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Committee

Executive Nominations Committee

Joint Committee on Ending Homelessness

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Support SB 731: Criminal Procedure - Committed Persons - Release Proceedings

The Issue:

- Current process related to conditional releases for individuals committed to the Department of Health (MDH) has many inefficiencies, which lead to delays
- Delays in conditional releases result in lack of available psychiatric beds and increased state spending

What Does SB 731 Do?

- Requires interested parties to attend a conditional release hearing if they want to file exceptions based on the outcome
- Allows conditional release hearings to be governed by Circuit Court rules of discovery
- Requires notice of violations of conditional release to the Office of the Public Defender and the committed person's attorney of record
- Permits a hearing to be held on applications for changes to conditional release and permits judges to shorten term of conditional release

How SB 731 Helps?

- Encourages Office of the State's Attorney (SAO) to attend conditional release hearings and present evidence regarding conditional release, creating a more complete record for the Court to review
- Allows appropriate individuals to be placed on conditional release without extended delay so they can continue their treatment
- Opens up bed space in state hospitals, which is extremely limited
- Ensures patients receive treatment in the least expensive setting
- Reduces the number of people who are re-detained in a hospital unnecessarily, ensuring individuals stay on track with treatment and reducing costs
- Encourages the SAO to more closely review allegations of conditional release violations to ensure that state resources are being properly allocated to individuals in need of inpatient care

Conditional Release Process:

- An individual committed to the Maryland Department of Health (MDH) may be conditionally released at a hearing before an Administrative Law Judge (ALJ)
- The committed person, their counsel, MDH and the SAO are permitted to attend the hearing; all present are permitted to make arguments but the burden of proving eligibility for release is on the committed person
- The ALJ writes a report to the committing court with recommendations regarding conditional release and conditions that should apply, copies are given to MDH, the committed person, and the SAO
- The committed person, the SAO, or the MDH have 10 days to file exceptions to the report
- The court has 30 days to, on its own initiative or based on “timely exceptions” (i.e. an appeal), hold a hearing based on the record that was made before the ALJ