

House Judiciary Committee**HB 801: Criminal Procedure - Committed Persons - Release Proceedings**

February 20, 2024

POSITION: SUPPORT

Disability Rights Maryland (DRM) is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. DRM is tasked with monitoring state facilities for persons with disabilities, including the state psychiatric hospitals, to protect against abuse and neglect and ensure the civil rights of its patients are protected. DRM supports the changes proposed in HB 801 as creating a more just conditional release process for state hospital patients found NCR who are working to be discharged on Conditional Release, are already in community on a Conditional Release, or seeking termination or changes to their Conditional Release orders.

DRM has worked with clients who have had to return to the hospital after being accused of violating a conditional release order, sometimes for a technical reason. The Office of the Public Defender reports that often they find they have not been notified of the allegations that the person violated the terms of their Conditional Release until after a hospital warrant has been issued or the individual has been returned to the hospital, when they might have been able to explain the technical violation and prevent the individual from being returned to the hospital. This conserves valuable court and hospital resources, allowing our state hospitals to treat patients who are most in need of their services, while safely permitting those on conditional release to remain in the community.

HB 801 would require the court to hold a hearing upon request after a party makes application for an annual release hearing, to determine whether the applicant has satisfied the requirements for release. Currently the statute only requires a hearing in cases involving violations, a striking omission, since revocation or extension of conditional release has significant liberty implications for the individual, including remand to an institution for an indeterminate period, or extending mandated community treatment and monitoring for up to an additional five years.

HB 801 would also clarify the burden of proof standard when an applicant requests a change in conditional release, and would provide the court with more flexibility to extend a conditional release order by timeframes less than 5 years, if the court considers that appropriate, or to shorten or terminate the conditional release, none of which are currently specified in Criminal Procedure § 3-119(c). All of these changes are aimed at clarifying, streamlining, and conserving hospital and court resources, while creating a fairer process for conditional release of individuals found NCR.

For these reasons, we urge that House Bill 801 be given a favorable report.

Should you have any further questions, please contact Luciene Parsley, Litigation Director at Disability Rights Maryland, at 443-692-2494 or lucienep@disabilityrightsmd.org.