



Senate Judiciary Committee

HB0312 Criminal Procedure - Incompetency to Stand Trial

February 4, 2025

Position: Letter of Information

The Arc Maryland is a statewide advocacy organization for people with intellectual and developmental disabilities. The purpose of Maryland's laws related to incompetency is to provide restoration services designed to allow a person to become competent to stand trial on criminal charges. Research supports that a person who is not restored to competency within 5 years is not likely to be restored to competency in 10 years.ⁱ

Under current law, when a defendant is charged with a felony or a crime of violence, is found Incompetent to Stand Trial, and is not restored to competency, the Maryland Judiciary must dismiss the charges after the individual has remained incompetent for the **lesser of five years, or the passage of time that is equal to the maximum sentence for the most severe crime charged.**ⁱⁱ Extending the time period for dismissal of charges to a potential of 10 years – many years beyond the time period during which the person is likely to be restored to competency – is not supported by research or best practices and may be considered cruel and unusual.

This legislation would dramatically increase the length of time an individual would be remanded to an inpatient setting. This would circumvent the professional judgement and ability of psychiatric facility clinicians to discharge an individual who could be moved to a less restrictive environment, without compromising community health and safety.

ⁱ https://www.ncsc.org/__data/assets/pdf_file/0019/66304/Leading_Reform-Competence_to_Stand_Trial.pdf

ⁱⁱ <https://www.courts.state.md.us/sites/default/files/import/reference/pdfs/comp72006rev.pdf>