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POSITION ON PROPOSED LEGISLATION

BILL: HB1017 Frederick County – Mental Health Law – Assisted Outpatient

Treatment Pilot Program

FROM: Keith Lotridge, Deputy Public Defender, Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 3/7/2022

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 1017.

OPD's Mental Health division Chief, Carroll McCabe, has provided separate testimony to detail the significant substantive concerns that we have with this bill. The constitutional violations she identified on their own would make it impossible for us to represent individuals in these proceedings in the manner intended by the drafters. Putting that aside, however, my testimony will focus on the cost impact of the bill, particularly with respect to the reliance on public defenders for challenging involuntary treatment orders for people who cannot afford a private lawyer.

On February 22, 2022, an amendment to HB1017 was prepared that amends the authorizing statute for public defender services to include representation of individuals for whom a judicial order to involuntary outpatient services may be issued. There is no discussion in the bill for how these services will be funded, and our fiscal note information predates this amendment. For our office alone, additional attorneys, experts, social workers and support staff would be required, costing hundreds of thousands of dollars.

OPD is already facing a significant gap in needed resources, and this bill will further overburden our already overworked Mental Health Division (MHD). MHD attorneys currently maintain caseloads well above recommended standards. Last year, eight attorneys represented clients in 9,600 involuntary civil commitment cases as well as hearings held at least once per week in approximately 33 hospitals around the State. Our current resources simply cannot take on this additional work.

A similar pilot project was established in Baltimore City in 2017, without including public defenders or seeking to amend our authorizing statute. That program highlights the high cost for little to no benefit for involuntary outpatient services. A recent briefing provided that, since it began approximately 3 years ago, the Baltimore City program has served approximately 14 clients, eleven of whom joined the program voluntarily. No information was provided to indicate whether the 3 involuntary patients successfully completed the program. A significant sum of money was spent to provide the participants with two full-time peer specialists, one part-time clinical supervisor, a consumer quality team, attorney representation for participants, and one monitor to oversee participants' engagement in services. Additional investment is needed to develop and maintain this level of infrastructure, particularly if it intends to grow to statewide.

Maryland taxpayers would get more "bang for their buck" if that money was spent on providing substantive mental health treatment in the community. There is a real need for robust community treatment options, and the funds proposed to be spent here would be better utilized by developing robust treatment options, ensuring that they are accessible to residents seeking services, and providing comprehensive discharge plans for people released from inpatient psychiatric units.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB1017.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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