



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

January 17, 2025

The Honorable William C. Smith, Jr., Chairman  
Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

RE: SB90 – Criminal Procedure – Incompetency to Stand Trial Dismissal

Dear Chairman Smith and Members of the Senate Judiciary Committee,

The current version of CP 3-107 puts the public at unnecessary risk by requiring that dangerous incompetent defendants charged with murder have their charges dismissed after five years.

Prior to 2012, CP 3-107 required incompetent defendants who were charged with murder to have their charges dismissed after 10 years as a result of 2006 amendments to the statute. In 2005, numerous public interest groups (including the Office of the Public Defender (OPD) and the Maryland Disabilities Law Center (MDLC)) participated in workgroups that involved long discussions and compromise to balance the rights of defendants with disabilities against society's interest in public safety resulting in significant amendments to CP Title 3.

In 2012, when the death penalty was repealed the term "capital case" was stricken from all of the statutes. Therefore, with no discussion or consideration of the consequences, the time period for dismissal of charges in CP 3-107 for dangerous incompetent defendants charged with murder was inadvertently reduced to five years from ten years thus reversing the hard work of the numerous public interest workgroups.

**Requiring the charges of defendants who are charged with murder to be dismissed after five years allows dangerous defendants to be released unsupervised into the community.** If an incompetent defendant has an intellectual disability and is dangerous, once his charges are dismissed the only option for the court is to commit him to the Developmental Disabilities Administration (DDA) for 21 days to determine if he is eligible for services. DDA cannot consider his dangerousness.

They will assess whether he qualifies for DDA services and **offer** such services to him. The services are not mandatory and he is under no court order to accept the services. If he refuses the services, he is released into the community with no supervision. If an incompetent defendant has a mental illness and is dangerous, once his charges are dismissed, if he meets certain criteria, the court can civilly commit him to the Maryland Department of Health (MDH). However, there is no oversight and once the hospital determines the defendant is no longer dangerous (which may be a lower threshold than the court), the defendant will be released into the community with no supervision and no requirement to continue mental health treatment.

**Allowing the charges to be open for 10 years will allow more time for the dangerous defendant to be restored to competency and will allow additional time for him to receive treatment and services minimizing the risk to public safety.**

**SB 449 will help protect our most vulnerable victims - children and individuals with disabilities.**

Often times, the victims of crimes committed by incompetent individuals are either children or other individuals with developmental disabilities. Because of the vulnerability of these victims, they are easy targets and less able to defend themselves against such violent acts.

Case in Point-In Baltimore City, an incompetent defendant who was charged with murder after he admitted to killing his girlfriend was released into the community with no services. He tortured the victim over a two day period where he tied her up, beat her about her entire body and knocked out her front teeth, broke her nose, poured boiling water on her, and heated a poker on the stove which he used to burn her about her body and sexually assault her.

After he was charged, he was diagnosed with a mild intellectual disability and found incompetent to stand trial. He was in a community DDA program the last eleven months of his five year incompetency status.

At the five year mark, the State filed a petition for extraordinary cause requesting his charges be extended. The director of his DDA program testified that he was receiving court ordered 1:1 services (an aide who is trained to work with individuals who have behavioral issues and stays within arm's length of them to deescalate dangerous behavior) 24 hours a day seven days a week and without his 1:1 aide, he would be a threat to those around him.

She testified how he needed to be redirected daily and physically kept away from the program's vulnerable population for their safety. The court found that because of *Ray v. State*, 410 Md. 384 (2009), she could not find extraordinary cause existed and dismissed his charges. Despite his DDA program attempting to convince him to retain their housing and services, he left the program immediately. He is now somewhere unsupervised in the community.

### **The passing of SB 507 will not violate the rights of incompetent defendants.**

One of the reasons for the 2006 amendments to CP 3-107 was a law suit filed by the Maryland Disability Law Center (now Disability Rights Maryland) on behalf of incompetent defendants claiming their rights were violated because they could be indefinitely institutionalized, they could be committed for longer than the maximum sentence had they been convicted and there were no court reviews of the commitments.

The 2006 amendments provided that there would be no indefinite commitments, a defendant could not be committed longer than the criminal penalty of the crime for which he was charged, and regular court reviews were required. Passing SB 507 will continue to protect these rights and will not affect these three changes to the statute. Another reason for the 2006 amendments was the holding in *Jackson v. Indiana*, 406 U.S. 715 (1972).

The *Jackson* court found that it was a violation of due process to commit someone longer than reasonably necessary to determine if they could be restored to competency but specifically declined to make a ruling about whether an incompetent defendant's charges should be dismissed. When discussing *Jackson*, commitment to an institution and dismissal of charges should not be conflated. SB 507 is consistent with the holding in *Jackson*. Furthermore, the statute requires that every 6 months the court reassess competency and if an individual is found to be unrestorable to competency, the charges will be dismissed. This safeguard will prevent individuals who are committed as incompetent from being held longer than is reasonably necessary to be restored to competency.

Case in Point- In Baltimore City, a defendant with an intellectual disability was charged with raping a 6-year-old girl over a period of months until the girl's mother walked in on them. He was charged with Rape and Sex Offense of a Minor, found incompetent to stand trial and committed to a State facility for individuals with developmental disabilities. While at the inpatient program, pursuant to CP 3-106, a community treatment plan was developed to allow him to reside in the community on pretrial status. Currently, he resides in a community residential treatment facility receiving numerous services and daily activities to include trips to various outings such as the YMCA, a gym to workout, a community park, various grocery stores, movies, and Walmart. While he remains charged

with rape, the community services he is receiving provides him the least restrictive commitment to MDH, allowing him to reside in the community while mitigating his risk to other children.

