



Empowering People to Lead Systemic Change

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DisabilityRightsMD.org

Senate Judicial Proceedings Committee
Senate Bill 509: Prohibited Possession of Firearms - Assisted Outpatient Treatment
Respondents
Friday, February 7, 2025
Position: Oppose

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. In the context of mental health disabilities, we advocate for access to person-centered, culturally responsive, trauma-informed care in the least restrictive environment. We appreciate the opportunity to provide testimony on SB 509, which would require courts to report information to the National Instant Criminal Background Check System (NICS) if the court orders a person to comply with assisted outpatient treatment.

Placing individuals ordered to comply with Assisted Outpatient Treatment (AOT) in the NICS plainly contravenes federal law, which 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.

Putting individuals court-ordered to comply with AOT into the NICS index increases the risks of criminalization for people with disabilities by criminalizing gun possession in circumstances that would not be unlawful for people without disabilities. While DRM does not advocate for gun rights, DRM has constituents whose only crime is unlawful gun possession based on their prohibited possession of a gun after being placed in NICS following involuntary commitment to an inpatient psychiatric facility. Adding individuals who are subject to AOT to this cohort would further expand the risk of criminalization for individuals who were not previously subject to involuntary hospitalization. Individuals with disabilities who are arrested for illegal gun possession in these circumstances may spend months in jail, deprived of access to appropriate supports before subsequent confinement to a state hospital or prison, when their conduct was criminalized solely on the basis of their mental illness.

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

opportunities to participate in their chosen profession or livelihood. Entering individuals into the NICS impairs opportunities to gain and maintain professional certifications, limits access to certain employment opportunities and impacts fundamental constitutional rights.

If the General Assembly is concerned about gun safety, it should be noted first that individuals who are diagnosed with mental disorder and who have a history of violent conduct are already prohibited from owning a firearm under Md. Code Ann., Public Safety § 5-133 (b)(8); adding respondents to AOT orders would target individuals with mental disabilities who have not demonstrated dangerous conduct. If the General Assembly remains concerned about gun safety in this cohort, there are other less intrusive means to limit access to firearms without placing people with disabilities at increased risk of criminalization and harm vis-a-vis entering their names into the federal NICS index. Some other options may include requiring individuals to turn in firearms for the duration of an AOT order or offering voluntary safekeeping.

DRM urges the committee to oppose SB 509 in order to ensure that AOT orders are not used to prejudice the civil and constitutional rights of Marylanders with disabilities. Please contact Courtney Bergan, Disability Rights Maryland's Equal Justice Works Fellow for more information at CourtneyB@DisabilityRightsMd.org or 443-692-2477.