

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 ~~Article – Criminal Procedure~~

10 ~~3-101.~~

11 ~~(a) In this title the following words have the meanings indicated.~~

12 ~~(b) “Committed person” means a person committed to the Health Department as~~
13 ~~not criminally responsible under the test for criminal responsibility.~~

14 ~~(d) “Health Department” means the Maryland Department of Health.~~

15 ~~3-121.~~

16 ~~(b) (1) If a court receives a report that alleges that a committed person has~~
17 ~~violated a condition of a conditional release, the court promptly shall:~~

18 ~~(i) notify:~~

19 ~~1. the Health Department;~~

20 ~~2. counsel of record for the committed person; and~~

21 ~~3. the State’s Attorney; and~~

22 ~~(ii) provide the State’s Attorney with the name, address, and~~
23 ~~telephone number of the person who reported the violation and a copy of the order for~~
24 ~~conditional release.~~

1 ~~(2) If the Health Department receives a report that alleges that a~~
2 ~~committed person has violated conditional release, the Department shall:~~

3 ~~(i) notify:~~

4 ~~1. the court;~~

5 ~~2. counsel of record for the committed person; and~~

6 ~~3. the State’s Attorney; and~~

7 _____ (ii) _____ provide the State's Attorney with the name, address, and
8 _____ telephone number of the person who reported the violation and a copy of the order for
9 _____ conditional release.

10 _____ 3-122.

11 _____ (a) (1) _____ An application to the court for a change in conditional release of a
12 _____ committed person may be made by:

13 _____ (i) _____ the Health Department, ~~THE COMMUNITY FORENSIC~~
14 ~~AFTERCARE PROGRAM~~, or the State's Attorney at any time; or

15 _____ (ii) _____ the committed person not earlier than 6 months after the court
16 _____ ordered the conditional release, unless the court for good cause permits an earlier
17 _____ application.

18 _____ (2) _____ The applicant for a change in conditional release shall notify the court
19 _____ and other parties, in writing, of the application and the reasons for the requested change.

20 _____ (3) _____ On request by any party, the court shall hold a hearing after an
21 _____ application is made under this subsection to determine whether the applicant has satisfied
22 _____ the requirements for release under § 3-114 of this title.

231 _____ **Article - Health - General**

242 _____ **SUBTITLE 59. COMMUNITY FORENSIC AFTERCARE PROGRAM.**

1 **13-5901.**

2 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
3 **INDICATED.**

4 **(B) "AUTHORIZED AGENT" MEANS AN INDIVIDUAL WHO IS NOT COUNSEL**
5 **FOR THE COMMITTED PERSON AND WHO IS SELECTED BY THE COMMITTED PERSON**
6 **TO REPRESENT THE INTERESTS OF THE COMMITTED PERSON IN ALL COMMUNITY**
7 **MONITORING BOARD MATTERS.**

8 **(C) "COMMITTED PERSON" HAS THE MEANING STATED IN § 3-101 OF THE**
9 **CRIMINAL PROCEDURE ARTICLE.**

10 **(D) "MENTAL HEALTH TEAM" MEANS THE COMMITTED PERSON'S**

11 INPATIENT BEHAVIORAL HEALTH PROVIDERS AND OUTPATIENT COMMUNITY
12 BEHAVIORAL HEALTH PROVIDERS.

13 (E) "PROGRAM" MEANS THE COMMUNITY FORENSIC AFTERCARE
14 PROGRAM.

15 (F) "PROGRAM MONITOR" MEANS A LICENSED ~~CERTIFIED~~ SOCIAL
16 WORKER ~~CLINICAL~~ EMPLOYED BY THE PROGRAM TO:

17 (1) COLLECT AND REVIEW INFORMATION PERTAINING TO A
18 COMMITTED PERSON'S COMPLIANCE WITH A CONDITIONAL RELEASE ORDER; AND

19 (2) MAKE BEHAVIORAL HEALTH RECOMMENDATIONS TO THE
20 COMMITTED PERSON'S BEHAVIORAL HEALTH PROVIDERS AND THE COURT.

21 13-5902.

22 (A) THERE IS A COMMUNITY FORENSIC AFTERCARE PROGRAM IN THE
23 DEPARTMENT.

