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## **POSITION ON PROPOSED LEGISLATION**

**BILL: House Bill 0416 REAP Act (Resources and Education for All Prisons)**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable with Amendment**

**DATE: 2/17/2023**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 0416 with strong urging for re-adding set certain goals for the number of inmates in rehabilitation programs as original to 2022 HB0025. Educational attainment is key to reducing recidivism thus ensuring access to Pell grants is necessary for the successful reintegration into society of returning citizens of Maryland. Respectfully, we must understand and acknowledge that “inmates” are citizens of Maryland. Julian Adler, Director of Policy and Research for the Center for Court Innovation, stated in his book entitled, *Start Here: A Road Map to Reducing Mass Incarceration*, “Everyone who comes in the courtroom is a member of the community.” Those citizens who are serving their time will ultimately be returning citizens, someday. According to the US Justice Department, Bureau of Justice Statistics, *Time Served in State Prison*, published March 2021:

Two-thirds of offenders released from state prison in 2018 served less than 2 years in prison before their initial release. While 1 in 23 violent offenders (4%) served 20 years or more before their initial release, over half of violent offenders (57%) were released in less than 3 years. About 1 in 5 state prisoners released in 2018 had served less than 6 months before their initial release.

This bill seeks to reinstate access to higher education through Pell grants which do not meet the entirety of those needs based on the research. The Prison Policy Initiative study, *Getting Back*

*on Course: Educational exclusion and attainment among formerly incarcerated people*, October 2018, found that inequalities between the general public and formerly incarcerated people begin early and accumulate at each level of education:

- Formerly incarcerated people are nearly **twice as likely to have no high school credential at all**.
- **More than half of formerly incarcerated people hold only a high school diploma or GED** — credentials which have diminishing value in today’s job market.
- Unlike the general public, people who have been to prison are **more likely to have GEDs** than they are to have traditional high school diplomas. And three-quarters of those GED certificates are earned in prison.
- Formerly incarcerated people are **8 times less likely to complete college** than the general public.

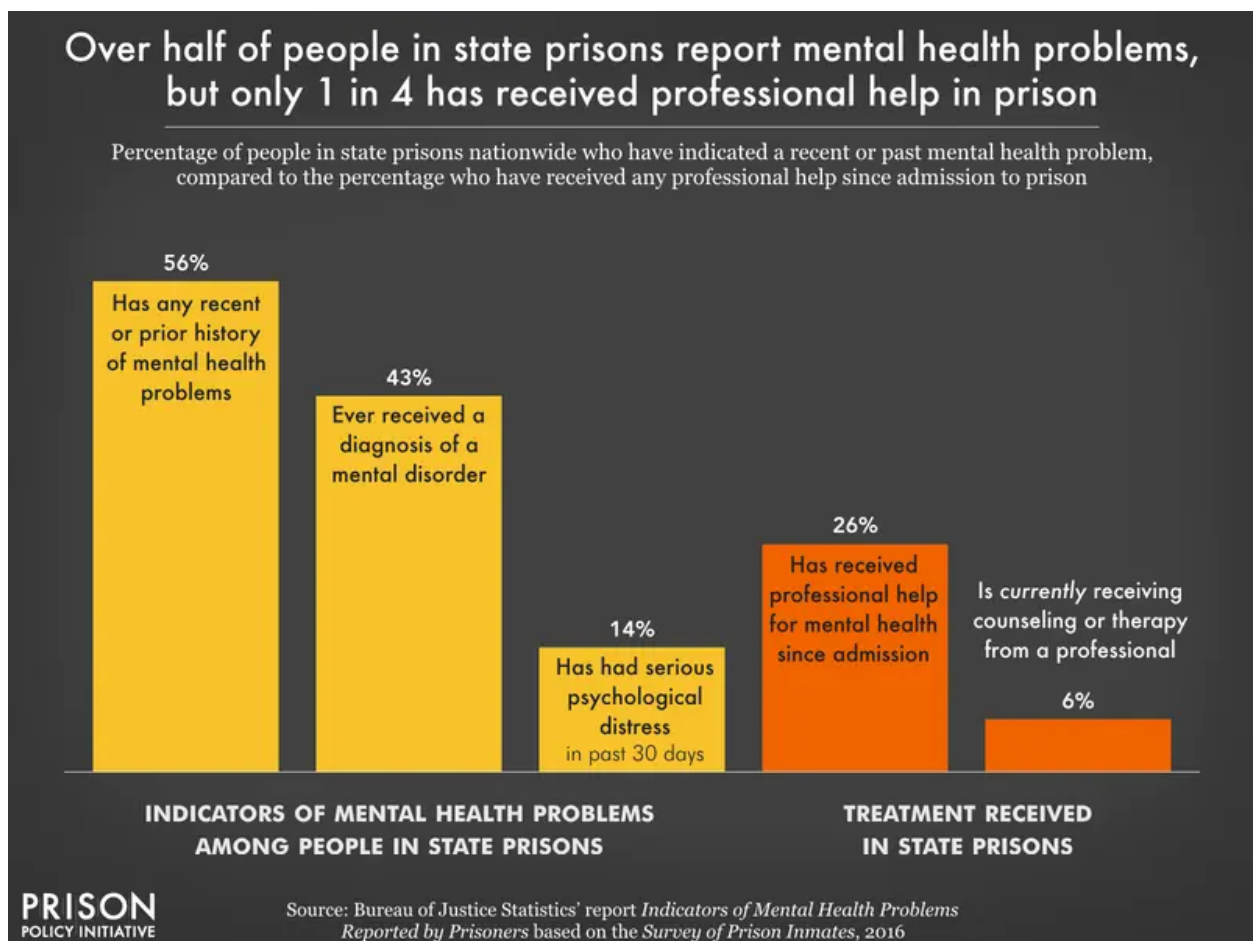
In consideration of this bill, Maryland must contemplate the goal of punishment and incarceration. According to penal philosophy, there are three prevailing goals of imprisonment: the goal of punishing wrongdoers for the sake of retribution, the goal of incapacitating those convicted of crimes and keeping the public safe, and the goal of rehabilitating wrongdoers to help them re-enter society without posing as much risk to others (Perricone, et al. (Nov. 2022). The effect of neuroscientific evidence on sentencing depends on how one conceives of reasons for incarceration). The Maryland Department of Public Safety and Correctional Services, mission clearly implies that rehabilitation is the standard:

