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## **POSITION ON PROPOSED LEGISLATION**

**BILL: HB 860- Petitions for Emergency Evaluation (Arnaud and Magruder Memorial Act)**

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

**POSITION: Unfavorable**

**DATE: February 17, 2026**

**The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 860.**

**House Bill 860 codifies two changes to the existing Emergency Petition statute. First, it changes the timeline restrictions surrounding the effective period of an Emergency Petition. Second, it requires that a peace officer shall act in accordance with § 3–524 of the public safety article when executing a petition.**

The Maryland Office of the Public Defender appreciates the efforts to reform the Emergency Petition (“EP”) process, as we see firsthand the harm that is caused to Marylanders, especially Black and brown Marylanders when mental health crises are not met with appropriate services and care. Emergency Petitions in Maryland, (and nationally) are overused on Black and brown populations. Because of racial disparities in rates of police contact, Black people, including those with mental illness, are more likely to interact with police. Additionally, nearly two out of every three Black people who need mental health care services do not receive them.<sup>1</sup>

Unfortunately, EPs are also disproportionately used on Black and brown children. In 2023, Wicomico used emergency petitions more often per capita than almost every other Maryland district where data is available. Baltimore City, for example, in the same year had 271 emergency petitions from schools, compared with Wicomico’s 117, according to data obtained from law enforcement agencies through public records requests. But Baltimore City’s student population is five times as

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<sup>1</sup> <https://policingequity.org/wp-content/uploads/2023/02/CPE-WhitePaper-MentalHealth.pdf>

large.<sup>2</sup>At least 40 percent of those children were age 12 or younger. More than half were Black children, even though only a little more than a third of Wicomico public school children are Black. From the 8 years between 2015 and 2023, the process was used more than 750 times on children. Some are as young as 5 years old.

The only way to ensure a safer and more just Maryland is to move beyond the current framework which relies on law enforcement to serve Emergency Petitions. To that end, we submit a proposed amendment to the bill, and further urge the committee to support House Bill 1060, Primary and Secondary Schools - Petitions for Emergency Evaluation - Requirement for Tracking and Reporting and Study. Additionally, we urge the committee to explore the community response mechanisms explored in this [Center for Police Equity Report](#), but remain opposed to the existing provisions in House Bill 860.

First, our proposed amendment is a codification of the prioritization of using mobile crisis units to respond to mental health emergencies and serve emergency petitions. Several states have specifically codified a preference for a mobile crisis team response in the instance that an EP might be necessary, such as California and Virginia. And, [the Department of Justice](#), has clearly articulated that “community-based crisis services play a key role in preventing needless institutionalization, law enforcement encounters, and incarceration of people with disabilities. These services, including mobile crisis services and crisis stabilization services—such as staffed crisis apartments, peer crisis respite centers, and community-based crisis stabilization units—divert many people with disabilities from admission to psychiatric hospitals, emergency departments, and jails.” The DOJ has further directed that sending a mobile crisis team or other responder, rather than law enforcement, when a call involves a person with a behavioral health disability ensures that individuals with disabilities are afforded equal opportunity as is due to them under the ADA. The Maryland Office of the Public Defender urges this committee to consider inserting the following language to the Health General § 10-622 (d):

**(2) The petition shall be executed by a designated mobile crisis team where possible.**

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<https://hechingerreport.org/widely-used-and-widely-hidden-the-district-where-kids-as-young-as-5-are-sent-to-psychiatric-hospitals-more-than-three-times-per-week/#:~:text=More%20than%20three%2Dquarters%20of,of%20Wicomico%20students%20have%20disabilities.>

The EP process is intended to provide an immediate evaluation based on recent symptoms and behavior. Police can issue an EP on their own, mental health providers can complete an EP with police, or a court can endorse an EP and serve it through the police. HEALTH–GENERAL, § 10-622 (a) provides that an evaluatee must “present” a danger:

(a) A petition for emergency evaluation of an individual may be made under this section only if the petitioner has reason to believe that the individual:

(1) Has a mental disorder; and

(2) Presents a danger to the life or safety of the individual or of others.

This means that the danger to self or others must be immediate. This is consistent with Supreme Court jurisprudence requiring that a state cannot confine a person once they no longer meet criteria and they can “survive safely in freedom.”<sup>3</sup> An EP serves as documentation that the petitioner believed the person (evaluatee) had a mental illness and presented a danger to themselves based on immediate observations. Time is of the essence when an EP is executed. An extension is unnecessary when a new EP can be completed just as easily. Thus, the Maryland Office of the Public Defender is concerned that the extensions provided for in proposed subsection (D) of House Bill 860 HEALTH–GENERAL, § 10-623, will lead to attenuation between the observed behavior and the issuance of an EP in a way that does not serve the ultimate goal of aiding an individual in crisis.

After five days, behavior and circumstances can change, and the EP is stale. The potential for an extension without new evidence of immediate danger, could effectively turn an EP into an ongoing effort to deprive a person of their liberty without probable cause that they are a danger to themselves or others. The “good cause” standard in the proposed language is both overbroad and unnecessary. Currently, a new EP can be applied for at any time and the factors that satisfy probable cause for the issuance of an EP are already low in comparison. The creation of a new extension mechanism is unnecessary as the extension for good cause requires the petitioner to return to court for a hearing on each requested extension. The petitioner could just as easily file a new petition, which is a one-page form or request a new EP more easily by calling the police without returning to court.

