



February 8, 2024

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

RE: Oppose – Senate Bill 449: Criminal Procedure – Incompetency to Stand Trial Dismissal

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 449: Criminal Procedure – Incompetency to Stand Trial Dismissal (SB 449).

Before we turn to our opposition, we would first like to highlight the rigor of Maryland law when determining if someone is and/or remains incompetent to stand trial. Maryland law defines incompetence to stand trial as the defendant's inability to understand the nature or object of the proceedings against them or to assist effectively in their own defense due to mental disorder or developmental disability. To get to this determination, a mental health professional evaluates the defendant and assesses the defendant's mental state and ability to understand and participate in the legal process. The mental health professional will consider the defendant's ability to communicate with their attorney, their understanding of the charges against them, their ability to make decisions regarding their defense, and any mental health diagnoses or treatment history. These findings are then presented to the Court, who, after hearing arguments from both the State and the defense, may find the defendant incompetent to stand trial and then postpone the trial proceedings until the defendant's mental competency is restored. The Maryland Department of Health then provides services aimed at restoring a defendant's competency to stand trial. These services may include mental health treatment, medication, therapy, or other interventions designed to address the underlying mental health issues affecting the defendant's competency. The court may order periodic evaluations to assess whether the defendant's competency has been restored. If the defendant's competency can be restored, the trial proceedings may proceed. If a defendant's competency cannot be



restored within a reasonable period of time, however, the court may dismiss the charges without prejudice, or in some cases, civil commitment proceedings may be initiated.

MPS/WPS is concerned that allowing an alleged victim of a crime, instead of the State, to petition the court for extraordinary cause to extend the time to dismiss a charge against a defendant found incompetent to stand trial for a crime of violence or sexually assaultive behavior could result in unintended consequences. For example, an alleged victim could petition the court to keep a defendant charged with 4th degree sex offense, a misdemeanor crime but still “sexually assaultive behavior” under Title 3, Subtitle 3 of the Criminal Law Article, to be held for up to ten years. The maximum penalty for 4th degree sex offense is one year on a first offense. This reality could have profound impacts on seriously mentally ill defendants who are sitting in jail while waiting for a hospital bed and are counterproductive to restorative practices.

MPS/WPS, therefore, ask this honorable committee for an unfavorable report on SB 449. 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