



Autism Society
Baltimore-Chesapeake



Autism Society
Maryland

Howard | Montgomery | Anne Arundel

Written Testimony on SB 507

Autism Society of America,

Autism Society of Maryland & Autism Society of Baltimore- Chesapeake

Submitted to Maryland Senate Judicial Proceedings Committee

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Autism Society of America

6110 Executive Boulevard, Suite 305

Rockville, Maryland 20852

1 (800) 328-8476

Autism Society Maryland

9770 Patuxent Woods Drive, Suite 308

Columbia, MD 21046

410-290-3466

Autism Society Baltimore-Chesapeake

P.O. Box 10822

Baltimore, MD 21234

410.655.7933

Dear Chairman Smith, Vice Chair Waldstreicher, and other members of the Committee,

Thank you for the opportunity to submit testimony in support of SB 507, a bill to ensure that Autism and developmental disability and/or intellectual disability diagnosis is considered in the court of law.

My name is Melissa Rosenberg, Executive Director of the Autism Society of Maryland and I am here to testify on behalf of the Autism Society of America, the Autism Society of Maryland, and Autism Society Baltimore-Chesapeake. The Autism Society of America is the nation's oldest and largest grassroots organization representing individuals on the Autism spectrum and their families. The Autism Society envisions a world where individuals and families living with Autism can maximize their quality of life, are treated with the highest level of dignity, and live in a society where their talents and skills are appreciated and valued. Along with our 70+ affiliates nationwide, we provide advocacy, education, information and referral, support, and community engagement opportunities at national, state, and local levels. Our Maryland affiliates include the Autism Society of Maryland, which works with families and autistic individuals in Montgomery, Howard, Anne Arundel and surrounding counties, and the Autism Society of Baltimore-Chesapeake, which covers Baltimore City and County. Our affiliates serve the state by offering information and referral services, educational workshops, social and support groups.

This bill addresses a critical issue in our criminal justice system: how individuals with developmental or intellectual disabilities are treated during their interactions with the law. It recognizes that these individuals may face unique challenges and, without proper consideration, may not receive a fair and just legal process.

Specifically, the bill allows for the introduction of evidence of certain diagnoses in criminal proceedings, ensuring that these diagnoses are considered when making decisions related to a defendant's pretrial release. It mandates that a judge or District Court commissioner consider whether a defendant has been diagnosed with a developmental or intellectual disability, acknowledging that these conditions can significantly impact a person's ability to understand legal proceedings, follow court orders, or engage with the justice system in a typical manner.

While a diagnosis could come in at the time of trial under an exception of hearsay under the Maryland rule of evidence, those rules do not attach at a pretrial release determination. Thus, the person with autism is put at a significant disadvantage as their diagnosis is held against them and not recognized by CLS. This bill would change that and allow the diagnosis to be brought before trial and during pre-trial release determination. It also allows expert testimony on autism and how that could impact the crime accused.

The Autism and the I/DD community are over-represented in the criminal legal system. At the Autism Society of America, the Information and Referral team is receiving a growing number of calls from the community requesting help after getting caught up in the system. The same is being seen at our offices in Maryland.

By age 21, approximately 20% of youth with Autism had been stopped and questioned by police, and nearly 5% had been arrested¹. When in the courts, behavior by Autistic individuals can be deemed “weird” or “unusual” and impact the jury and judge. That is why it is critical to allow for the consideration of the diagnosis. It is hard to get an exact rate of those with autism in prison as many are likely undiagnosed. However, studies show Americans with Autism are seven times more likely to be victims of crime due to social vulnerability, twelve times more likely to become involved in the criminal justice system without criminal intent, and five times more likely to be incarcerated than the general population². When looking at the intersection of race and disability status, this data is further exacerbated. The criminal legal and prison system is extremely challenging to navigate as an Autistic individual. There are unique vulnerabilities faced by the Autism community in carceral settings. These can include bullying, exploitation, sexual assault, or placement in solitary confinement due to misunderstandings about their behavior. Communication differences lead to a lot of misunderstandings and unjust action.

In developing the bill, we have consulted multiple subject matter experts including the Arc of Maryland, the Maryland Developmental Disability Council, Pathfinders for Autism, Legal Reform for the Intellectually and Developmentally Disabled, People on the Go, Disability Rights Maryland and the Maryland State’s Attorneys Association.

We strongly support this legislation because it helps create a more just and equitable criminal justice system for individuals with developmental and intellectual disabilities that addresses a gap in the state’s legal system. I urge the committee to consider the positive impact this bill will have on fairness in pretrial release decisions, the treatment of defendants with disabilities, and the overall integrity of our legal processes.

Thank you for your time and consideration. If you have any questions, please contact Melissa Rosenberg, melissa.rosenberg@autismsocietymd.org or 410-290-3466.

¹ Rava J, Shattuck P, Rast J, Roux A. The Prevalence and Correlates of Involvement in the Criminal Justice System Among Youth on the Autism Spectrum. J Autism Dev Disord. 2017 Feb;47(2):340-346.

² U.S. Department of Justice, Office of Justice Programs. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/contact-individuals-autism-effective-resolutions>