24 (B) THE PURPOSE OF THE PROGRAM IS TO MONITOR:

25 (1) COMMITTED PERSONS ON CONDITIONAL RELEASE; AND

1 (2) INDIVIDUALS WITH MENTAL ILLNESS OR INTELLECTUAL
2 DISABILITY WHO ARE REQUIRED TO BE MONITORED UNDER TITLE 3 OF THE
3 CRIMINAL PROCEDURE ARTICLE.
4

5 (C) (1) THE PROGRAM SHALL:

6 (i) MONITOR COMMITTED PERSONS ON CONDITIONAL
7 RELEASE IN ACCORDANCE WITH THE ORDER OF THE COURT AND THE
8 RECOMMENDATIONS OF THE COMMITTED PERSON'S MENTAL HEALTH TEAM;

9 (ii) MONITOR INDIVIDUALS WHO HAVE BEEN:

10 1. FOUND INCOMPETENT TO STAND TRIAL BUT NOT A
11 DANGER TO SELF OR THE PERSON OR PROPERTY OF OTHERS UNDER § 3-106 OF THE
12 CRIMINAL PROCEDURE ARTICLE; AND

13 2. DISCHARGED FROM A DEPARTMENT FACILITY WITH A
14 RECOMMENDATION FROM THE DEPARTMENT FOR COMMUNITY FORENSIC AFTERCARE MONITORING;

15 (III) MONITOR COMMITTED PERSONS ORDERED BY A COURT TO
16 BE CONDITIONALLY RELEASED UNDER § 3-114(C) OF THE CRIMINAL PROCEDURE
17 ARTICLE FOR COMPLIANCE WITH COURT ORDERED CONDITIONS OF RELEASE;

18 (IV) RECEIVE AND REPORT VIOLATIONS OF A CONDITION OF
19 CONDITIONAL RELEASE UNDER § 3-121 OF THE CRIMINAL LAW ARTICLE; AND

20 (V) ~~REVIEW FILE~~ APPLICATIONS FOR CHANGE IN
CONDITIONAL
21 RELEASE ON BEHALF OF THE DEPARTMENT UNDER § 3-122 OF THE CRIMINAL
22 PROCEDURE ARTICLE.

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23 (2) THE PROGRAM:

24 (I) ~~IS NOT IN A TREATING CLINICAL RELATIONSHIP WITH THE COMMITTED~~
~~PERSON.~~

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~~2425~~ (II) ~~SHALL~~ MAY NOT MAKE CLINICAL DECISIONS REGARDING THE
~~2526~~ TREATMENT OF COMMITTED PERSONS; BUT

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~~2627~~ (II) MAY MAKE RECOMMENDATIONS REGARDING THE
~~2728~~ TREATMENT OF THE COMMITTED PERSON.

1
2 ~~(3) A HEALTH CARE PRACTITIONER-PATIENT RELATIONSHIP MAY~~
3 ~~NOT BE DETERMINED TO EXIST BETWEEN A COMMITTED PERSON AND AN~~
4 ~~INDIVIDUAL WHO MONITORS INDIVIDUALS OR PROVIDES OTHER SERVICES UNDER~~
5 ~~2 THE PROGRAM.~~

~~63~~ (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT LEAST
~~74~~ ONCE EVERY 90 DAYS, A PROGRAM MONITOR SHALL HOLD A MEETING WITH:

7 (I) EACH COMMITTED PERSON
8 AND MONITORED BY THE PROGRAM;

9 (II) THE MENTAL HEALTH TEAM OF THE COMMITTED PERSON.

10 (2) BEGINNING 1 YEAR AFTER THE DATE THE COMMITTED PERSON
11 WAS RELEASED FROM A FACILITY, MEETINGS SHALL BE HELD AS DETERMINED
12 NECESSARY BY:

13 (I) THE MENTAL HEALTH TEAM OF
14 OR THE COMMITTED PERSON;

15 (II) AT THE REQUEST OF THE PROGRAM.

16 (3) A COMMITTED PERSON MAY APPOINT AN ADVOCATE, INCLUDING
17 A DESIGNEE OF COUNSEL OF THE COMMITTED PERSON, TO ATTEND A MEETING HELD
18 UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

19 (4) IF A MEETING UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION
20 IS SCHEDULED TO DISCUSS CONCERNS THE COMMITTED PERSON'S COMPLIANCE
WITH A CONDITIONAL
21 RELEASE, THE PROGRAM SHALL NOTIFY THE ADVOCATE OF THE COMMITTED
22 PERSON ~~AND AND, IF APPLICABLE, THE DESIGNEE OF COUNSEL FOR~~ OF THE COMMITTED
23 PERSON OF THE MEETING.

