



February 8, 2024

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: Oppose – SB 554: Criminal Procedure - Not Criminally Responsible Verdict - Term of Commitment

Dear Chairman Smith and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) and the Washington Psychiatric Society (WPS) are state medical organizations whose physician members specialize in diagnosing, treating, and preventing mental illnesses, including substance use disorders. Formed more than sixty-five years ago to support the needs of psychiatrists and their patients, both organizations work to ensure available, accessible, and comprehensive quality mental health resources for all Maryland citizens and strive through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branches of the American Psychiatric Association covering the state of Maryland, MPS/WPS represent over 1000 psychiatrists and physicians currently in psychiatric training.

MPS/WPS oppose Senate Bill 554: Criminal Procedure - Not Criminally Responsible Verdict - Term of Commitment (SB 554) because the bill is counter to the twofold purpose of Maryland's Not Criminally Responsible (NCR) law: ensuring public safety while also addressing the needs of individuals who have committed crimes while experiencing a mental health crisis or condition.

By diverting individuals with mental illnesses from incarceration into the mental health system, the Maryland's NCR law aims to prevent future harm to both the individual and the community. Thus, Maryland law acknowledges that individuals with certain mental health conditions may not have the same level of culpability as those without such conditions. Furthermore, the law rightfully recognizes that mental illness can impair an individual's ability to understand the nature of their actions or to conform their behavior to the requirements of the law. Instead of focusing solely on punishment, Maryland's NCR law prioritizes treatment and rehabilitation for individuals found NCR due to mental illness with the ultimate goal of addressing the underlying mental health issues that contributed to the criminal behavior in the first place and the aim of reducing the likelihood of future offenses.

By structuring the law in this fashion, Maryland is demonstrating a commitment to fairness and compassion in the criminal justice system by taking into account the individual circumstances of offenders with mental illness. We are collectively acknowledging what we all inherently know: that punishment may not be appropriate or, more importantly, effective for individuals who are



not fully responsible for their actions due to mental health issues. Overall, Maryland's NRC law attempts to delicately balance the interests of public safety, individual rights, and mental health treatment, providing a mechanism for addressing criminal behavior that is influenced by mental illness in a manner that is both just and humane.

On the other hand, simply holding someone indefinitely or for a term of forty years without considering their treatment needs, as SB 554 proposes, would prioritize punishment over rehabilitation. This approach goes against the principles of justice and fairness. Mental illness is often treatable, and individuals may respond positively to therapy, medication, and other interventions. With appropriate treatment and support, many people with mental health conditions can manage their symptoms effectively and lead productive lives. Therefore, confining someone for life or 40 years simply because they were found NCR at one point in time may not be necessary or appropriate. Arguably, this may even be considered cruel and unusual punishment under the U.S. Constitution.

Finally, the committee should understand that the decision about whether to release an individual found NCR should be based on a thorough risk assessment that considers factors such as the individual's current mental health status, treatment progress, and potential risk to public safety. Holding someone indefinitely or for an arbitrary 40 years without considering these factors would not be an individualized or evidence-based approach to risk management and is contrary to our constitutional understanding of liberty.

MPS/WPS, therefore, ask this honorable committee for an unfavorable report on SB 554. If you have any questions regarding this testimony, please contact Thomas Tompsett Jr. at tommy.tompsett@mdlobbyist.com.

Respectfully submitted,
The Maryland Psychiatric Society and the Washington Psychiatric Society
Legislative Action Committee