

Sponsor Testimony: Delegate Aaron Kaufman

HB 703: Criminal Procedure – Diagnosis of Developmental Disability or Intellectual Disability – Evidence

House Judiciary Committee – Tuesday, February 11, 2025

Good afternoon Chair Clippinger, Vice Chair Bartlett and esteemed Judiciary colleagues. I am Delegate Aaron Kaufman, representing District 18, Montgomery County. I am asking for a favorable report on HB 703- Criminal Procedure – Diagnosis of Developmental or Intellectual Disability – Evidence. I am introducing this bill at the request of the Autism Society of America. I am pleased this bill has bipartisan support as Delegate Susan McComas signed on as a co-sponsor. The bill is supported by the Arc of Maryland, the Maryland DD Council and Disability Rights Maryland.

This bill authorizes, in a criminal proceeding, the admissibility of evidence, including expert testimony concerning a diagnosis for the defendant of an autism spectrum disorder, or of a developmental or intellectual disability if the evidence to show that the defendant at the time of the alleged offense did nor did not have the mental state required for the offense charged. A judge or district court commissioner must consider any diagnoses for the defendant of a developmental or intellectual disability when making a pretrial release determination.

This goal of the bill is to ensure autism or other intellectual disabilities are considered in the court of law, how individuals with developmental disabilities are treated during their

interactions with the law and recognizes that persons with disabilities may not receive a fair and just legal process. The bill also recognizes that persons with disabilities need to be looked at differently in legal proceedings, as these individuals may not necessarily understand the consequences of their actions – they are at times, impulsive, over stimulated and sometimes negative actions are manifested because of their disability. This bill would also allow a diagnosis of a disability to be brought before the trial and during pre-trial release deliberations. The court must be aware of this information throughout all phases of the criminal justice process because in many instances people with autism have less culpability than people without autism.

A former student of mine (from my teaching days) * Dan, who has Williams Syndrome was charged with stalking in Ocean City as he was 30 at the time, and was talking to a group of 15-year-old girls and was walking with them down the boardwalk. Because he is autistic, he did not understand that he was making the girls uncomfortable, especially since he was twice their age. One of the girls went to the police and he was charged with stalking. He thought he was being friendly, but he made them feel threatened.

Another student, John, was with a group of his peers at camp – it was bonfire night – another kid said something mean to him, and John lost control and started to strangle the kid who said the mean things. Fortunately, camp counselors intervened, and no charges were filed. After the incident, John realized what he did was wrong, and he admitted it was because of impulse control issues and immediately felt remorse.

One in 35 children have autism according to the Center for Disease Control. More and more autistic children will be showing up in courtrooms, as the prevalence has increased.

It is situations like this where the disability needs to be in the forefront of legal proceedings. Yes, there should be punishments and/or consequences involved, but the disability should be the primary factor involved when considering a penalty – and that it should be very prevalent throughout the legal process.

Again, I ask for a favorable report on HB 703. My expert panel will address what is happening in the courts and why this bill is necessary. I am happy to answer any questions you may have.