without violating the defendant's rights?" he asked Assistant Attorney General Michelle W. Cole.

As they have become more common, drug courts and problem-solving courts have faced questions about their effectiveness and about defendants' rights and judges' roles.

"They are trying to move into the mainstream and become more institutionalized," said Greg Berman, a proponent of problem-solving courts and director of the Center for Court Innovation in New York. "As that happens, you're naturally going to attract more attention and more of these questions."

For critics of such courts, the challenge in Maryland is welcome. "It's about time," said Mae C. Quinn, a University of Tennessee law professor and a former public defender in New York who has written extensively about drug courts. "These courts have been operating largely between the cracks of the law for a long time."