

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

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 87  
Criminal Law – Death Penalty  
**DATE:** January 10, 2024  
(2/13)  
**POSITION:** Opposes

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The Maryland Judiciary opposes House Bill 87. House Bill 87 reinstates the death penalty in Maryland, amending § 2-201 of the Criminal Law Article (“CL”) to provide that a person who is convicted of first-degree murder may be sentenced to death under certain circumstances. The bill also amends the Correctional Services Article (“CS”), the Criminal Procedure Article (“CP”), among others, to establish various procedures relating to the custody of an individual who is sentenced to death, warrant of execution, incompetency of an incarcerated individual who has been sentenced to death, method of execution, witnesses to the execution, certification regarding the time, place, and manner of the execution, and disposition of the body of an executed incarcerated individual, as well as notices, trial, sentencing, post-sentencing proceedings, and appeals in relation to the imposition of the death penalty.

The Judiciary has no position on the policy aims of this legislation but only has procedural concerns. First, the bill provides in section 3-904(d)(6) that, if an incarcerated individual is not represented by counsel, “any other person on the incarcerated individual’s behalf” may seek to revoke a warrant of execution against the incarcerated individual by filing a petition alleging that the incarcerated individual is incompetent. If the “other person” is not an attorney admitted to the Maryland Bar, he or she could be engaging in the unauthorized practice of law by taking such action “on the incarcerated individual’s behalf.”

Second, in section 3-904(e)(1)(iii), the bill provides that a hearing to determine whether an incarcerated individual has become incompetent must be held without a jury and in one of three places, including “at another convenient place.” This provision is unclear and unusual.

Finally, the bill provides that, after a post-conviction petition is filed in a case where the court rendered a sentence of death, and a hearing date is set, the court is barred from

changing the hearing date unless requested by a party and only for good cause shown.  
This intrudes on the court's ability to manage its own dockets.

cc. Hon. Nino Mangione  
Judicial Council  
Legislative Committee  
Kelley O'Connor