Disability Rights Maryland

Empowerment. Integration. Equality.

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Disability Rights Maryland
Senate Finance Committee
February 9, 2021
SB 286 – Behavioral Health Crisis Response Services Modification
POSITION: SUPPORT

Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to decriminalize disability through the creation and expansion of voluntary behavioral health services centered on civil rights, and thereby decrease inappropriate criminal justice involvement for people with disabilities.

DRM **supports** SB 286 as a necessary piece of legislation for the State of Maryland to reduce police violence against persons with disabilities, and achieve its obligations to serve persons with behavioral health disabilities in the most integrated setting possible. In recent years, States have been confronted with enforcement actions by the United States for failing to appropriately investment in community-based behavioral health services.[1] This lack of community-based services causes institutionalization in state hospitals, incarceration in the penal system, and persons with disabilities cycling through emergency departments.[2] As explained in a recent decision in *United States v. Mississippi*, "[Mississippians with Severe Mental Illness] are faced with a recurring cycle of hospitalizations, without adequate community-based services to stop the next commitment. This process of 'cycling admissions' is 'the hallmark of a failed system.'"[3]

Additionally, the absence of robust, culturally competent community based services, including crisis services, is the root cause of the criminalization of persons with disabilities that results in Maryland prisons being disproportionately populated by persons with disabilities, and Maryland State hospitals being occupied almost exclusively by persons with criminal justice involvement.[4] Further, popular criminal justice-oriented diversion programs such as Crisis Intervention Training (CIT) for law enforcement are simply ineffective without these services for lack of actual diversion opportunities.[5] Unfortunately, the most frequent result of criminal justice-oriented diversion programs without this concomitant investment in community based services,

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[1] *U.S. v. Georgia*, No. 10-249 (N.D. Ga. Oct. 19, 2010); *U.S. v. Delaware*, No. 11-591 (D. Del. July 15, 2011)
[2] National Guidelines for Behavioral Health Crisis Care at 8 (explaining how the absence of crisis services contributes to bad outcomes for persons with disabilities, and taxes community resources).
[3] *United States v. Mississippi*, 3:16-cv-00622-CWR-FKB, Memorandum Opinion and Order (D. Miss. September 3, 2019).
[4] *Supra* note 2.
[5] "CIT in Context: the impact of mental health resource availability and district saturation on call dispositions," 34 *International Journal of Law and Psychiatry* 287-294 (2011). *See also 2017 Strategic Plan: 24-7 Walk-in Center amd Mobile Crisis Team Service*, Maryland Department of Health- Behavioral Health Administration, pg. 12, *available at* https://bha.health.maryland.gov/Documents/The%202017%20Strategic%20Plan%2024-7%20Crisis%20Walk-in%20and%20Mobile%20Crisis%20Team%20Services.pdf (noting the absence of community based services impedes implementation of CIT programs in police departments).

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is transportation to emergency departments, emergency petitions, placement in jails and prisons, and in the most extreme instances serious injury and even death.[6]

This criminalization of disability disproportionately affects communities of color. For example, in Baltimore City, while nearly 63% of Baltimore residents are Black, approximately 77% of public behavioral health system utilizers are Black. Remarkably, 75% of all individuals accessing behavioral health services *solely* through hospital emergency departments were Black. Of Baltimore City residents committed by local criminal courts to our state psychiatric hospitals, 83% are Black. Additionally, data tracked from a sample of law enforcement encounters show that 89% of behavioral crisis responses result in the police involuntarily committing people to hospital emergency rooms; and that of the reported behavioral calls for service involving police, 78% of the people being confronted by police are Black.[7]

SB 286 supports early diversion of behavioral health crises away from the criminal justice system by expanding funding for and prioritizing programs that divert people from law enforcement at the 9-1-1 level and utilize mobile crisis teams that contribute to the least police involved response are culturally competent. Communities that have capable, culturally competent mobile crisis teams are able to resolve 95% of all crisis calls in the community without relying on more restrictive methods.[8]

While Disability Rights Maryland is aware of State efforts to expand crisis services in the Greater Baltimore region, we have written about the need for these systems to be centered on the civil and human rights of persons they serve and should culturally competent, be available around the clock, include at peers at every level of service, be available to youth and children, emphasize 'no force first' policies, and have adequate discharge and follow-up planning.[9] This should be the standard for all of Maryland's crisis services for persons with behavioral health disabilities.

SB 286 advances these principles that are consistent with the civil rights of persons with disabilities. Therefore, we encourage a favorable report.

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[6] *See generally* Maryland Disability Law Center, MARYLAND CITIZENS IN PSYCHIATRIC CRISIS: A REPORT (2007) *available at* https://disabilityrightsmd.org/wp-content/uploads/2017/04/ED-FINAL-BOOK-PRINT.pdf. *Accord* United States Department of Justice, INVESTIGATION ON BALTIMORE CITY POLICE DEPARTMENT, 80-85 (2017) *available at* https://www.justice.gov/opa/file/883366/download. *See also* ACLU of Maryland, Briefing Paper on Death in Police Encounters, 2010-2014, (March 2015) (identifying that 69% of all deaths in Police encounters between 2010 thru 2014 were people of color, and 38% were persons with disabilities).

[7] *Baltimore Public Health Behavioral Health System Gaps Analysis: Final Report* (Oct. 2019), *available at* Baltimore_PBHS_Gaps_Analysis_Report_191209.pdf (hsri.org).

[8] Margie Balfour, *What if...Access to Care was the Priority? Lessons from the Southern Arizona Crisis System,*1, 11 (2019) https://www.neomed.edu/wp-content/uploads/CJCCOE_01-Margie-Balfour-What-if-access-to-care-was-a-priority.pdfhttps://www.neomed.edu/wp-content/uploads/CJCCOE_01-Margie-Balfour-What-if-access-to-care-was-a-priority.pdf (Showing that the Arizona Crisis Response Model resolved 94.2% of crisis calls via phone or through the mobile crisis team without having to triage to a higher level of care).

[9] Ltr from Disability Rights Maryland and Bazelon Center for Mental Health Law to Health Services Cost Review Commission (October 28, 2020) on file with author.

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