

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 782 (Senator Corderman)  
Judicial Proceedings

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**Criminal Procedure - Verdict of Not Criminally Responsible - Eligibility for  
Evaluation for Discharge**

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This bill establishes that a committed person who was found not criminally responsible (NCR) for murder in the first or second degree is not eligible for discharge from commitment for at least 10 years after the date the person was committed to the Maryland Department of Health (MDH). The bill applies prospectively to commitments to MDH that occur on or after the bill's October 1, 2025 effective date.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State expenditures, as discussed below. 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:**

*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 intellectual disability 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 Expenditures:** Based on the current average length of stay for patients affected by the bill and the information below, the bill is not anticipated to materially affect MDH expenditures.

In March 2024 (the most recent data readily available), MDH advised that as of December 31, 2023, 67 patients at Clifton T. Perkins Hospital had a legal status of NCR; this number includes *all* NCR patients, not just patients committed for first- or second-degree murder.

According to MDH, from January 2019 through February 2024:

- 24 patients were discharged from the Clifton T. Perkins Hospital Center with murder charges – 16 for first-degree murder, 5 for second-degree murder, and 3 coded generically as “murder.”
- Of these 24 patients, 11 were transferred from Clifton T. Perkins Hospital Center to one of MDH’s other psychiatric hospitals; the average length of stay for this group was 4,502 days (12.3 years), and 2 of the patients in this cohort had an average length of stay of approximately 30 years.
- 13 of this group of 24 patients were discharged from Clifton T. Perkins Hospital Center to the community. The average length of stay for this group at Clifton T. Perkins Hospital Center was 3,610 days (9.9 years).

While these numbers do not account for patients in other MDH facilities, this estimate assumes that (1) a patient found NCR for first- or second-degree murder is most likely in Clifton T. Perkins Hospital Center or most likely to be initially committed to Clifton T. Perkins Hospital Center and (2) the average lengths of stay listed above are typical for a patient in an MDH facility who was committed as NCR for first- or second-degree murder.

MDH’s healthcare system operates 1,056 adult psychiatric beds, which are operating at almost full capacity. MDH notes that it currently spends \$1.5 million annually on court-imposed fines due to waitlists for admissions to its mental health facilities. Given the average length of stay for patients affected by the bill, this estimate assumes that the bill does not materially affect bed turnover rates in MDH facilities and corresponding fines

According to OPD, the bill results in fewer NCR defenses and increased litigation and presents constitutional issues that will be litigated. The Department of Legislative Services advises that given the small number of cases affected by the bill each year and the general duration of first- and second-degree murder cases, any corresponding change in workload is not anticipated to materially affect OPD.

The Office of Administrative Hearings advises that it can implement the bill with existing budgeted resources.

**Local Expenditures:** The bill’s effect on the workloads of State’s Attorneys and (possibly) the circuit courts is not expected to materially affect local finances.

## **Additional Information**

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

**Designated Cross File:** None.

**Information Source(s):** Office of the Attorney General; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Health; Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2025  
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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510