



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 28, 2025

The Honorable Pamela Beidle
Chair Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill (SB) 43 – Maryland Department of Health – Forensic Review Board and Community Forensic Aftercare Program – Established– Letter of Concern

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) is submitting this letter of concern to Senate Bill (SB) 43 - Maryland Department of Health—Forensic Review Board and Community Forensic Aftercare Program. As written, the Department has concerns about the bill, including the fiscal impact it will have on the Department. However, there are aspects of this bill that the Department’s psychiatric hospitals could benefit from. We look forward to working with the committee and bill sponsors to address some of the concerns we have outlined here.

If enacted as currently drafted, SB 43 requires the Department to legislatively establish a forensic review board at facilities housing individuals committed as not criminally responsible. Each forensic review board will be mandated to review the eligibility for release of these individuals. The legislation also seeks to legislatively implement the Community Forensic Aftercare Program within the Maryland Department of Health to monitor individuals on conditional release based on recommendations from each person's mental health team.

While the Department understands the bill's intent to improve oversight and rehabilitation, several operational challenges in the proposed legislation could undermine the quality of care, the integrity of the review process, and the efficiency of the Division responsible for monitoring these individuals.

One primary concern is the proposed reduction in the review turnaround time from 10 days to just two (2) days. With more than 1,000 individuals committed, the Department currently struggles to meet the existing 10-day review interval. Reducing this timeframe to two (2) days is unrealistic and will overburden already limited resources. Reviews need to be thorough and conducted promptly; the proposed change compromises the ability to complete comprehensive evaluations.

Additionally, SB 43 requires that the Community Forensic Aftercare Program (CFAP) monitor individuals on conditional release by having at least one meeting every 90 days with the individual, their representative, and their mental health team. While these meetings are essential for ensuring appropriate transitions of care, the number of individuals that require monitoring

under these new provisions will overwhelm the existing program. This will decrease the quality of supervision and oversight, ultimately jeopardizing the rehabilitation process and the individuals' well-being.

Another significant concern is the bill's potential to shift the focus of the monitoring and review process from rehabilitation to a probation-style oversight model. MDH should support individuals in their recovery and reintegration into society rather than functioning as a post-conviction probation office. The proposed structure for conditional release and monitoring might erode this rehabilitative approach, inadvertently hindering the ultimate goal of successfully reintegrating individuals into the community.

Furthermore, the increase in the number of individuals requiring monitoring and the proposed reduction in review times will demand substantial additional resources. This may lead to an overburdened system, further straining an already stressed framework.

Lastly, the Department would like to note that there are aspects of this bill that are already standard practice for facilities. Reviews by the Forensic Review Board (FRB) take place at least annually but sometimes more frequently depending on how an individual is doing with their treatment plan. The treatment team can ask for a review to be performed sooner if it is found that the individual is ready. However, provisions under this bill, such as needing a quorum present or the process of moving from a professional clinical decision to a forum where the possibility of addressing legal and risk mitigation issues is the primary concern being addressed, could have adverse consequences by increasing the average length of stay at the per diem rate at our facilities.

For these reasons, the Department urges a reconsideration of SB 43. We stand ready to work with the committee to address the concerns we've outlined in this letter. The Department strongly supports efforts to ensure the safety and rehabilitation of individuals committed as not criminally responsible. However, we believe this bill, in its current form, is not conducive to those goals and could inadvertently undermine the objectives it seeks to achieve. We respectfully request that you review the potential unintended consequences of this legislation and work toward an approach that balances effective oversight with the goal of rehabilitation.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,



Laura Herrera Scott, MD, MPH
Secretary