

# SENATE BILL 750

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By: **Senator Lam**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Incompetency and Criminal Responsibility – Release Hearing – Exceptions**

3 FOR the purpose of providing that a certain person may file exceptions to a certain report  
4 of the Office of Administrative Hearings only if that person appeared at a certain  
5 release hearing; altering a provision of law to require a court to hold a certain hearing  
6 unless all parties that appeared at a certain prior hearing waive the hearing, rather  
7 than requiring the court to hold a certain hearing unless a certain committed person  
8 and the State’s Attorney waive the hearing; and generally relating to incompetency  
9 and criminal responsibility.

10 BY repealing and reenacting, with amendments,  
11 Article – Criminal Procedure  
12 Section 3–116 and 3–117  
13 Annotated Code of Maryland  
14 (2018 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Procedure**

18 3–116.

19 (a) Within 10 days after the hearing ends, the Office shall prepare a report of  
20 recommendations to the court that contains:

21 (1) a summary of the evidence presented at the hearing;

22 (2) recommendations of the Office as to whether the committed person  
23 proved, by a preponderance of the evidence, eligibility for conditional release or eligibility  
24 for discharge; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) if the Office determines that the committed person proved eligibility for  
2 conditional release, the recommended conditions of the release in accordance with  
3 subsection (b) of this section.

4 (b) In recommending the conditions of a conditional release, the Office shall give  
5 consideration to any specific conditions recommended by the facility of the Health  
6 Department that has charge of the committed person, the committed person, or counsel for  
7 the committed person.

8 (c) The Office shall send copies of the report of recommendations:

9 (1) to the committed person;

10 (2) to counsel for the committed person;

11 (3) to the State's Attorney;

12 (4) to the court; and

13 (5) to the facility of the Health Department that has charge of the  
14 committed person.

15 (d) The committed person, the State's Attorney, or the Health Department, **IF**  
16 **APPEARING AT THE RELEASE HEARING UNDER § 3-115 OF THIS TITLE**, may file  
17 exceptions to the report of the Office within 10 days after receiving the report.

18 3-117.

19 (a) Within 30 days after the court receives the report of recommendations from  
20 the Office:

21 (1) the court on its own initiative may hold a hearing; or

22 (2) if timely exceptions are filed, or if the court requires more information,  
23 the court shall hold a hearing unless [the committed person and the State's Attorney] **ALL**  
24 **PARTIES THAT APPEARED AT THE RELEASE HEARING UNDER § 3-115 OF THIS TITLE**  
25 waive the hearing.

26 (b) (1) The court shall hold the hearing on the record that was made before the  
27 Office.

28 (2) At the judicial hearing, the committed person is entitled to be present  
29 and to be represented by counsel.

30 (3) The court may continue its hearing and remand for the Office to take  
31 additional evidence.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2019.