

SENATE BILL 43

E2, J1, J3

(PRE-FILED)

5r1451
CF HB 32

By: **Senator Augustine**

Requested: October 29, 2024

Introduced and read first time: January 8, 2025

Assigned to: Finance and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Department of Health – Forensic Review Board and Community**
3 **Forensic Aftercare Program – Established**

4 FOR the purpose of requiring the Maryland Department of Health to establish a forensic
5 review board at facilities that have charge of persons who have been committed to
6 the facility as not criminally responsible; requiring each forensic review board to
7 review the eligibility for release of committed persons on a certain basis and
8 determine whether to recommend to the court that the committed person is eligible
9 for discharge or conditional release; establishing the Community Forensic Aftercare
10 Program in the Department to monitor committed persons on conditional release;
11 and generally relating to forensic review boards and the Community Forensic
12 Aftercare Program.

13 BY repealing and reenacting, without amendments,
14 Article – Criminal Procedure
15 Section 3–101(a), (b), and (d) and 3–121(b)
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2024 Supplement)

18 BY adding to
19 Article – Criminal Procedure
20 Section 3–120.1
21 Annotated Code of Maryland
22 (2018 Replacement Volume and 2024 Supplement)

23 BY adding to
24 Article – Health – General
25 Section 13–5501 and 13–5502 to be under the new subtitle “Subtitle 55. Community
26 Forensic Aftercare Program”
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2023 Replacement Volume and 2024 Supplement)

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

Article – Criminal Procedure

3–101.

(a) In this title the following words have the meanings indicated.

(b) “Committed person” means a person committed to the Health Department as not criminally responsible under the test for criminal responsibility.

(d) “Health Department” means the Maryland Department of Health.

3–120.1.

(A) THE HEALTH DEPARTMENT SHALL ESTABLISH A FORENSIC REVIEW BOARD AT EACH FACILITY THAT HAS CHARGE OF A COMMITTED PERSON UNDER THIS SUBTITLE.

(B) EACH MEMBER OF A FORENSIC REVIEW BOARD SHALL BE A HEALTH CARE PROVIDER LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE.

(C) (1) EACH FORENSIC REVIEW BOARD SHALL REVIEW ANNUALLY EACH COMMITTED PERSON’S ELIGIBILITY FOR RELEASE UNDER § 3–114 OF THIS SUBTITLE.

(2) THE FORENSIC REVIEW BOARD SHALL, BY A MAJORITY VOTE OF THE MEMBERS, DETERMINE WHETHER TO RECOMMEND TO THE COURT THAT A COMMITTED PERSON IS ELIGIBLE FOR DISCHARGE OR CONDITIONAL RELEASE, WITH OR WITHOUT PROPOSED CONDITIONS.

(3) (I) EACH FORENSIC REVIEW BOARD SHALL MAINTAIN A WRITTEN RECORD CONTAINING ITS FINDINGS AND RECOMMENDATIONS.

(II) THE WRITTEN RECORD SHALL BE INCLUDED IN THE MEDICAL RECORD OF THE COMMITTED PERSON.

(III) THE FINDINGS SHALL INCLUDE THE REASONS FOR THE FORENSIC REVIEW BOARD’S RECOMMENDATION AND A PLAN FOR OVERCOMING ANY BARRIERS TO RELEASE.

1 **(D) (1) EACH FORENSIC REVIEW BOARD SHALL HAVE AN ODD NUMBER OF**
2 **MEMBERS.**

3 **(2) EACH MEMBER OF THE FORENSIC REVIEW BOARD SHALL HAVE**
4 **ONE VOTE.**

5 **(3) (I) A FORENSIC REVIEW BOARD MAY NOT CONDUCT A REVIEW**
6 **UNDER SUBSECTION (C) OF THIS SECTION UNLESS A QUORUM IS PRESENT.**

7 **(II) A MAJORITY OF THE MEMBERS OF THE FORENSIC REVIEW**
8 **BOARD IS A QUORUM.**

9 **(E) (1) IF THE COMMITTED PERSON'S TREATMENT TEAM DETERMINES**
10 **THAT THE COMMITTED PERSON IS ELIGIBLE FOR DISCHARGE OR CONDITIONAL**
11 **RELEASE BEFORE THE ANNUAL REVIEW SCHEDULED UNDER SUBSECTION (C) OF**
12 **THIS SECTION, THE TREATMENT TEAM SHALL NOTIFY THE FORENSIC REVIEW BOARD**
13 **IN WRITING OF THE NEED FOR A RELEASE ELIGIBILITY REVIEW.**

14 **(2) WITHIN 30 DAYS AFTER RECEIVING NOTICE UNDER PARAGRAPH**
15 **(1) OF THIS SUBSECTION, THE FORENSIC REVIEW BOARD SHALL CONDUCT A REVIEW**
16 **IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

