



**OPPOSITION TO
HB 1019 - Mental Health Law - Petitions for Emergency Evaluation
Before the Senate Finance Committee**

March 27, 2024

The Silver Spring Justice Coalition (SSJC) is a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County committed to eliminating harm caused by police and empowering those communities most affected by policing.

My name is Robert Landau. I am a resident of Gaithersburg, and I am submitting testimony in opposition to HB 1019 on behalf of SSJC.

We urge you to oppose HB 1019, which would unnecessarily authorize police officers to use force in executing petitions for emergency evaluations (EPs), and allow a petition's expiration date to be extended when there may no longer be any need for an emergency evaluation. This bill jeopardizes the wellbeing and rights of persons who live with mental health conditions. It also endangers their rights under the Americans with Disabilities Act.

Use-of-Force Statute is Unnecessary, Provides Inadequate Protection

Bill proponents claim that Maryland's code on emergency evaluations needs a reference to the Maryland Use of Force Statute (§ 3-524) because EPs are a civil, not a criminal, procedure. The Public Safety Article provision § 3-524 applies to all conduct by law enforcement officers – including civil proceedings. The standards for police use-of-force are already clear. Reiterating it in the Health, General Article is unnecessary.

Inserting a reference to the Use of Force Statute would send the message that

force by law enforcement officers is justified when a person being served a petition demonstrates even the slightest resistance. If anything, police executing EPs should be required to take even greater care to avoid harming a person with a mental health condition. Furthermore, by adding a reference to § 3-524, the General Assembly would be condoning conduct that may violate the Americans with Disabilities Act (ADA), which requires accommodations for persons with mental illness. See,

<https://www.aclu.org/cases/bread-for-the-city-v-district-of-columbia?document=Bread-for-the-City-v-District-of-Columbia-Complaint#legal-documents>.

People trapped in these involuntary circumstances, who are disproportionately Black and Hispanic, need greater protection and preservation of their rights as they are often disproportionately harmed by law enforcement officers.

Extension Process Will Lead to Unwarranted Apprehensions

We are deeply concerned that the bill's EP extension process will be used to deprive persons of their liberty without sufficient justification. Bill sponsors argue that extending EPs for up to 30 days may be necessary to find and apprehend a person who is the subject of an EP. However, the mental status of a person, and their alleged level of dangerousness, can change. If the subject of an EP can't be located, how does anyone know if their condition still warrants an evaluation?

The bill's language is vague and does not protect a person's liberty rights. It allows extensions of an EP for "good cause shown based on the presenting behavior of the individual...." This phrase is unclear and makes it too easy to get an extension. What does "good cause" mean? Bearing in mind that the subject of an EP is never present at the initial hearing or at the motion to extend the EP, what does "based on the presenting behavior" mean? If "good cause" is nothing more than that the person can't be found, then that is no standard at all. These ambiguities are reason enough to oppose the bill.

The subject of an EP who can avoid being seized by the police or sheriff for five days is unlikely to be an imminent danger to themselves or others. If the petitioner has fresh evidence that the individual needs an evaluation, there should be presented in a *de novo* EP hearing.

An SSJC member spoke with a captain in the Prince George's County Sheriff's office, who said that EPs are frequently abused by people with malign purposes. (EPs can be initiated by anyone claiming to be an interested party.) The captain talked about a case in which someone sought an EP 48 times. In another case, a person who allegedly was not regularly going to kidney dialysis was the victim of the EP process. Clearly, the entire EP process needs to be examined more closely, and this bill is not the solution – it only creates more issues. Given the obstacles for legal representation for people who are served EPs, we urge more protections for these persons, not less.

The Committee should deeply consider the harm and trauma done to a person when they are forcibly held against their will, especially when there is no evidence that the EP is still justified. EPs also waste the resources of already overburdened hospital emergency departments.

This bill is bad for the most vulnerable people in our communities, and it would be a bad policy for a state that has such inadequate protections for people who are subject to EPs. We urge that, rather than take a piecemeal approach to this complex problem, that the General Assembly study the entire EP system, with input from all stakeholders, before trying to fix any aspect of this broken system.

Please contact Robert Landau, at 301.938.9850, for further information about SSJC's position.

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