Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 67 (Senator Muse)
Judicial Proceedings

Criminal Procedure - Incompetency to Stand Trial Dismissal

This bill extends, from 5 years to 10 years, the time after which a court is required to dismiss a charge of first-degree murder or first-degree rape against a defendant found incompetent to stand trial (IST). The bill specifies that as part of the process of dismissing a charge against an IST defendant due to the expiration of statutory time limits (1) the court must provide the State's Attorney and a victim who has filed a specified notification request form advance notice of the dismissal and an opportunity to be heard and (2) at any time, the State may petition the court for extraordinary cause to extend the time of the charge. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: General fund expenditures increase by $159,700 in FY 2027 for the Office of the Public Defender (OPD); future year expenditures reflect annualization and inflation. General fund expenditures may increase for the Maryland Department of Health (MDH) due to extended commitments and related proceedings. The Judiciary and the Office of Administrative Hearings can implement the bill with existing resources. Revenues are not affected.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	$0	$0	$0	$0	$0
GF Expenditure	159,700	199,000	205,200	211,600	218,100
Net Effect	($159,700)	($199,000)	($205,200)	($211,600)	($218,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: It is anticipated that local State's Attorneys' offices can accommodate any increased workload using existing budgeted resources. Local revenues are not materially affected.

Small Business Effect: None.

Analysis

Current Law:

Dismissal of Charges for a Defendant Found Incompetent to Stand Trial

By statute, a defendant is IST if the defendant is not able to understand the nature or object of the proceeding or assist in the defense.

Whether or not the defendant is confined in an MDH facility and unless the State petitions the court for extraordinary cause to extend the time, the court must dismiss the charge against a defendant found IST (1) after the lesser of the expiration of five years or the maximum sentence for the most serious offense charged, if charged with a felony or crime of violence or (2) after the lesser of the expiration of three years or the maximum sentence for the most serious offense charged, if charged with an offense other than a felony or crime of violence.

The court is required to dismiss a charge without prejudice if the court considers that resuming the criminal proceeding would be unjust because so much time has passed since the defendant was found IST. Before dismissing a charge, the court must provide the State's Attorney and a victim or victim's representative who has requested notification advance notice and an opportunity to be heard. If charges are dismissed, the court must notify the victim or representative mentioned above and the Criminal Justice Information System.

If charges are dismissed against a defendant who is IST due to mental illness and is deemed dangerous, the court may civilly commit the defendant to MDH. If the defendant is determined not to be dangerous in the future, the defendant is released into the community. If charges are dismissed for a defendant found IST due to an intellectual disability who is dangerous, the court may commit the defendant to the Developmental Disabilities Administration for 21 days to determine the defendant's eligibility for services.

Extraordinary Cause

In 2009, the Maryland Court of Appeals (now the Supreme Court of Maryland) held that the dangerousness and restorability of a defendant adjudged IST are not sufficient for an extraordinary cause determination under the State's incompetency statute. *Ray v. State of Maryland*, 410 Md. 384 (2009). While the State may reindict a defendant after the defendant's charges were dismissed under § 3-107(a) of the Criminal Procedure Article without a showing that the defendant has become competent, the State must overcome the presumption that the defendant is unrestorable before the defendant is placed in incompetency commitment. Otherwise, the circuit court must initiate civil commitment

proceedings in accordance with Section 3-106 of the Criminal Procedure Article. *State v. Ray*, 429 Md. 566 (2012).

Crimes of Violence

Section 14-101(a) of the Criminal Law Article defines a "crime of violence" as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Victim Notification

Under Maryland law, a victim of a crime or delinquent act (or a representative in the event the victim is deceased, disabled, or a minor) has a broad range of specific rights during the criminal justice process. On first contact with a victim, a law enforcement officer, District Court commissioner, or juvenile intake officer must give an identified victim a pamphlet that advises the victim of the rights, services, and procedures available in the time before and after the filing of a charging document. Also, within 10 days after the filing or unsealing of an indictment or information, the prosecuting attorney must provide a victim with a pamphlet that describes the rights, services, and procedures available to a victim after the indictment or information is filed and a notification request form by which a victim may request notice of various proceedings.

Many of the rights afforded a victim of crime depend on a victim completing a notification request form or requesting notice by following the Maryland Electronic Courts system protocol.

State Expenditures: Based on existing statute and the classification of and the maximum penalties for first-degree murder and first-degree rape, the defendants affected by the bill would have their charges dismissed after 10 years instead of 5 years under existing statute.

Maryland Department of Health

General fund expenditures for MDH increase if the bill increases the amount of time defendants spend committed in MDH facilities. The extent of this increase cannot be reliably determined at this time and depends on:

- the number of individuals committed to MDH facilities after being found IST for first-degree murder or first-degree rape;
- whether an individual charged with first-degree murder or first-degree rape who is found IST and not restored to competency within 5 years will be restored to competency in 10 years;
- whether an individual charged with first-degree murder or first-degree rape who is found IST is also determined to be dangerous;
- whether an individual charged with first-degree murder or first-degree rape who is found IST and has his/her charges dismissed after the time limit under existing statute will still be determined to be dangerous and civilly committed to an MDH facility; and
- the current length of civil commitments for individuals charged with first-degree murder or first-degree rape whose charges are dismissed after 5 years.

This analysis assumes that the cost of maintaining an individual in an MDH facility on a pending charges basis is equal to the cost of maintaining the same individual on a civil commitment basis.

MDH did not respond to multiple requests for information regarding the bill. However, in response to identical legislation introduced in 2025, MDH noted that its healthcare system operates 1,056 adult psychiatric beds, which are operating at almost full capacity. Because extended commitments under the bill may reduce the turnover of beds necessary to accommodate the need for psychiatric beds within existing facilities, the bill likely exacerbates ongoing capacity issues. In 2025, MDH advised that it spends $1.5 million annually on court-imposed fines due to waitlists for admissions to its mental health facilities. According to the department, if the bill increases the lengths of stay and impacts admissions to facilities, annual fines assessed against the department could increase significantly. However, DLS advises that as noted above, the effect of the bill on MDH facilities depends on (1) whether individuals affected by the bill who are not restored to competency within 5 years under current law are civilly committed to MDH facilities and (2) the amount of time that these individuals spend in MDH facilities after dismissal of charges.

Office of the Public Defender

General fund expenditures increase by $159,736 in fiscal 2027, which assumes a 90-day start-up delay. This estimate reflects the cost of hiring one attorney to assist with legal representation generated by the bill. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses, and fees for psychiatric experts.

Position	1.0
Salary and Fringe Benefits	$90,595
Psychiatric Experts	60,000
Operating Expenses	9,141
Total FY 2027 State Expenditures	**$159,736**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

OPD advises that the bill extends the time required for representation in applicable cases, which results in increased costs for staff and experts. For anyone committed for IST, an annual court review is required, which generally requires OPD to engage an independent expert evaluator. In addition, MDH is required to provide an updated review report to the court and counsel every six months. Often courts set hearings upon receipt of those reports, in addition to the annual reviews. Thus, the bill could generate two additional court hearings per year per defendant.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years. See SB 90 and HB 195 of 2025.

Designated Cross File: HB 180 (Delegate Cardin) - Judiciary.

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

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