

**bill 554 statement.pdf**

Uploaded by: ANGELA FREY

Position: FAV

Good afternoon,

My name is Angie Frey. I have just two minutes today to make an impact on you and hopefully make a difference. On June 9, 2022, my husband, Mark Alan Frey was murdered in cold blood along with his co-workers CJ Minnick and Josh Wallace, at Columbia Machine in Smithsburg MD. During an afternoon break the shooter, a 23-year-old Latino man from Texas, put 7 bullets in my husband. He proceeded to shoot CJ Minnick 3 times, and Josh Wallace 9. Those shots resulted in the deaths of all three men. He also shot Brandon Micheal 4 times and later shot a police officer. They each survived. For his heinous crimes, the killer was given a plea deal from Judge Brian Wilson in the Washington County Circuit Court and was found to Not be criminally responsible for his actions at the exact moment that he pulled the trigger. He did not stand trial. His crimes were not heard by a jury of 12 of his peers. We were not permitted to appeal the decision. We were not permitted to request another opinion. The Maryland law was completely geared toward the benefit of the criminal. He was not sentenced to a period of incarceration for murdering 3 people. Instead, he was placed in a hospital until he is deemed to no longer be a threat to himself or others. When that day comes, he will not go to prison, or any other facility. He will be free. Free to kill again. Free to roam among innocent, unsuspecting people. He is schizophrenic and there is no cure for this mental illness. He cannot be rehabilitated.

The first review for his release came just 30 days after his initial placement. We were not informed this would happen and we, the families of the victims, were all quite shocked. When I inquired, I was told by Valerie Grimes at Clifton Perkins that Mr. Esquivel is "entitled" to be reviewed for release because his civil liberties were taken from him. What kind of world do we live in where that is an acceptable response to the wife of a murder victim?

The killer stalked my husband as early as March 2022. He talked about him on the dark web. He had photos of my husband's truck. Police are unable to tell me how much information he had or shared about us due to the anonymity of those types of web sites. Even with the substantial amount of evidence detectives had showing that he planned this killing; he planned his escape; he carried the guns in his car, he went to his car and retrieved his firearms and put on a song called Pull the Trigger, and a doctor said he was not responsible at the exact time the shots were fired. Please keep in mind that every 12 months he will be eligible for release. Every 12 months, the families' wounds are torn open. Every 12 months he is eligible to be freed while I have been sentenced to this miserable life without Mark. Since June 9<sup>th</sup>, 2022, I live in fear and I watch over my shoulder everywhere I go. I am a 56-year-old grandmother diagnosed with Post Traumatic Stress Disorder, acute depression, anxiety, and sentenced to live the rest of my life without my husband by my side. My grandson will never know his grandfather. Lisa Minnick is raising a 3-year-old little girl without her Daddy. Josh's Mother, Tammy, is here today and will share her loss with you.

When we learned of the "not criminally responsible" plea on November 17, 2022, during a meeting at the Washington County Courthouse, we were outraged. Without compassion, Prosecutor Christopher McCormick told us if we didn't like it to contact state law makers. So, I did. I emailed every email address I could find on MD.gov. It was Senator Paul Corderman who has chosen to make a difference by introducing Senate Bill 554.

Senate Bill 554, as I understand, allows the mentally ill to get the treatment they need while eliminating the annual review for release. For the charge of murder in the first degree, the criminal is committed to a facility for life. Bill 554 removes the atrocity of a murderer being set free. It eliminates the pain those annual reviews cause the families of the deceased. It gives those left behind peace of mind and time to heal.

In recent weeks, I've seen that Maryland Governor Wes Moore has an initiative to make Maryland a safer place. Now is the perfect time to make the laws of the state favor its citizens and not the criminals. You can make a difference today by voting in favor of Bill 554 because this problem is only going to get worse. Mental illness is on the rise and state facilities are overcrowded. All it takes is one overworked doctor to need to free up bed space and criminals like Joe Esquivel are freed back into our communities. Back into communities to kill again. Would you be ok with him living beside your family?

Please do not allow Mark Frey to have died for nothing. Vote yes for this bill and keep killers where they belong.

