



Promoting support, research, treatment, and public policies that improve and save lives

Testimony for SB707—Mental Health Law-Danger to the Life or Safety of the Individual or of Others-
Definition (Right to Treatment)

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From: Evelyn Burton, Maryland Advocacy Chair of Schizophrenia & Psychosis Action Alliance

Position: Support

As a non-profit organization providing support, education and advocacy for individuals with illnesses that can exhibit psychosis, like schizophrenia and bipolar disorder, we constantly see the tragedies resulting from denial of critical psychiatric hospital treatment due to Maryland's outdated emergency evaluation and involuntary treatment laws. **Denial of timely treatment for psychotic illnesses results in a broad pipeline to incarceration and homelessness.** It substantially increases the risk of violence, results in **brain damage and lower recovery level.** **Many families are reporting the ultimate tragedy of suicide when the danger standard has blocked access to needed hospital treatment. County jails report up to 50% of inmates have mental illness and over 30% in the state prisons.** So many with mental illness have been forced into the criminal justice system that the state hospitals now are populated with those with criminal justice involvement. They no longer accept civil patients who need medium to long term treatment to stabilize or from backed up emergency rooms. This affects the care of all Marylanders.

Since 2002, families have been bring their tragic experiences before the legislature and asking for change. Every year of delay bring more suicides, incarcerations, homelessness and violence. It is past time to stop turning away and take action.

Current Gap: Only Maryland and D.C. are without a danger standard definition in mental health law.

Goal: Treatment Before Tragedy. Timely treatment under Maryland's involuntary evaluation and hospitalization law for serious mental illnesses such as schizophrenia and bipolar disorder, could prevent the behaviors caused by untreated illness that can lead to: incarceration, suicide, fatal police interactions, homelessness, victimization, and violence in the family and community. Research shows that prompt treatment: shortens hospital stays, prevents brain damage caused by untreated psychosis, and improves long-term outcomes and recoveries.

Why is involuntary treatment sometimes necessary? Certain biologically based illnesses, such as schizophrenia and bipolar disorder, can cause a neurological deficit that prevents individuals from recognizing their illness and need for treatment. Simply put, many in psychiatric crisis do not know they are ill. While voluntary engagement is always preferable, involuntary evaluation and hospital admission is sometimes the only way to provide effective treatment and establish eligibility for voluntary outpatient services or AOT.

Current Law: A Barrier to Timely Treatment.

Current law for involuntary evaluation and hospital admission requires that “The individual presents a danger to the life or safety of the individual or of others.” Problems: No definition of danger. Often interpreted narrowly by peace officers, mental health professionals, and judges to require imminent danger of suicide or violence, even though the word “imminent” was removed by the legislature in 2002 and a clarifying Maryland Court opinion was issued in 2018. Without a change in the statute, families are helpless to secure treatment for individuals without insight, who are unable to meet basic survival needs or before their incapacity to think rationally leads to incarceration or homelessness.

Proposed Legislative Reform: Define “Danger to Life or Safety”

1. Clarify that the danger need not be imminent;
2. Require consideration of personal, medical and psychiatric history when available and
3. Define “danger” to include as a result of a mental disorder:
 - A. Serious risk of bodily harm to self or others, or criminal justice involvement;
 - B. Unable to provide for basic needs (nourishment, medical care, shelter, self-protection, safety), creating a substantial risk of serious bodily harm, serious illness, or death; or
 - C. Lacks capacity to make treatment decisions. Without treatment, will likely meet criteria A or B above.

Reform in Other States: 49 states define their danger standard. 48 states include the inability to meet basic survival needs. (B above.) 30 states include deterioration standards (C above).

Preservation of Civil Rights: All current guarantees of civil liberties remain, including certification by 2 mental health professionals, legal representation, & judicial hearings. Timely treatment can restore rational thought and the ability to exercise one’s civil rights.

Budget Impact: Reduced costs from long, repeat hospitalizations caused by delayed treatment. Police, court, and corrections savings from reduced criminalization due to timely treatment. Fewer emergency room visits.

Expected Outcomes: Fewer suicides, homelessness, police interactions, arrests, and repeat hospitalizations. Safer communities and better treatment outcomes. Reduced forensic demand for state hospital beds.

