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RE: Written Testimony on HB402

Judiciary Committee
Maryland House of Delegates

Maryland's recent adoption of Justice Reinvestment Act (JRA) had as one of its primary goals, "to reduce selectively Maryland's prison population and use the resultant monetary savings to provide treatment to offenders before, during, and after incarceration." *Conaway v. State*, 464 Md. 505, 523 (2019). In simpler terms the underpinning of the JRA is "a shift in philosophy from the jail bed to the treatment bed."¹

In the years following the JRA becoming law, we in the Maryland State's Attorney's Association have seen a pattern in incarcerated individuals being placed in treatment facilities pursuant to *Maryland Health General* §8-507 and those individuals "walking off" from the treatment facility. Due to how the sentences are modified the incarcerated individual when they are placed in a facility are under the supervision of the Department of Parole and Probation not the Health Department. *Maryland Health General* § 8-507 (f)(2). In a recent case, the Court of Special Appeals has defined such actions as "technical violations" as defined by the JRA and subject to the sanction limits described in *Maryland Criminal Procedure* §6-223 (d)(2)(i).

This creates a perverse incentive to the incarcerated individual who has been given the option of treatment. They can stay in a placement and continue the hard work of sobriety or they can walk off and be subject to a 15 day maximum penalty, be continued on supervised probation, and not have to return to the treatment facility.

This proposal will change the definition of "Absconding" as defined in *Maryland Correctional Services* § 6-101 (b) to include leaving a *Maryland Health General* § 8-507 placement without the permission of the facility. The definition of absconding has only been in the Maryland Code since 2016 with the passing of the JRA.

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ⁱ Steve Lash, "Justice Reinvestment Faces Implementation Challenges, Lawmakers Told" The Daily Record
Jan. 19, 2017.