# **SB 554 Sen Corderman Testimony.pdf**

Uploaded by: Paul Corderman

Position: FAV

PAUL D. CORDERMAN  
*Legislative District 2*  
Frederick and Washington Counties

Budget and Taxation Committee

*Subcommittees*

Capital Budget

Education, Business and Administration



James Senate Office Building  
11 Bladen Street, Room 403  
Annapolis, Maryland 21401  
410-841-3903 • 301-858-3903  
800-492-7122 Ext. 3903  
Paul.Corderman@senate.state.md.us

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

February 9, 2024

Senate Judicial Proceedings Committee  
Chair Will Smith, Vice Chair Jeff Waldstreicher  
2 East Miller Senate Office Building  
Annapolis, MD 21401

**Testimony in Support of Senate Bill 554 – Criminal Procedure – Not Criminally Responsible Verdict – Term of Commitment**

Chair Smith, Vice Chair Waldstreicher, & Members of the Judicial Proceedings Committee,

Thank you for the opportunity to present SB 554 – Criminal Procedure – Not Criminally Responsible Verdict – Term of Commitment. In June of 2022, the Washington County Community suffered a tragic loss when Mark Alan Frey, Charles Edward Minnick, and Joshua Robert Wallace were gunned down and murdered at their workplace by a disgruntled employee. The shooter fled the scene, only to be apprehended following a shootout with Maryland State Police Officers where State Police Detective Sergeant Phillip Martin was shot and wounded.

Fast forward to April of 2023. The families of the three murder victims were informed that this killer would not receive any prison time for his confessed crimes. Instead, he was deemed not criminally responsible for his actions and as such, would be committed to Clifton T. Perkins Psychiatric Hospital. The victims' families were then advised that if this murderer was found to no longer be a threat or a danger to himself or others, he could be eligible for release without any rehabilitation in a state correctional facility.

Two months later, in June of 2023, just one year after this horrific event, this individual was given the option to be evaluated for potential release back into our community. He did not contest his commitment at that time. However, under current law, he can be evaluated for release again in one year. SB 554, if passed, would require the court, after a verdict of not criminally responsible for murder in the first degree to commit a defendant to a designated healthcare facility for life. Similarly, it would require the court, after a verdict of not criminally responsible for murder in the second degree to commit a defendant to a designated healthcare facility for a term up to 40 years.

The intent here is that if an individual has committed murder in either the first or second degree that they would not be eligible for release in the same manner that they currently are. The families of the victims deserve better, and it is agonizing for them to now have to relive this horrific experience on an annual basis; knowing that the individual that murdered their loved ones could be released in as little as a year after undergoing therapeutic treatment.

Thank you for your consideration and I respectfully ask for a favorable report on SB 554.

Sincerely,

A handwritten signature in blue ink that reads "Paul D. Corderman".

Paul D. Corderman  
District 2 – Washington & Frederick Counties

**SB0554\_MHAMD\_UNFAV.pdf**

Uploaded by: Dan Martin

Position: UNF

**Senate Bill 554 Criminal Procedure – Not Criminally Responsible Verdict – Term of  
Commitment**

Judicial Proceedings Committee

February 9, 2024

**Position: OPPOSE**

Mental Health Association of Maryland (MHAMD) is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health and substance use disorders (collectively referred to as behavioral health). We appreciate the opportunity to provide this testimony in opposition to Senate Bill 554.

SB 554 requires that individuals deemed by a court to be not criminally responsible for certain criminal charges be given mandatory minimum commitments in state psychiatric facilities.

Maryland law provides that a defendant in a criminal proceeding is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder, lacks substantial capacity to appreciate the criminality of that conduct or conform that conduct to the requirements of law. *Md. Code Ann., Criminal Procedure § 3-109*. After a verdict of not criminally responsible, a court must immediately commit the defendant to a health care facility for institutional inpatient care or treatment. *Md. Code Ann., Criminal Procedure § 3-112*.

By definition, individuals found not criminally responsible (NCR) are not guilty of a criminal act. A court has found them to be in need of treatment for a mental illness and has committed them to a hospital to receive that treatment. But mental illnesses are not necessarily lifelong conditions. With proper treatment, people can and do recover. Nonetheless, SB 554 would require that people found NCR for criminal conduct, who have since received treatment for and recovered from their mental illness, be confined to a psychiatric facility, in certain cases, for the rest of their lives. Such a policy not only runs counter to the fundamental purpose of NCR statutes, it would also further limit scarce mental health resources and inpatient beds that may prevent those in need of inpatient care from receiving it.

For these reasons, MHAMD opposes SB 554 and urges an unfavorable report.

*For more information, please contact Dan Martin at (410) 978-8865*

# **SB554 Testimony 2024.pdf**

Uploaded by: Debi Jasen

Position: UNF



**Senate Bill 554 - UNFAVORABLE**  
**Judicial Proceedings**

Honorable Chair, Vice Chair, and Members of the Judicial Proceedings Committee;

Please give Senate Bill 554, regarding mandatory terms of commitment for people found not criminally responsible, an Unfavorable report.