~~2324. [5] If a meeting under paragraph (1) is being held due to an emergency, the advocate
will be informed of the outcome of the meeting as soon as practicable by CFAP.~~

2425 (E) IF THE PROGRAM RECEIVES A REPORT ALLEGING THAT A COMMITTED
2526 PERSON HAS VIOLATED CONDITIONAL RELEASE, THE PROGRAM SHALL:

2627 (1) MAKE THE NOTIFICATIONS REQUIRED UNDER § 3-121(B)(2)(I) OF
2728 THE CRIMINAL PROCEDURE ARTICLE;

1 (2) PROVIDE THE STATE'S ATTORNEY WITH THE INFORMATION
2 REQUIRED UNDER § 3-121(B)(2)(II) OF THE CRIMINAL PROCEDURE ARTICLE; AND

3 (3) IF APPLICABLE, PROVIDE TO THE COUNSEL OF RECORD FOR THE
4 COMMITTED PERSON THE INFORMATION PROVIDED UNDER ITEM (2) OF THIS
5 SUBSECTION.

6 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE
7 PROGRAM RECEIVES A REQUEST FOR RECORDS FOR AN INDIVIDUAL WHO HAS
8 VIOLATED A CONDITION OF CONDITIONAL RELEASE AND A HEARING UNDER §
9 3-121(F) OF THE CRIMINAL PROCEDURE ARTICLE HAS BEEN SCHEDULED WITHIN
10 10 DAYS, THE PROGRAM SHALL PROVIDE THE RECORDS WITHIN 4 BUSINESS DAYS
11 AFTER THE REQUEST IS RECEIVED UNLESS THE PROGRAM IS PROHIBITED UNDER
12 APPLICABLE FEDERAL OR STATE LAW FROM DISCLOSING THE RECORDS TO THE
13 REQUESTING PERSON.

14 (2) (i) SUBJECT TO SUBPARAGRAPHS (II) THROUGH (IV) OF THIS
15 PARAGRAPH, THE PROGRAM SHALL DISCLOSE ANY RECORDS WITHOUT THE
16 AUTHORIZATION OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE RECORD TO A
17 PUBLIC DEFENDER WHO STATES IN WRITING THAT THE OFFICE OF THE PUBLIC
18 DEFENDER REPRESENTS THE INDIVIDUAL.

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~~18~~19. **(3) A HEALTH CARE PROVIDER MUST DISCLOSE MEDICAL AND LEGAL RECORDS WITHOUT THE AUTHORIZATION OF THE COMMITTED PERSON PURSUANT TO § 4-307(L) OF THE HEALTH-GENERAL ARTICLE.**

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~~19~~ ~~(ii) LEGAL RECORDS REQUIRED TO BE DISCLOSED UNDER~~
~~20~~ ~~SUBPARAGRAPH (i) OF THIS PARAGRAPH INCLUDE AN EMERGENCY PETITION.~~

~~21~~ ~~(iii) THE RECORDS DISCLOSED UNDER SUBPARAGRAPH (i) OF~~
~~22~~ ~~THIS PARAGRAPH SHALL BE LIMITED TO THOSE RECORDS NEEDED BY THE PUBLIC~~
~~23~~~~21~~ ~~DEFENDER TO REPRESENT THE INDIVIDUAL.~~

~~24~~ ~~(iv) RECORDS PROVIDED UNDER SUBPARAGRAPH (i) OF THIS~~
~~25~~ ~~SUBSECTION SHALL BE PROVIDED:~~

~~26~~ ~~1. WITHIN 24 HOURS AFTER THE PROGRAM RECEIVES A~~
~~27~~ ~~WRITTEN REQUEST FOR THE RECORDS FROM THE PUBLIC DEFENDER; AND~~

~~28~~ ~~2. ONLY IF THE INDIVIDUAL WHO IS THE SUBJECT OF~~
~~29~~~~22~~ ~~THE RECORD HAS NOT YET RETAINED PRIVATE COUNSEL.~~

1 **13-5903.**

2 **(A) THE PROGRAM SHALL ESTABLISH A COMMUNITY MONITORING BOARD**
3 **TO MAKE:**

4 **(1) RECOMMENDATIONS RELATING TO THE EARLY TERMINATION OF**
5 **CONDITIONAL RELEASE;**

6 **(2) RECOMMENDATIONS RELATING TO MODIFICATION OF THE**
7 **CONDITIONS OF RELEASE;**

8 **(3) RECOMMENDATIONS RELATING TO THE EXTENSION OF**
9 **CONDITIONAL RELEASE;**

10 **(4) DECISIONS RELATING TO THE ELIGIBILITY OF A COMMITTED**
11 **PERSON TO REMAIN ON CONDITIONAL RELEASE; AND**

12 **(5) DECISIONS RELATING TO ANY OUT-OF-STATE TRAVEL REQUEST.**

13 **(B) (1) EACH VOTING MEMBER OF THE COMMUNITY MONITORING BOARD**
14 **SHALL BE A HEALTH CARE PROVIDER LICENSED UNDER THE HEALTH OCCUPATIONS**
15 **ARTICLE.**

16 (2) DECISIONS OF THE COMMUNITY MONITORING BOARD SHALL BE
17 DETERMINED BY A MAJORITY VOTE.

