



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

DAWN LUEDTKE
COUNCILMEMBER
DISTRICT 7

February 14, 2024

The Honorable Delegate Joseline A. Peña-Melnyk
Chair, Health and Government Operations Committee
Room 241
House Office Building
Annapolis, Maryland 21401

RE: House Bill 579, *Mental Health - Emergency Evaluation and Involuntary Admission Procedures and Assisted Outpatient Treatment Programs*

Dear Chair Peña-Melnyk:

I write in support of House Bill 579, which would require each Maryland county to establish an assisted outpatient treatment program (AOT).

AOT - civil commitment to outpatient care with resources for treatment and monitoring - is a federally recognized best practice for improving treatment adherence and outcomes among individuals with histories of repeated psychiatric crises and reducing systemic costs through avoided hospitalizations, arrests, and incarcerations. AOT is an essential component of a comprehensive behavioral health care continuum, designed to assist a small but persistent subset of individuals with serious mental illness (SMI) who struggle to engage voluntarily in treatment, in many cases due to an inability through no fault of their own to maintain awareness or understanding of their SMI, known as Anosognosia. When individuals with SMI remain untreated, their condition worsens and they suffer needlessly. **Maryland is one of only three remaining states without AOT.**

Guardrails are built into this legislation as it is designed for a unique population and is intended to be a humane and less restrictive alternative to inpatient hospitalization and/or incarceration. An individual must be at least 18 years old to participate in AOT. The care coordination team shall give the individual, their guardian, their health care agent, and any individual they designate a reasonable opportunity to participate in the development of the treatment plan. If the respondent has executed a mental health advance directive, the care coordination team shall consider any directions included in the advance directive in the development of the treatment plan. Failure to comply with an order of AOT is not grounds for a finding of contempt of court. A petition for AOT shall be held under seal and may not be published on Maryland Judiciary Case Search. Participation in AOT may not be used against a respondent in a subsequent legal matter that carries negative collateral consequences. If an individual is unable to retain private counsel at their own expense, they must be provided representation by the Office of the Public Defender. By December 1 each year, the administration must submit to the General Assembly a report on the AOT program.

With an affidavit or affirmation and hearing testimony of the individual's psychiatrist that they have examined the individual within the last 30 days and determined that the individual meets the criteria for AOT, the court *may* order

the respondent to receive AOT on a finding by clear and convincing evidence that the respondent has SMI - defined in this legislation as a substantial disorder of thought, mood, or orientation that significantly impairs judgment, behavior, or capacity to recognize reality or to reason or understand that, if not treated, creates a substantial risk of serious harm to the individual or others - and has demonstrated a lack of adherence with treatment for SMI, which has resulted in specified detrimental impacts. Harm to the individual means self-harming behavior and/or suicide attempts, failure to protect oneself from danger, inability to meet one's basic needs, and/or failure to obtain medically necessary treatment to prevent serious physical or psychiatric deterioration. These are some of the deeply unfortunate outcomes that AOT is designed to avert.

The court-ordered treatment plan, developed by a care coordination team, incorporates all outpatient treatment services that are determined to be essential and available for the maintenance of the individual's health and safety, and includes, at a minimum, the services of a psychiatrist, case management or assertive community treatment (ACT) services, and, resources permitting, a certified peer recovery specialist.

The committee may wish to consider the following:

- The phrase "legitimate interest in the welfare of the respondent" set forth in proposed 10-6A-03(a) might need some additional subitems to provide examples in order to avoid lack of uniformity in application across Maryland's 24 jurisdictions.
- For the petition seeking AOT, the proposed legislation states that an affidavit by a "treating psychiatrist" who has seen the individual within the last 30 days is required. For many of the affected individuals, they have not had regular psychiatric care for some time, which has led to the deterioration of their condition. Since earlier portions of the bill expand qualifying individuals who can do the evaluations to include psychiatric nurse practitioners, it would be beneficial to amend this portion of the bill to allow for the affidavit filed with the petition to include both psychiatrists and psychiatric nurse practitioners.
- 10-6A-04 would not cover individuals who have been taken to the emergency room under Emergency Evaluation Petitions (EEPs) repeatedly during the prior 36 months. For many of the "frequent contacts" for law enforcement/mobile crisis/EMS who end up with an EEP and transported to the emergency room, they are released back out to the community without further follow up. There has been a reluctance to involuntarily commit individuals into hospital facilities not necessarily based on the underlying psychiatric conditions, but on bed availability and limited capacity in the inpatient psychiatric units of our acute care facilities. Absent language somewhere else in the code that does something with repeated EEPs in a limited time span, there's still a significant loophole/barrier to care.

I urge the committee to support House Bill 579 to require each Maryland county to create an AOT program, an established and widely implemented, patient-centered, and community-based best practice to help some of our most vulnerable residents receive the help they need.

Very truly yours,



Dawn Luedtke
Councilmember, District 7
Montgomery County

cc: Members of the Health and Government Operations Committee