



INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER

March 5, 2024

Maryland House Judiciary Committee
House Office Building
Annapolis, Maryland
21401
410—841—3488

Re: HB0565 & SB0036

Dear Senator Benson and Delegate Simmons,

The Institute for Constitutional Advocacy and Protection (ICAP) submits this letter in favor of the above-captioned legislation and the creation of a Deaths in Custody Oversight Board in Maryland.

ICAP is a non-partisan institute within Georgetown University Law Center. ICAP’s work features the use of legal advocacy to defend constitutional rights and values while working to restore confidence in the integrity of our governmental institutions. This work includes litigation challenging unlawful jailing and unconstitutional conditions of confinement, as well as efforts to introduce increased public access and accountability to our criminal processes.

The unnecessary or avoidable death of a person in state custody represents a tragic failure on the part of our public institutions. In the experience of ICAP’s attorneys and clients, deaths in custody can also provoke a crisis in confidence of the broader justice system, undermining its purpose and effectiveness. When community members do not trust the state to protect the health and welfare of vulnerable people in its control, they lose trust in its ability administer other critical functions, and are less inclined to participate in essential roles, among them serving as witnesses and jurors. It is essential that system actors work to respond urgently, diligently, and appropriately to such incidents and concerns to restore public confidence, save lives, and reduce downstream negative impacts on public safety.

A critical portion of this work is increasing public access to our justice institutions to ensure that they adhere to our laws and Constitution, and “to the end that the public may judge whether our system of criminal justice is fair and right.”¹ Moreover, if future harms and deaths are to be prevented, it is essential that institutions understand why they occur. This legislation furthers those aims by ensuring that details of in-custody deaths will be publicly accessible, and creating systems to identify the causes of system failures and adopt remedial policies through the review and supervision of an independent Oversight Board. The legislation recognizes the balance between public accountability and individual privacy, and represents an essential step to preserve the sanctity of life of people confined by the state.

¹ *Maryland v. Baltimore Radio Show*, 338 U.S. 912, 920 (1950).

For these reasons, we urge you to support Senate Bill 36 and House Bill 565.

Sincerely,

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