Senate Bill 554 would force judges to sentence people who are found to be not criminally responsible for their actions with life or up to 40 years in a prison-type facility. We're talking about people who are significantly impaired and unable to control their actions or understand the consequences of their actions, such as due to a psychotic episode or a significant cognitive disability. This bill would treat people who are considered "not criminally responsible" criminally responsible. Imposing a mandatory sentence, rather than allowing judges to handle each case individually after understanding the entirety of the situation, amounts to punishing people for their disabilities. This is cruel, inhumane, and discriminatory.

I urge you to give Senate Bill 554 an unfavorable report. Thank you for your consideration.

Sincerely,  
Debi Jasen  
Pasadena, MD

## **OPD Testimony**

Uploaded by: Elizabeth Hillard

Position: UNF



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
ACTING DIRECTOR OF GOVERNMENT RELATIONS

## POSITION ON PROPOSED LEGISLATION

**BILL: SB 544: Criminal Procedure- Not Criminally Responsible Verdict- Term of Commitment**

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

**POSITION: Unfavorable**

**DATE: 2/2/2024**

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 544 because it is unlikely to pass constitutional review under the principles set forth in *Jones v. United States*, 463 U.S. 354, 103 S. Ct. 3043, 77 L. Ed. 2d 694 (1983).

The proposed bill would amend the Criminal Procedure Article (CP) § 3-112 regarding verdicts of Not Criminally Responsible (NCR) to require people found guilty of First Degree Murder to be committed to a mental health facility for the remainder of their lives, and people who have been found guilty of Second Degree Murder to be institutionalized for forty years.

### Current NCR procedure and duration of commitment after an NCR verdict:

Someone is Not Criminally Responsible for a Crime when they were unable to either control their conduct or understand the criminal nature of the conduct because of a mental illness or intellectual disability. Commitment after an NCR verdict best understood as a two-step process. First, someone must have been found to have committed a crime; this happens either by way of a guilty plea or a trial before a Judge or Jury. Next a judge or jury decides whether the person was criminally responsible for the crime. If they are found to be NCR for that crime they are sent to a mental hospital for treatment, in lieu of being incarcerated for punishment, until such time as they are no longer a danger to themselves or others. Unlike a prison sentence there is no mandatory release date. A commitment after an NCR verdict is indefinite, meaning people can *only* be released, or conditionally released, if they can prove by a preponderance of the evidence that they are no longer a danger to themselves or others. CP § 3-114. The indefinite commitment is not dependent on the seriousness of the charge or the potential length of sentence. Someone found guilty of a

minor offense, like trespass, can remain hospitalized for the remainder of their lives; as can someone found guilty of murder.

Where people are committed to mental hospitals “[t]he Due Process Clause requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed. The purpose of commitment following an insanity acquittal, like that of civil commitment, is to treat the individual’s mental illness and protect him and society from his potential dangerousness. The committed acquittee is entitled to release when he has recovered his sanity or is no longer dangerous.” *Id at 362*. It should be noted that Maryland’s statutes use the term Not Criminally Responsible where many states use the term Not Guilty by Reason of Insanity and therefore the term acquittee is used to described someone who has been committed to a mental hospital because of the commission of a crime.

The proposed bill states that individuals *shall* be committed for specified time periods with no option for any form of release. As Jones makes clear, This flies in the face of the Due Process Clauses of United States Constitution.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 554.**

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.  
Authored by: Kimber D. Watts, Supervising Attorney Forensic Mental Health Division  
[Kimberlee.watts@maryland.gov](mailto:Kimberlee.watts@maryland.gov), 410-767-1839**

# **SB554 - JP- HOSP - Letter of Opposition.pdf**

Uploaded by: Jason Caplan

Position: UNF



## DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 9, 2024

The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
Room 2 Miller Senate Office Building  
Annapolis, MD 21401-1991

### **RE: Senate Bill 554 - Criminal Procedure - Not Criminally Responsible Verdict - Term of Commitment**

Dear Chairman Smith and Committee Members,

The Maryland Department of Health (Department) respectfully submits this letter of opposition for Senate Bill (SB) 554 - Criminal Procedure - Not Criminally Responsible Verdict - Term of Commitment. Under current law, if an individual is found to be Not Criminally Responsible (NCR) because of a mental disorder, the individual may be committed to the Department until the individual is determined to not be a danger to themselves, another individual, or another individual's property. As a result, an individual who poses a danger to the public would not be released until they were evaluated by clinically trained professionals and determined to be safe for release.

