



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

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**2020 SESSION  
POSITION PAPER**

**BILL NO:** House Bill 262  
**COMMITTEE:** House Judiciary Committee  
**POSITION:** Support

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**TITLE:** Criminal Procedure – Examination of Defendant by Maryland  
Department of Health – Access to Judicial Records.

**BILL ANALYSIS:** House Bill 262 (HB262) permits the Maryland Department of Health (MDH) to enter into a data-sharing agreement with the Judiciary in order to conduct mental health evaluations for court-involved individuals. The bill would take effect on July 1, 2020.

**POSITION AND RATIONALE:**

Current law does not contain any statutory provisions allowing MDH to access information maintained by the Judiciary with respect to criminal defendants. However, statute does require MDH to evaluate and prepare reports for the courts regarding these individuals.

**HB262 would maintain the status quo** and MDH's current access to the Judiciary's Secure Case Search database, or any other database maintained by the Judiciary, in order to retrieve information about criminal defendants, (1) to prepare reports of court-ordered examinations under the Criminal Procedure Article §§ 3-105 and 3-111 about the criminal defendants' competency to stand trial and criminal responsibility, (2) to assist MDH in placing criminal defendants committed to it, and (3) to obtain information for the purposes of discharge planning and conditional release.

The Judiciary notified MDH that it will restrict access to Secure Case Search after an internal review of what existing statutory and court rules govern the access by various governmental agencies and counsel. The information includes information not provided in the public/external-facing case search database. **MDH has worked with the Judiciary throughout 2019 on attempting to resolve this issue; we understand that the Judiciary will submit a written letter of support for HB262.**

MDH has six (6) forensic offices throughout the state that currently use Secure Case Search. Our forensic offices are responsible for all mental health court orders and patient status in MDH's psychiatric facilities system, as well as certain pre-trial defendants held in detention.

Information, such as the Judge's name, the State's Attorney and the Defendant's counsel's names, is used in order to send reports. In addition, probation information is used to coordinate when discharging a patient. Other information about a patient's history is used in the preparing of MDH's report on a patient to the court and the parties or if there are other cases/warrants/detainers that would preclude a patient from being discharged.

A restriction of access to these databases would sharply restrict the speed and completeness of court-ordered reports and the release of patients back into the community. Following passage of HB262, MDH and the Judiciary would work on the appropriate data use agreements in order to continue our joint court-ordered individual process improvements.

For more information, please contact Director of Governmental Affairs, Webster Ye, at 410-260-3190 or at [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov).