**SB 507 will only allow an extension of the time period for mandatory dismissal of charges for those defendants who are dangerous and a threat to public safety.**

**SB 507 will not affect the court's ability under 3-107 (b) to dismiss the charges at *any time* if the court believes resuming the charges would be unjust.**

Sincerely,

*Tracy Varda*

Tracy Varda  
Chief Assistant State's Attorney for Baltimore City

January 16, 2023

The Honorable William C. Smith, Jr., Chairman  
Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

RE: SB 90– Criminal Procedure – Incompetency to Stand Trial Dismissal

Dear Chairman Smith and Members of the Senate Judiciary Committee,

Dillian Hughes is charged with repeatedly raping my granddaughter who was 6 years old at the time. He is incompetent to stand trial and in the community. We met him through moving into a new neighborhood and purchasing a home. Mr. Hughes and his family lived in this neighborhood the woman we met represented herself as Dillian Hughes guardian/grandmother and introduced Dillian Hughes her grandson to my adult son his wife and three children and myself. Our nightmare begins! Dillian Hughes came to the outside of the home often when my son Thomas would be outside doing yard work, or automotive work he went on to be very friendly always asking Thomas to teach him automotive work Mr. Dillian Hughes said “he really wanted to learn and ask Thomas to mentor him”. Dillian grandmother spoke with Thomas and said how much Dillian and her appreciated him being a friend to Dillian in hopes to motivate Dillian.

What we now know is Dillian Hughes used our family to gain our trust and to gain access to my only granddaughter who was six at this time. As things unfolded and sometime passed my family became concerned about Dillian Hughes' interest in Hailey (my granddaughter) he seemed to try to seek chances to try to be alone with Hailey only. My son and I confronted Dillian and his grandmother regarding our concerns. To which we were both told “there was nothing to worry about Dillian was a bit of a slow learner but he was harmless”. However, concern still grew when Dillian tried to get Hailey to sit in his lap and give him hugs. This happened within a week of speaking with Dillian and his grandmother. My son Thomas addressed this again to Dillian who stated, “I am not stupid I just play stupid well dude I like being around Hailey we play games you aren't taking that from me” My son Thomas argued with Dillian Hughes told him “To leave the house and stay away since he could not respect boundaries regarding Hailey”. Dillian Hughes left the home angry.

The next day while Thomas was at work Dillian came to the home of my daughter in law who was home with the children while COVID was happening, and the children were doing virtual learning. Dillian said “I was coming to see Tom and apologize for my actions of not respecting his rules”. My daughter in law tells Dillian “You will have to come talk to Tom when he is home” She then says “can you give me just a few minutes “ I have to grab the laundry out of the dryer then I will have to see you out and you can come back this evening and speak to Tom”.

Lisa steps away and within 15 minutes she is back in the dining area and doesn't see Dillian or Hailey. She only sees her son's she asks her oldest son Noah who was 8 years old “where is your sister Hailey?” Noah states Dillian told her to come upstairs with him and Hailey followed. Lisa immediately called up the stairs as she was hearing some noises from Haileys bedroom. Lisa goes up the stairs she has to push hard to get the bedroom door open and finds Dillian Hughes performing an oral sex act on her child and trying to close his zipper also. Lisa was screaming at Dillian Hughes as he pushed past her running down the stairs and out the door.

Police were immediately called, and Hailey was taken to the hospital and Dillian Hughes was found close by and arrested. It was discovered and disclosed by Hailey that “Dillian played special games with her,

but they hurt often times". Hailey kept Dillian's secret at his request. He told Hailey I can't play special games and be your friend if you tell on me" Dillian Hughes raped and molested Hailey several times we discovered. Dillian even used "butter he would have her get for him he told her "It wouldn't hurt as much when he put his penis in her"

I am graphic because I want people to know what he was and still is capable of Dillian Hughes will without a doubt offend and harm again if given the chance. Is Dillian Hughes mentally, right? Of course not! But my granddaughter will never be mentally right now either thanks to him. An innocent child, her life and relationships with people that she trusted will never be right again. Her future has been forever changed. Doesn't she matter? Doesn't her mental health matter? We must do all that we can to protect our children and vulnerable people from predators and while Mr. Dillian Hughes may have some issue's he needs help with don't dismiss the fact he is a skillful predator! Maybe his clinicians see potential I see plenty of potential too Mr. Hughes has the potential to harm more innocent victims he has the potential to wreck other lives and families maybe even your children, your grandchildren, your nieces or nephews don't ever think it couldn't happen to your family it can happen to any of us!

The laws need to change let's protect the victim's and the families who deserve it let's give Justice to those who need it who deserve it the most I beg you! I could go on forever advocating for the victims, for my granddaughter and my family, but I will just leave you with this for now and pray we change these laws and change this bill for all of us who deserve protection and who deserve justice! My god we need to protect the victims I beg you!

Sincerely,

Stephanie Williams

January 16, 2023

The Honorable William C. Smith, Jr., Chairman  
Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

RE: SB 90– Criminal Procedure – Incompetency to Stand Trial Dismissal

Dear Chairman Smith and Members of the Senate Judiciary Committee,

I am a grieving mother whose daughter, Tyra Womack was murdered in cold blood. These past four years have been very hard for my entire family, especially for my grandson, her only child. The defendant in her case was initially found to be competent and soon after, he was found to be incompetent. Not knowing how long this will go on and whether he will be held accountable for killing my daughter leaves us in limbo. It gives the criminal more rights than the victim's family.

It is imperative that this bill be passed in order to extend the length of time to 10 years oppose to 5 years. If the bill is passed, he will continue to be held, evaluated and hopefully found to be competent and held responsible for his crime.

The defendant is very dangerous and should not be allowed to be released. I urge you to pass this bill and bring justice to families such as mine.

Thank You,

Acquanetta Phillips