SB 554 will require an individual who is found NCR and charged with first-degree murder to be committed by the Maryland Judiciary to a Department facility for life. If an individual is charged with second-degree murder, the Judiciary would be required to commit the individual to a Department facility for a maximum of 40 years.

The Department opposes SB 554 because it impacts clinicians' ability to make clinically sound and independent determinations relating to discharge and commitment. The purpose of the Department Healthcare System's psychiatric hospitals is to provide therapeutic treatment to individuals with severe mental illness. SB 554 increases the time an individual would be forced to remain in an inpatient setting, overriding the ability of clinicians to discharge an individual who could be maintained safely and appropriately in a less restrictive community level of care. In addition, it would override a clinician's ability to keep an individual who was charged with second-degree murder, longer than 40 years if the individual still posed a danger after 40 years.

The time frame placed on individual treatment should be based on clinical determinations. The Department's psychiatric hospitals are therapeutic environments, and these commitments are meant to be rehabilitative rather than punitive.

SB 554 also interferes with the Healthcare System's ability to follow the Supreme Court's mandate outlined in *Olmstead v. L.C.*<sup>1</sup> Under *Olmstead*, individuals with disabilities, including behavioral health disabilities, have a right to receive treatment in the community in non-institutional settings. SB 554 would impact the System's ability to discharge individuals to an appropriate level of care even if the individual does not meet medical necessity criteria for inpatient behavioral health treatment, violating community integration requirements of *Olmstead*.

Finally, this bill would make it even more difficult for the Healthcare System to comply with the statutory requirement to admit individuals who are court-committed within 10 days. The Department's adult psychiatric hospitals operate 1,056 adult psychiatric beds, which are always at almost full capacity. Due to the increase in judicial evaluation and commitment orders, the Healthcare System has a court-ordered admissions waitlist for individuals committed to the Department's psychiatric hospitals. Notably, the Clifton T. Perkins Hospital Center (Perkins), the State's only maximum security forensic hospital, has 289 inpatient psychiatric beds dedicated to serving individuals charged with certain felonies and other serious crimes, including first-degree murder. This bill could necessitate adding capacity to the Healthcare System's existing facilities, particularly at Perkins, which is already undergoing a major Capital Improvement Program project<sup>2</sup>, or the building of additional facilities. Any additional capacity added to existing facilities or the establishment of new facilities will require significant construction and additional staffing resources amid an existing behavioral health workforce shortage<sup>3</sup>.

In summary, the Department respectfully opposes this bill because it impacts the ability of clinicians to make discharge determinations as to whether an individual could be maintained in a less restrictive community level of care, impacts patients' rights in accordance with *Olmstead*, and impacts the ability to admit patients timely to the Department's adult psychiatric hospitals.

---

<sup>1</sup> 527 U.S. 581 (1999)

<sup>2</sup> The Moore-Miller Administration's Fiscal Year 2025 Capital Improvement Program includes funding for the continuation of the renovation of the Perkins North Wing. This project will result in 68 additional maximum security beds at the facility through the renovation of 80 minimum/medium security beds. As proposed, total anticipated project costs are \$56.8 million. For further details of the Capital Improvement Program see: FY 2025 Maryland Capital Budget, Office of Capital Budgeting, Md. Dep't of Budget & Mgmt (2024) <https://dbm.maryland.gov/budget/Documents/Capital%20Budget/FY%202025%20Documents/FY2025-Capital-Improvement-Program.pdf>

<sup>3</sup>Nathaniel Counts, *Understanding the U.S. Behavioral Health Workforce Shortage*, The Commonwealth Fund, Feb. 7, 2024 11:00am), <https://www.commonwealthfund.org/publications/explainer/2023/may/understanding-us-behavioral-health-workforce-shortage>

If you would like to discuss this further, please contact Sarah Case-Herron, Director of Governmental Affairs, at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott". The signature is written in a cursive style with a large initial "LH" and a surname "Scott".

Laura Herrera Scott, M.D., M.P.H.  
Secretary



**sb554.pdf**

Uploaded by: Linda Miller

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 554  
Criminal Procedure – Not Criminally Responsible Verdict – Term  
of Commitment  
**DATE:** January 31, 2024  
(2/9)  
**POSITION:** Oppose

---

The Maryland Judiciary opposes Senate Bill 554.

