



## Department of Public Safety and Correctional Services

### Office of Government and Legislative Affairs

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**BILL: HOUSE BILL 1299**

**POSITION: LETTER OF INFORMATION**

**EXPLANATION:** This bill would change the existing definition of serious mental illness (SMI) from the current definition that is in accordance with with the Code of Maryland Regulations (COMAR) 10.21.17.02 (76) and is used by the Department of Public Safety and Correctional Services (Department). The bill also proposes periods of time for when incarcerated individuals shall be outside of their housing within a 24-hour cycle, and that this time is documented.

### Comments:

- The Department's Division of Correction (DOC) operates 13 State correctional facilities which house offenders sentenced to incarceration for 18 months and longer. The Department also oversees the Division of Pretrial Detention and Services which operates the Baltimore City Pretrial Complex.
- Under the COMAR definition of SMI 10.21.17.02 (76) utilized by the Department, there is an average of 1,364 inmates diagnosed with an SMI housed within our facilities. **HB 1299 drastically alters the definition of SMI in a manner that is inconsistent with community based standards and would result in a much higher SMI diagnosis rate.** If this bill were to pass, the Department estimates that the number of inmates with a diagnosed SMI in State correctional facilities will increase significantly to over 5,800 incarcerated individuals.
- In order to deliver the appropriate clinical services to the increased number of incarcerated individuals diagnosed with an SMI, as defined under HB 1299, a modification to the current mental health contract will be required. The total fiscal impact of HB 1299 would be over \$17,000,000.
- The passage of this bill is expected to severely impact re-entry for incarcerated individuals with an SMI diagnosis. **Released individuals may not be able to receive community services**, such as residential rehabilitation, psychiatric rehabilitation, assertive community treatment, or be accepted into treatment programs offered by the Behavioral Health Administration (BHA) as the BHA and Maryland Department of Health utilizes the SMI definition codified in COMAR 10.21.17.02 (76).

- The bill requires that all incarcerated individuals are provided 2.5 hours out of their cells within a 24-hour period. The goal of the Department is to provide all incarcerated individuals, including those with a mental health diagnosis who are currently housed in the general population, with more than 2 hours of out of cell time. This standard has been and will continue to be met, barring any COVID restrictions recommended by the Maryland Department of Health.
- Incarcerated individuals, with a diagnosed SMI, as defined by COMAR 10.21.17.02 (76), who are housed in a Special Needs Unit (SNU), are provided extra group and individual therapy opportunities. In addition to out of cell time that is consistent with the general population.
- For incarcerated individuals housed in the Department's inpatient mental health units, the individual is provided increased out-of-cell time as their mental health condition stabilizes.
- HB 1299 would require "a licensed mental health care professional [to] certif[y] that a more restrictive setting is necessary for the inmate's course of care" in the event an individual with a SMI receives less than 2.5 hours outside of their cell. According to the Department's Director of Mental Health, the term "certifies" is an ambiguous term that is not used in the medical or mental health care of the incarcerated population. The Department does utilize a process for individuals who need to be placed in specialized housing that includes a medical evaluation and an suicide risk evaluation.

**CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates House Bill 1299.