Our primary objective is to ensure safety so that all Marylanders can enjoy living and working in the state. We are achieving this by increasing security in our institutions and supplying offenders and former-offenders the tools necessary to stay out of the criminal justice system.

The following empirical evidence is provided in support of identifying what those “necessary tools” would be for “offenders and former-offenders” to stay out of the criminal justice system. The Prison Policy Initiative, *Arrest, Release, Repeat: How police and jails are misused to respond to social problems*, August 2019 found: **Low educational attainment increases the likelihood of arrest**, especially multiple arrests. Two-thirds (66%) of people with multiple arrests had no more

than a high school education, compared to half (51%) of those who were arrested once and a third (33%) of people who had no arrests in the past year.

While we see the value in providing educational opportunities, we must validate and provide equal access to rehabilitative programs to those same returning citizens because there is a correlation between engagement in criminal activity and mental illness. Thus, in consideration of this bill the re-addition of setting goals for the number of inmates in rehabilitation programs is imperative. The Prison Policy Initiative study, *Arrest, Release, Repeat: How police and jails are misused to respond to social problems*, August 2019 found:



The mental health crisis in prisons is only partially captured by the *Survey*, but the data reveal that:

- More than half (56%) of people in state prison had some indication of a mental health problem, whether recent (14% report serious psychological distress in the past month) or previously diagnosed (43% report any history of one or more mental health conditions). Yet only about one-fourth of the total population (26%) have received professional help for their mental health since entering prison. Less than 1 in 3 (30%) people experiencing serious psychological distress in the past 30 days reported currently receiving professional help.
- **The prevalence of every single mental health condition is higher for women:** Rates of post-traumatic stress disorder are almost three times as high in women as in men (34% of women versus 13% of men). Rates of manic depression, bipolar disorder, and/or mania (reported by 44% of women), as well as depressive disorders (49% of women) are double the rate compared to men.
- State prisons allow too many in their custody to remain in a constant state of distress: In the 30 days before the survey was administered, one-sixth (16%) of respondents felt “nervousness” all or most of the time; 12% felt hopeless all or most of the time; 11% said they felt depressed all or most of the time. Almost one-fourth (23%) felt like “everything was an effort.” Native incarcerated people report these concerning symptoms at the highest rates across the board.
- Mental health diagnoses in state prisons are most prevalent among multiracial people (56% report one or more), white people (53%), and Native people (52%), compared to Hispanic (36%), Black (33%), or Asian (32%) people. These figures track closely with how people of different racial and ethnic groups utilize mental health services outside of prison.
- A staggering half (50%) of people in state prisons who have a **history of substance use disorder** treatment also have a history of one or more mental health conditions. This is disproportionate overlap: According to the National Institute on Drug Abuse, 38% of U.S. adults with substance use disorder also had one or more mental health disorders.

These numbers and conditions are unacceptable, inhumane, and counter to the efforts of rehabilitation. Further, having a mental health diagnosis and or psychological distress means

that an individual is experiencing an acute level of symptomology to such an extent that “clinical distress impairs their daily functioning”. When individuals who are in the community are suffering from mental illness or psychological distress they have access to any range of therapeutic services and the same should be true of these returning Maryland citizens. Provision of rehabilitative programming is a minimal standard that should be provided on a more wide scale level.

All Marylanders deserve the right to life, liberty and the pursuit of happiness even though they are currently “incarcerated citizens” because someday they will be “returning citizens”.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable finding for HB0416 with the re-addition of setting goals for the number of inmates in rehabilitation programs.**

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

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