

MALCOLM AUGUSTINE
Legislative District 47
Prince George's County

PRESIDENT PRO TEMPORE

Executive Nominations Committee

Education, Energy and the
Environment Committee



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

James Senate Office Building
11 Bladen Street, Room 214
Annapolis, Maryland 21401
410-841-3745 · 301-858-3745
800-492-7122 Ext. 3745
Fax 410-841-3387 · 301-858-3387
Malcolm.Augustine@senate.state.md.us

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The Honorable Pamela G. Beidle
Chairwoman, Senate Finance Committee
3 East Miller Senate Office Building
11 Bladen Street Annapolis, MD 21401

RE: SB43 - Maryland Department of Health – Forensic Review Board and Community Forensic Aftercare Program – Established

Position: **Favorable**

Chair Beidle and Members of the Committee,

Thank you for the opportunity to present Senate Bill 43, which seeks to address gaps in Maryland's forensic mental health system by formalizing the role of Forensic Review Boards (FRBs) and the Community Forensic Aftercare Program (CFAP).

The Problem:

- Forensic Review Boards (FRBs) are internal panels within state facilities responsible for reviewing treatment team recommendations for individuals under a facility's care, including, but not limited to, those committed as Not Criminally Responsible (NCR).¹ Their responsibilities include evaluating recommendations for release with or without conditions, modification of an existing conditional release plan, and case discussion of complex or atypical clinical situations. However, the current process lacks standardization, transparency, and a codified legal structure, which undermines decisional consistency, board accountability, and due process.
- Once individuals are released into the community under conditional release orders, the Community Forensic Aftercare Program (CFAP) provides ongoing compliance monitoring and coordination². The program ensures adherence to treatment plans and facilitates

¹ <https://health.maryland.gov/springgrove/Policy/Hospital/Forensic%20Review%20Board.pdf>

² [https://health.maryland.gov/OCEP/Pages/Community-Forensic-Aftercare-Program-\(CFAP\).aspx](https://health.maryland.gov/OCEP/Pages/Community-Forensic-Aftercare-Program-(CFAP).aspx)

communication between NCR individuals, their treatment teams, and key stakeholders such as courts and state attorneys. However, CFAP is not currently codified in statute or regulations, which creates uncertainty regarding its role and the need for standardized practices.

- Judges and legal stakeholders play a crucial role in reviewing and making decisions based on the recommendations of FRBs regarding the conditional release or continued commitment of individuals. However, they often face challenges due to incomplete or inconsistent information stemming from a lack of detailed records and standardized recommendations from FRBs. This lack of transparency and uniformity can make it difficult for judges to accurately assess an individual's progress, identify and address barriers to discharge, and make informed decisions tailored to the specific circumstances of each case.
- States, like Oregon³, Oklahoma⁴, and Connecticut⁵, have enacted legislation to establish forensic review boards explicitly by statute, enhancing oversight and standardization in their forensic mental health systems. Other states, such as Michigan⁶ and Virginia⁷, rely on administrative frameworks, guidelines, or general statutory provisions for oversight without formally codifying boards in law.

What SB43 does:

- Codifies Forensic Review Boards (FRBs), establishes standardized procedures for annual and as-needed reviews of committed individuals, and mandates written records of findings, reasoning, and recommendations.
- Codifies the Community Forensic Aftercare Program (CFAP), provides guidelines for monitoring NCR individuals in the community to ensure compliance with treatment plans and release conditions, and facilitates regular meetings with NCR individuals, their treatment teams, and advocates to address potential challenges or violations proactively.

How SB43 helps:

- Codifying FRBs in statute offers several advantages over relying solely on administrative guidance or regulations. Unlike administrative guidance or regulations, statutes are enacted by the legislature and cannot be easily altered by changes in agency leadership or internal priorities. Moreover, codification ensures that all facilities adhere to consistent practices,

³ Or. Rev. Stat. Ann. § 161.385

⁴ Okla. Stat. tit. 22, § 1161

⁵ Conn. Gen. Stat. § 17a-581

⁶ <https://mdhhs-pres-prod.michigan.gov/olmweb/EX/AP/Public/APF/106.pdf>

⁷ Not Guilty by Reason of Insanity: Reference Manual for Community Services Boards & Behavioral Health Authorities,

https://www.townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\720\GDoc_DBHDS_6310_v1.pdf

reducing variability that can arise from differing interpretations of regulations or internal policies.

- Provides structural guardrails that clearly define how these boards operate. By codifying their roles, responsibilities, and processes, SB43 ensures that FRBs function within a consistent, transparent, and legally defined framework. This establishes accountability and guarantees that decisions regarding individuals are made according to standardized criteria ultimately promoting fairness and public confidence.
- Ensures the creation of a comprehensive written record for committed individuals, which supports their treatment team and legal representatives in understanding the rationale behind commitment, violations, and conditional release decisions. This transparency allows all stakeholders to collaborate and ensure that barriers to discharge or release are identified and addressed, while also providing a clear framework for compliance and progress monitoring.
- Provides courts with structured, evidence-based recommendations, ensuring more informed and equitable judicial outcomes while addressing inconsistencies in the current system.
- Streamlines evaluation and release processes for committed individuals, alleviating bed shortages in state facilities and freeing resources for those requiring immediate care.

Chair Beidle and members of the committee, I ask for your favorable report.