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SB 216: Criminal Procedure - Committed Persons - Release Proceedings

The Issue:

- Current process related to conditional releases for individuals committed to the Department of Health (MDH) for inpatient care and treatment has many inefficiencies, which lead to delays
- Delays in conditional releases result in lack of available psychiatric beds and increased state spending at an approximate cost of \$800 per day for in patient care (on average this can result in excess spending of \$70,000 or more)
- An administrative law judge has found that these patients are psychiatrically stable and ready to be in the community
- The language in the statute does not make clear that conditional release can be extended for up to 5 years, but does not need to be 5 years.

What Does SB 216 Do?

- Requires interested parties to attend a conditional release hearing if they want to file an appeal based on the outcome of the hearing
- 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
- Cleans up the language in the statute to inform the courts that conditional release can be extended for up to 5 years, but does not need to be 5 years.

How SB 216 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 returned to the 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
- It ensures patients the due process rights to discovery that they are entitled to by law in all hearing venues.

Conditional Release Process:

- The patient bears the burden of proving eligibility for conditional release in all hearing venues
- An individual committed to the Maryland Department of Health (MDH) may be conditionally released at a hearing before an Administrative Law Judge (ALJ), a District Court, or a Circuit Court
- Hearings before an ALJ tend to be the most efficient manner of hearing the case, but the patient is entitled to a jury trial in Circuit Court once a year to determine their eligibility for conditional release
- The patient, their counsel, MDH and the SAO are permitted to attend the hearing; all present are permitted to make arguments and offer evidence
- 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 patient, and the SAO
- The patient, the SAO, or the MDH have 10 days to appeal the ALJ's 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

Sponsor Amendments:

- Two technical amendments:
 - As written, SB216 says: "In a proceeding held **under the subsection**, the Maryland Rules governing discovery in the Circuit Court shall apply." This should be changed to: "In a proceeding held under **this subtitle to determine eligibility for conditional release or discharge, the Maryland Rules of discovery in the Circuit Court shall apply regardless of hearing venue.**" (*Amendment SB216/443026/1*)
 - SB216 as written also has a requirement for an affidavit from the State's Attorneys prior to being able to petition a hospital warrant, which is being deleted in its entirety. (*Amendment SB216/443026/1*)
- While the bill initially required a hearing for all applications in change in conditional release, **the amendment provides for a hearing upon request by any party.** This will enable the moving party the right to be heard on the merits of their motion, and will prevent the courts from being tied up with hearings that are not contested. (*Amendment SB216/953227/1*)