



Treatment Advocacy Center

**Testimony by Lisa Dailey, Executive Director of Treatment Advocacy Center
Submitted to House Health and Government Operations Committee
Hearing regarding HB 576: February 14, 2024 at 1:00 pm
POSITION: STRONG SUPPORT**

Thank you for the opportunity to submit written testimony. I am writing as the executive director for Treatment Advocacy Center, a national nonprofit focused on eliminating barriers to treatment for those with severe mental illness. I am also writing as an expert in constitutional law, civil rights, and civil liberties with respect to civil commitment laws.

While it is sometimes rhetorically suggested that civil commitment (whether inpatient or outpatient) is unconstitutional or a violation of a person's rights, the truth is that the courts have defined with precision when and how a state is authorized (and indeed required) to intervene in the treatment of an individual. As a matter of both substantive and procedural due process, this jurisprudence has been settled for decades. Suggesting otherwise is disingenuous.

As a matter of substantive due process, states have the right *and the duty* to intervene when a person poses a threat to themselves, to others, or to the public generally, due to mental illness. This is settled law and has been for many decades. The role of state legislatures is to define for its jurisdiction the circumstances and procedure by which this duty will be carried out. What is required by the U.S. Supreme Court and Maryland's own case law is that such an intervention must be paired with adequate procedural due process protections.

In the case of HB 576, respondents are provided with due process protections that include appointment of counsel, the right to present and contest evidence, and the ability to appeal decisions. These procedural due process protections have been upheld as constitutionally sufficient safeguards in Maryland as well as in all other states in which similar procedures have been challenged.

As an intervention, AOT is designed to be a less restrictive alternative to hospitalization that allows individuals to stay in or return to their community support systems while receiving sufficient assistance and supervision to do so safely. It is fully consistent with the preference for delivering care in the least restrictive setting appropriate to need outlined in the holding for *Olmstead v. L.C.*,ⁱ in which the U.S. Supreme Court directed states to find alternatives to longer term placement in institutional settings.

As a proponent of AOT as an available treatment tool in Maryland, I welcome suggestions on procedural due process protections that are genuinely designed to ensure appropriate implementation.

Respectfully,

ⁱ 527 U.S. 581 (1999).