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<sup>3</sup> *O'Connor v. Donaldson*, 422 U.S. 563, 574-75 (1975) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)) (“Nor is it enough that Donaldson's original confinement was founded upon a constitutionally adequate basis, if in fact it was, because even if his involuntary confinement was initially permissible, it could not constitutionally continue after that basis no longer existed.”).

Finally, the Maryland Office of the Public Defender urges the committee to resist House Bill 860's codification of Public Safety Article § 3-524 because police should not be tasked with being the first response in mental health crises.<sup>4</sup> Maryland should be seeking alternatives to law enforcement issued EPs rather than attempting to alter the current system. As noted above, the DOJ recently released *Guidance for Emergency Responses to People with Behavioral Health or Other Disabilities*<sup>5</sup> and noted the following on the use of force:

Research has shown that as many as 10 percent of all police calls involve a person with a serious mental illness.<sup>[6]</sup> Other estimates indicate that 17% of use of force cases involve a person with a serious mental illness, and such individuals face 11.<sup>[7]</sup> times the risk of experiencing a police use of force faced by persons without a serious mental illness.<sup>6</sup> Further, while representing only 22% of the population, individuals with disabilities may account for 30% to 50% of incidents of police use of force.<sup>[8]</sup> In recent years, people with mental illness have accounted for between 20% and 25% of individuals killed by law enforcement.<sup>[9]</sup> These interactions are not only harmful and potentially deadly for people with disabilities; they also impose monetary costs on taxpayers. Case studies have demonstrated that when communities respond to individuals in crisis with law enforcement responses like arrest, court, and jail services, taxpayer costs are significantly higher than when crisis response services are utilized pre-booking.

Ultimately, Maryland should move toward best practices that include less police involvement in the service of emergency petitions (EP) and more intervention by specially trained mental health professionals. We encourage the Health and Government Operations Committee to work with

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<sup>4</sup> “Most people with mental health conditions are no more likely to be violent than anyone else. Only 3%–5% of violent acts can be attributed to individuals living with a serious mental illness.” Mental Health Myths and Facts - SAMHSA (Apr 24, 2023),

<https://www.samhsa.gov/mental-health/myths-and-facts#:~:text=Myth%3A%20People%20with%20mental%20health,with%20a%20serious%20mental%20illness.>

<sup>5</sup> U.S. Department of Justice and U.S. Department of Health & Human Services, *Guidance for Emergency Responses to People with Behavioral Health or Other Disabilities*, (Washington, DC: U.S. DOJ and U.S. HHS, May 2023), <https://www.justice.gov/d9/2023-05/Sec.%2014%28a%29%20-%20DOJ%20and%20HHS%20Guidance%20on%20Emergency%20Responses%20to%20Individuals%20with%20Behavioral%20Health%20or%20Other%20Disabilities.FINAL.pdf>; see also Bazelon Center for Mental Health Law & Vera Institute of Justice, *New Federal Guidance for Alternatives to Police for People with Behavioral Health or Other Disabilities*, Issue Brief, 2 (Jan. 2024),

<https://www.bazelon.org/wp-content/uploads/2024/01/Bazelon-Vera-issue-brief-re-crisis-response-01-14-24.pdf>.

<sup>6</sup> Watson, A. & Fulambarker, A. (2012). The Crisis Intervention Team Model of Police Response to Mental Health Crises: A Primer for Mental Health Practitioners. *Best Practices in Mental Health*, 8(2):71.

<sup>7</sup> Lanionu, A. & Goff, P. (2021). Measuring Disparities in Police Use of Force and Injury Among Person with Serious Mental Illness. *BMC Psychiatry*, 21.

<sup>8</sup> Perry, D. (2016). *The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability*. Ruderman Family Foundation.

<sup>9</sup> Kimberly Kindy et al., *Fatal police shootings of mentally ill people are 39 percent more likely to take place in small and mid-sized areas*, Washington Post, Oct. 17, 2020,

[https://www.washingtonpost.com/national/police-mentally-ill-deaths/2020/10/17/8dd5bcf6-0245-11eb-b7ed-141dd88560ea\\_story.html](https://www.washingtonpost.com/national/police-mentally-ill-deaths/2020/10/17/8dd5bcf6-0245-11eb-b7ed-141dd88560ea_story.html).

experts and stakeholders on ways to improve crisis response and are grateful for efforts to improve policing.

Better police training and resources and the proposed amendment of prioritizing mobile crisis teams will alleviate the harm and potential dangers inherent in serving an EP and having an EP served. In addition to our proposed amendment, we support more training for law enforcement on interacting with individuals in mental health crises. We know that these situations are incredibly difficult for everyone involved, and understand that police may enter these situations with very little information on the condition of the evaluatee or the circumstances. We hope that Maryland will prioritize mobile crisis teams and increase training for law enforcement, and move beyond relying on law enforcement responses to mental health crises.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bill 468.**

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