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## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB 509 – Prohibited Possession of Firearm – Assisted Outpatient Treatment Respondents**

**FROM: Maryland Office of the Public Defender**

**POSITION: Opposed**

**DATE: February 7, 2025**

The Maryland Office of the Public Defender (“MOPD”) is opposed to Senate Bill 509. Senate Bill 509 would categorically prohibit all individuals subject to Assisted Outpatient Treatment (“AOT”) from possessing a firearm, rifle, or shotgun, and would further require courts to report sensitive information regarding these individuals to the National Instant Criminal Background Check System (NICS). While likely well-intended, this bill is not only unnecessary, and it likely to do more harm than good.

There is no evidence suggesting that all individuals in AOT’s are violent or have violent behaviors requiring restrictions on their constitutional rights and freedoms. In fact, individuals would not be eligible for AOT, requiring outpatient treatment in the community, if they were found to be a threat to public safety.

Additionally, studies actually show that individuals with mental illness are more likely to be the victims than perpetrators of crime.[1] Indeed, people with severe mental illnesses are over 10 times more likely to be victims of a violent crime than the general population. Whereas only 3%–5% of violent acts can be attributed to individuals living with a serious mental illness.[2]

State and federal laws currently in place provide safeguards to prevent individuals with a history of violence or those with known risks who pose a safety threat to themselves or others from possessing a firearm. The current bill is simply too broad and sweeping, while further contravening current federal law. NICS explicitly limits the use of NICS to individuals who have been involuntarily committed to an inpatient psychiatric facility. 18 U.S.C § 922 (g). Using NICS for purposes beyond those it is intended for violates federal law and places individuals subject to AOT at an increased risk of harm such as discrimination, criminalization, and economic disadvantage.

Most people with mental health conditions are no more likely to be violent than anyone else. Yet years of research and reactionary legislation to address the very real problem of gun violence has shown that invoking mental health to address gun violence is often misplaced.[3] Any efforts to address gun violence and mental health should be handled in a way that meets the complexities required individually and collectively. While solutions to reducing gun violence are long overdue, real progress won't come at the cost of perpetuating false stigma, fear, and unfounded discrimination against people with mental health conditions.[4] Restricting the rights and exposing all individuals subject to court ordered treatment to a national database only increases the risk of harm to these individuals.

The very harms that were sought to be protected for individuals subject to the new AOT statute are being put at risk with this bill. The AOT statute passed by the Maryland General Assembly in 2024 currently specifies that an AOT order “may not be used to abridge or modify any civil right of the respondent, including: any civil service ranking or appointment,” or “any right relating to a license, permit, or certification.” This provision was specifically added after advocates raised

concerns about the impacts of court-ordered mental health treatment on future employment prospects, professional licensure opportunities, and other civil rights. This bill would remove these protections and risk stripping people subject to AOT of constitutionally protected privacy rights and future opportunities to participate in their chosen profession or livelihood. This cannot be the intended consequences of SB 509.

For the foregoing reasons, MOPD urges the Judicial Proceedings commission to return an unfavorable report on SB 509.

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**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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[1] <https://www.rand.org/research/gun-policy/analysis/mental-illness-prohibitions.html>.

[2] <https://www.samhsa.gov/mental-health/what-is-mental-health/facts>.

[3]

<https://www.aamc.org/news/it-s-tempting-say-gun-violence-about-mental-illness-truth-much-more-complex>;

[4] [Mental Health Scapegoated in US Gun Control Debates | Human Rights Watch](#)