

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 554 (Senator Corderman)  
Judicial Proceedings

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**Criminal Procedure - Not Criminally Responsible Verdict - Term of Commitment**

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This bill requires a court, after a verdict of not criminally responsible (NCR) for murder in the first or second degree, to commit a defendant to a “designated health facility” for the following terms – life for a charge of murder in the first degree and up to 40 years for a charge of murder in the second degree. Specified provisions regarding release from a facility do not apply to a person subject to these required terms of commitment.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State operations or finances in the near term. State expenditures may increase in the future, potentially significantly, depending on the bill’s overall effect on the availability of beds in Maryland Department of Health (MDH) facilities. Revenues are not affected.

**Local Effect:** The bill is not anticipated to materially affect local government finances or operations.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*Designated Health Facility*

“Designated health facility” means a facility owned and operated by MDH, a State forensic residential center, or a hospital or private residential facility under contract with MDH to house and treat individuals found to be incompetent to stand trial or NCR.

### *Penalties for Murder*

A murder is in the first degree if it is (1) a deliberate, premeditated, and willful killing; (2) committed by lying in wait; (3) committed by poison; or (4) committed in the perpetration of or an attempt to perpetrate specified crimes. A violator is guilty of a felony punishable by imprisonment for life, with or without the possibility of parole. A sentence of imprisonment for life without the possibility of parole may not be imposed unless specified statutory and procedural requirements are met.

Second-degree murder is a murder that is not in the first degree. A person who commits second-degree murder is guilty of a felony and on conviction is subject to imprisonment for up to 40 years.

### *Commitment to Facility After Finding of Not Criminally Responsible*

After a verdict of NCR, a court ordinarily is required to order the defendant committed to a facility designated by MDH for appropriate care or treatment. MDH is required to admit the defendant to a designated facility as soon as possible but no later than 10 business days after it receives the order of commitment. While commitment to a facility is typically required, the court may release a defendant after a verdict of NCR if (1) MDH has issued an evaluation report within 90 days prior to the verdict stating that the defendant would not be a danger if released, with or without conditions and (2) the State's Attorney and the defendant agree to the release and any conditions the court chooses to impose.

### *Release After Commitment of Defendants Found to Be Not Criminally Responsible*

A committed defendant is eligible for release only if the defendant proves by a preponderance of the evidence that the defendant will not be a danger to self or to the person or property of others due to a mental disorder or mental retardation if released from commitment with conditions (conditional release) or without conditions (discharge). A detailed administrative and judicial process applies to release decisions. Conditional release can be for a term of up to five years, with options to extend for up to five years at a time. There is no limit on the number of extensions of conditional release. The Community Forensic Aftercare Program within MDH monitors all cases of individuals on conditional release. The court must notify the Criminal Justice Information System Central Repository whenever it orders conditional release or discharge of a committed person.

**State Fiscal Effect:** Although the bill is not anticipated to materially affect State finances over the five-year period covered by this fiscal and policy note, State expenditures may increase in the future, potentially significantly, depending on the bill's overall effect on the availability of beds in MDH facilities. These expenditures may be somewhat mitigated by reduced expenditures for aftercare/conditional release services.

MDH did not respond to a request for information on the fiscal and operational impact of the bill. Information is not readily available on the number of committed persons in MDH facilities for NCR findings related to charges of murder in the first or second degree and the average length of stay for these individuals. However, according to the Judiciary, in fiscal 2023, there were three individuals found NCR for charges of murder in the first degree and one individual found NCR for murder in the second degree.

According to information prepared pursuant to the *2023 Joint Chairmen's Report*, as of June 9, 2023, there were 160 individuals on the MDH court-ordered hospital waitlist. The MDH Healthcare System has 1,056 psychiatric beds that operate at full capacity – this means to admit a patient, MDH must discharge a patient. Approximately 99% of the patients added to the MDH Healthcare System psychiatric hospitals are court-involved/ordered. Depending on the bill's overall effect on the availability of psychiatric beds, the bill could impact the need for MDH to construct additional beds at the Clifton T. Perkins Hospital Center (289 beds, 96% occupancy during fiscal 2023), which is already undergoing a major capital improvement project, or the building of additional facilities. While the Judiciary's fiscal 2023 data indicates that few defendants are subject to the bill in a given year, the bill has a compounding effect if committed individuals spend longer amounts of time in MDH facilities and the turnover necessary to meet the need for psychiatric beds is decreased.

The bill may reduce the workloads of the Office of the Public Defender and the Office of Administrative Hearings if required commitments under the bill eliminate routine hearings and evaluations for committed individuals. However, any such reduction is not expected to materially affect State finances or operations.

**Local Fiscal Effect:** The bill may reduce the workloads of State's Attorneys and circuit courts if required commitments under the bill eliminate the need for routine administrative and judicial hearings for committed individuals. However, any such reduction is not expected to materially affect local finances or operations.

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## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2024  
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