The bill unduly limits the courts' discretion and raises constitutional concerns. This bill attempts to restrict judicial discretion to order release of individuals following the entrance of a verdict of not criminally responsible. Specifically, the bill proposes that following a verdict of not criminally responsible, the court is mandated to order individuals charged with first-degree murder to be committed to a designated health care facility for life and those charged with second-degree murder committed to a designated health care facility for a maximum of forty (40) years.

Judges possess the discretion to order release of individuals following entrance of a verdict of not criminally responsible. The Judiciary believes that the court should retain such discretion.

Further, by requiring a defendant to serve time for an offense that the defendant was found not criminally responsible for, the bill poses constitutional concerns. Additionally, the Judiciary notes that the language in the bill that requires the court to commit a defendant to a designated health care facility for life or a term of not more than forty (40) years is equivalent to the court sentencing a defendant to terms of incarceration for the offenses of first-degree murder and second-degree murder, respectively.

cc. Hon. Paul Corderman  
Judicial Council  
Legislative Committee  
Kelley O'Connor

# **SB 554 NCR Term of Commitment.pdf**

Uploaded by: Luciene Parsley

Position: UNF

**Senate Judicial Proceedings Committee**  
**SB 554: Criminal Procedure - Not Criminally Responsible Verdict –**  
**Term of Commitment**  
February 9, 2024  
**POSITION: OPPOSE**

Disability Rights Maryland (DRM) is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. DRM is tasked with monitoring state facilities for persons with disabilities, including the state psychiatric hospitals, to protect against abuse and neglect and ensure the civil rights of its patients are protected. DRM is concerned that SB 554 is unconstitutional, punitive, and violates the rights of individuals with disabilities, and is not reasonably calculated to improve public safety.

Under Maryland law, “[a] defendant is not criminally responsible for criminal conduct if, at the time of that conduct, the defendant, because of a mental disorder or mental retardation, lacks substantial capacity to: (1) appreciate the criminality of that conduct or (2) conform that conduct to the requirements of the law.” Md. Code Ann., Crim. Proc. § 3-109.

Modern jurisprudence on the insanity defense, referred to in Maryland as a verdict of Not Criminally Responsible (NCR), reflects the determination that treatment of those found NCR is not intended to be punitive, but rather intended to protect the public safety and treat the individual’s mental illness. The U.S. Supreme Court agrees. Where a State “may of course imprison convicted criminals for the purposes of deterrence and retribution” subject to constitutional limitations, “the State has no such punitive interest” with respect to persons found NCR. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Even though a finding of NCR results in automatic commitment of the individual for an indefinite period of time, “[t]he purpose of commitment following an insanity acquittal, like that of civil commitment, is to treat the individual’s mental illness and protect him and society from his potential dangerousness.” *Jones v. United States*, 463 U.S. 354, 368 (1983); see also *Bergstein v. State*, 322 Md. 506, 516 (1991) (“The deprivation of liberty involved in the initial hospitalization or in rehospitalization clearly is not imposed as a punishment.”)

Against this backdrop, SB 554 proposes to amend the Criminal Procedure article to require an individual found NCR on first degree murder charges to be committed to a designated health care facility for life; an individual found NCR on second degree murder charges would be required to be committed for a term not exceeding 40 years. Currently the statute provides that an individual found NCR on any crime is indefinitely committed to a state hospital until the Forensic Review Board and the court determines that the person no longer poses a danger to themselves or the person or property of others. As an aside, the proposed change to commitment for “a term not exceeding 40 years”

for individuals found NCR on a second degree murder charge may actually be less restrictive than current law, permitting individuals who remain dangerous due to their mental illness if released from commitment to be discharged after a term of 40 years. We question whether this was the intent of the drafter.

More importantly, the proposed changes are unconstitutional and if enacted, would undoubtedly be challenged as such. As noted by Justice Brennan in *Jones*, 463 U.S. at 386, “[i]ndefinite commitment without the due process protections adopted in *Addington* and *O’Connor* is not reasonably related to any of the Government’s purported interests in confining insanity acquittees for psychiatric treatment. Due process “requires that the nature and duration of the commitment bear some reasonable relation to the purpose for which the individual is committed.” *Jones*, 463 U.S. at 368. Accordingly, the State may only continue to confine an individual who remains dangerous due to a mental disorder. *Id.* at 370. The Maryland statute embodies this constitutional standard, providing that an individual is eligible for release “if that person would not be a danger...to self or to the person or property of others if discharged” or if “released from confinement with conditions imposed by the Court.” Md. Code Ann., Crim. Pro. §§ 3-114(b),(c).