18 (3) THE COMMUNITY MONITORING BOARD SHALL HAVE AN ODD
19 NUMBER OF MEMBERS.

20 (4) EACH MEMBER OF THE COMMUNITY MONITORING BOARD SHALL
21 HAVE ONE VOTE.

22 (5) A COMMUNITY MONITORING BOARD MAY NOT ISSUE A
23 RECOMMENDATION OR RENDER A DECISION UNDER SUBSECTION (A) OF THIS
24 SECTION UNLESS A QUORUM IS PRESENT.

1 (6) A MAJORITY OF THE MEMBERS OF THE COMMUNITY MONITORING
2 BOARD IS A QUORUM.

3 (c) (1) A COMMITTED PERSON MAY APPOINT AN AUTHORIZED AGENT TO
4 ATTEND THE ENTIRETY OF A COMMUNITY MONITORING BOARD MEETING
5 CONCERNING THE COMMITTED PERSON, EXCEPT FOR THE DELIBERATION AND FINAL VOTE VOTING
6 PORTION OF A MEETING.

7 (2) AN AUTHORIZED AGENT MAY BE A SOCIAL WORKER OR AN
8 INVESTIGATOR EMPLOYED BY THE COUNSEL REPRESENTING THE COMMITTED
9 PERSON.

10 (3) AN AUTHORIZED AGENT MAY ONLY GIVE AND HEAR ARGUMENTS.

11 (4) AN AUTHORIZED AGENT MAY ATTEND A COMMUNITY MONITORING
12 BOARD MEETING VIRTUALLY.

13 (d) (1) THE COMMUNITY MONITORING BOARD SHALL MAINTAIN A
14 WRITTEN RECORD CONTAINING ITS FINDINGS, RECOMMENDATIONS, AND
15 DECISIONS.

16 (2) THE WRITTEN RECORD SHALL BE INCLUDED IN THE MEDICAL
17 RECORD OF THE COMMITTED PERSON.

18 (3) THE FINDINGS SHALL INCLUDE THE REASONS FOR THE
19 COMMUNITY MONITORING BOARD'S RECOMMENDATION OR DECISION.

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20 (E) (1) WHEN MAKING A RECOMMENDATION OR DECISION UNDER THIS
21 SECTION, THE COMMUNITY MONITORING BOARD SHALL CONSIDER A WRITTEN
22 STATEMENT IF OFFERED BY THE COMMITTED PERSON TO THE FORENSIC REVIEW
23 BOARD.

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24 (2) THE COMMUNITY MONITORING BOARD SHALL PROVIDE NOTICE
25 TO A COMMITTED PERSON AND THE COUNSEL OF RECORD FOR THE COMMITTED
26 PERSON AS SOON AS PRACTICABLE BUT NO LATER THAN 10 DAYS BEFORE THE
27 FORENSIC REVIEW BOARD HOLDS A MEETING CONCERNING THE COMMITTED
28 PERSON.

29
1 (3) A COPY OF THIS NOTICE SHALL BE MAINTAINED IN THE
2 PROGRAM'S RECORDS.

3 (F) THE OFFICE OF THE ATTORNEY GENERAL MAY PROVIDE LEGAL
4 COUNSEL TO THE DEPARTMENT AT THE PROGRAM'S COMMUNITY MONITORING
5 BOARD MEETINGS.

6 (G) A COPY OF A DOCUMENT OR RECORD PRODUCED BY THE COMMUNITY
7 MONITORING BOARD UNDER THIS SECTION SHALL, ON REQUEST, BE PROVIDED TO:

8 (1) THE COMMITTED PERSON;

9 (2) COUNSEL FOR THE COMMITTED PERSON;

10 (3) THE COURT;

11 (4) THE STATE'S ATTORNEY; OR

12 (5) THE DEPARTMENT.

13 13-5904.

14 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
15 SUBTITLE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 20276.