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## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB0036 Maryland Deaths in Custody Oversight Board**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 02/06/2024**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0036. This bill will provide greater transparency, insight and ultimately accountability for deaths that occur on the state's watch.

A [report](#) analyzed 180 in-custody deaths at 10 Maryland detention centers between 2008-2019 found that about half of those people died within the first 10 days of incarceration. The study raises questions about medical or mental health issues that were overlooked, ignored, or not treated properly. Attorney General Anthony Brown stated that the findings in the report emphasize the need for a correctional ombudsman to provide independent oversight of these facilities and to improve "accountability, transparency, and advocacy within the system, pretrial and beyond."

Since then, between 2019-2023, there have been 285 in custody deaths in our jails and prisons in Maryland, which warrant further examination. Poor conditions in correctional facilities, lack of healthcare, and medical neglect appear to be contributing factors that require oversight and accountability. This bill will require the board to conduct an administrative review, as well as a clinical mortality review, on every incarcerated individual that dies in custody.

Families of incarcerated loved ones carry a tremendous burden. Losing a loved one is traumatic in any circumstances. Bereavement when a loved one dies in custody can be particularly distressing and traumatic. Families and loved ones are not offered the luxury of being with their loved one when they die in custody. Families often feel excluded from the process, with little information on the circumstances that led up to the death or involvement in investigations where they occur. A lack of communication sometimes makes it difficult for families to accurately determine the cause of death of their loved one. This bill will ensure access to the details of all in-custody deaths, which could help ease the burden and provide some closure from experiencing the trauma of losing a loved one in custody.

When someone dies from natural causes during their incarceration, there is no investigation conducted, leaving family members and loved ones with little to no information about their loved

one's passing. Current state policy does not mandate the medical examiner's office to perform autopsies of all in-custody deaths. As a result, there is a paucity of information to identify individual circumstances and systemic trends that warrants inquiry. An oversight board will ensure that investigations are conducted thoroughly, data is collected and analyzed, and family members are contacted.

When an individual dies during their incarceration, it not only impacts that person's family members and loved ones, but it can have a detrimental effect on everyone in the facility. Correctional staff and other incarcerated individuals may also be deeply impacted by a death in custody which can, in some cases, lead to depression, post-traumatic stress disorder (PTSD) or other mental health conditions. Cellmates, or those who find the deceased, may be even more significantly impacted. Correctional staff and other incarcerated individuals in proximity to the death may use coping strategies to manage emotions, which can lead to them becoming hardened or disengaged. In custody deaths and poor response measures can be the result of systemic issues that an oversight board is needed to address.

Some deaths during incarceration may be prevented by ensuring human rights-based approaches to management in correctional settings. This involves ensuring safe conditions, including reducing overcrowding, providing an environment and adequate facilities and services to protect the right to health, preventing torture and unlawful use of force or restraint, and maintaining effective governance and control of the facility to ensure safety for all. The collection and availability of accurate and up to date data on deaths in custody is crucial to identify any trends or factors that may be related to the most common causes of deaths in a given jail or corrections system. With the data collected, the Maryland Deaths in Custody Oversight Board, they can make findings and recommendations related to the deaths of incarcerated individuals.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 0036.**

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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