17 **(3) THE TREATMENT TEAM SHALL PROVIDE A WRITTEN STATEMENT**
18 **THAT INCLUDES THE CLINICAL REASONS UNDERLYING THE DETERMINATION THAT**
19 **THE COMMITTED PERSON IS ELIGIBLE FOR DISCHARGE OR CONDITIONAL RELEASE.**

20 **(4) A COPY OF THE NOTIFICATION MADE UNDER PARAGRAPH (1) OF**
21 **THIS SUBSECTION AND THE WRITTEN STATEMENT REQUIRED UNDER PARAGRAPH**
22 **(3) OF THIS SUBSECTION SHALL BE INCLUDED IN THE MEDICAL RECORD OF THE**
23 **COMMITTED PERSON.**

24 **(F) A COPY OF A DOCUMENT OR RECORD PRODUCED BY A FORENSIC**
25 **REVIEW BOARD UNDER THIS SECTION SHALL, ON REQUEST, BE PROVIDED TO:**

26 **(1) THE COMMITTED PERSON;**

27 **(2) COUNSEL FOR THE COMMITTED PERSON;**

28 **(3) THE COURT;**

29 **(4) THE STATE'S ATTORNEY; OR**

30 **(5) THE HEALTH DEPARTMENT.**

1 3-121.

2 (b) (1) If a court receives a report that alleges that a committed person has
3 violated a condition of a conditional release, the court promptly shall:

4 (i) notify:

- 5 1. the Health Department;
- 6 2. counsel of record for the committed person; and
- 7 3. the State's Attorney; and

8 (ii) provide the State's Attorney with the name, address, and
9 telephone number of the person who reported the violation and a copy of the order for
10 conditional release.

11 (2) If the Health Department receives a report that alleges that a
12 committed person has violated conditional release, the Department shall:

13 (i) notify:

- 14 1. the court;
- 15 2. counsel of record for the committed person; and
- 16 3. the State's Attorney; and

17 (ii) provide the State's Attorney with the name, address, and
18 telephone number of the person who reported the violation and a copy of the order for
19 conditional release.

20 **Article - Health - General**

21 **SUBTITLE 55. COMMUNITY FORENSIC AFTERCARE PROGRAM.**

22 **13-5501.**

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (B) "COMMITTED PERSON" HAS THE MEANING STATED IN § 3-101 OF THE
26 CRIMINAL PROCEDURE ARTICLE.

1 (C) "PROGRAM" MEANS THE COMMUNITY FORENSIC AFTERCARE
2 PROGRAM.

3 13-5502.

4 (A) THERE IS A COMMUNITY FORENSIC AFTERCARE PROGRAM IN THE
5 DEPARTMENT.

6 (B) THE PURPOSE OF THE PROGRAM IS TO MONITOR COMMITTED PERSONS
7 ON CONDITIONAL RELEASE.

8 (C) (1) THE PROGRAM SHALL MONITOR COMMITTED PERSONS ON
9 CONDITIONAL RELEASE IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE
10 COMMITTED PERSON'S MENTAL HEALTH TEAM.

11 (2) THE PROGRAM MAY NOT MAKE CLINICAL DECISIONS REGARDING
12 THE TREATMENT OF COMMITTED PERSONS.

13 (D) (1) AT LEAST ONCE EVERY 90 DAYS, A COMMUNITY FORENSIC
14 AFTERCARE MONITOR SHALL HOLD A MEETING WITH:

15 (I) EACH COMMITTED PERSON MONITORED BY THE PROGRAM;
16 AND

17 (II) THE MENTAL HEALTH TEAM OF THE COMMITTED PERSON.

18 (2) A COMMITTED PERSON MAY APPOINT AN ADVOCATE, INCLUDING
19 A REPRESENTATIVE FROM THE OFFICE OF THE PUBLIC DEFENDER, TO ATTEND A
20 MEETING HELD UNDER PARAGRAPH (1) OF THIS SUBSECTION.

21 (E) IF THE PROGRAM RECEIVES A REPORT ALLEGING THAT A COMMITTED
22 PERSON HAS VIOLATED CONDITIONAL RELEASE, THE PROGRAM SHALL:

23 (1) MAKE THE NOTIFICATIONS REQUIRED UNDER § 3-121(B)(2)(I) OF
24 THE CRIMINAL PROCEDURE ARTICLE; AND

25 (2) PROVIDE THE STATE'S ATTORNEY WITH THE INFORMATION
26 REQUIRED UNDER § 3-121(B)(2)(II) OF THE CRIMINAL PROCEDURE ARTICLE.

27 (F) IF THE PROGRAM RECEIVES A REQUEST FOR RECORDS, THE PROGRAM
28 SHALL PROVIDE THE RECORDS WITHIN 48 HOURS AFTER THE REQUEST IS RECEIVED
29 UNLESS THE PROGRAM IS PROHIBITED UNDER APPLICABLE FEDERAL OR STATE
30 LAW FROM DISCLOSING THE RECORDS TO THE REQUESTING PERSON.

1 **(G) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE**
2 **PROGRAM.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2025.