Individuals found NCR already face significant institutional challenges to discharge. Individuals may have difficulty assessing what their rights to discharge actually are, requesting a release hearing, and convincing their clinical providers that they would not be dangerous if released. Such challenges may (and often do) result in an individual being confined for a far lengthier period of time than the maximum sentence he or she would have received if convicted of the crime. See *Jones*, 463 U.S. at 369 (finding no correlation between the severity of the offense and the length of time necessary for treatment).

Once an individual is released from commitment, Maryland law provides for a defined five-year period of required conditions and monitoring to satisfy the State’s interest in protecting the individual from harm to self, others, or property due to a mental disorder. Md. Code Ann., Crim Pro. § 3-118(c). If, during this five-year period, it is alleged that the individual has violated the terms of the release order and is no longer eligible for release, the State may file an application with the court for revocation or modification of the order. § 3-121. If the court finds probable cause to believe that there has been a violation, a hospital warrant is issued for the individual to transport him or her to a facility designated by the Department. § 3-121(e). If the person is found to have violated their release order, their conditional release may be extended by another five years. Even when the individual has not violated their conditional release order, their conditional release may be renewed or extended based on the recommendations of their community providers, the State’s Attorney, the Court, and interested others.

The overall risk of violence among those discharged from mental institutions is low. A 2015 study followed 1800 individuals in Canada who were released from psychiatric institutions and found the recidivism rate was relatively low at three years --17%. For individuals who had been found NCR for a violent crime, the recidivism rate was even lower. People from the sample were also less likely to reoffend when under the purview of review boards, as they are in Maryland. Yanick Charette, *The National Trajectory*

*Project of Individuals Found Not Criminally Responsible on Account of Mental Disorder in Canada. Part 4: Criminal Recidivism*, Can. J. Psychiatry 2015;60(3):127–134. Available online at <https://pubmed.ncbi.nlm.nih.gov/25886688/>.

The conditions of the typical conditional release order are quite restrictive and touch nearly every aspect of an individual's life. A person subject to an order of conditional release must disclose to his or her therapist any change in residence, employment, activities, marital status or family composition, or physical or mental health, legal issues, out-of-state travel, or any failure to meet clinic or program appointments, and must agree to abide by the therapist's recommendations on the subjects. Appropriate treatment is determined by mental health professionals and the Aftercare Program. The conditional release order requires the individual to receive psychiatric follow-up care "as often as deemed necessary," but initially bi-weekly by the treating psychiatrist and weekly by a therapist, with "any change of therapist, clinic or frequency of appointments" to be approved by the provider and sent to the Aftercare Program. The individual must attend and participate in any program or activity as recommended and arranged by a service provider or the Aftercare program, and must take any medication prescribed. An individual on conditional release waives all confidentiality during the release term – the Aftercare Program is permitted to communicate "with any person, including the mental health therapist/care provider having knowledge of the individual's clinical condition.

The goal of mental health treatment is recovery from mental illness, which is defined by the United States Substance Abuse and Mental Health Services Administration (SAMHSA) as "[a] process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential." See <https://www.samhsa.gov/find-help/recovery>. In light of all the existing protections designed to ensure the public's safety, it is concerning that SB 554 proposes to confine some individuals found NCR to the hospital for life, and others for up to 40 years, even when they are determined not to be dangerous, there are adequate safety measures through the NCR discharge and forensic aftercare process, and there is a low risk of violence from individuals released from hospitals after an NCR verdict. Maryland currently has approximately 180 individuals with mental illness detained in detention centers who have been found IST and court-ordered to an MDH facility for treatment and competency restoration. Those individuals are currently languishing in detention centers, in violation of their constitutional rights. By moving individuals who are NCR but have been determined not to be a danger if released to the community, with adequate supports and close monitoring by their providers and the community Aftercare Board, Maryland will be able to make the best use of its resources and transfer those in detention who most need treatment and restoration.

**For these reasons, we urge that Senate Bill 554 be given an unfavorable report.** Should you have any further questions, please contact Luciene Parsley, Litigation Director at Disability Rights Maryland, at 443-692-2494 or [lucienep@disabilityrightsmd.org](mailto:lucienep@disabilityrightsmd.org).

# **SB 554 - Oppose - MPS WPS.pdf**

Uploaded by: Thomas Tompsett

Position: UNF



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](mailto:tommy.tompsett@mdlobbyist.com).

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