

Feb. 24, 2026

Chair Beidle, Vice Chair Hayes, and distinguished members of the Finance Committee,

NAMI Maryland and our 11 local affiliates across the state represent a network of more than 60,000 families, individuals, community-based organizations, and service providers. NAMI Maryland is a 501(c)(3) non-profit dedicated to providing education, support, and advocacy for people living with mental illnesses, their families, and the wider community. We respectfully request a favorable report on SB707.

NAMI Maryland appreciates that the topic of inpatient civil commitment is complex and controversial. The idea of court-ordered treatment can be troubling to patients, providers, and advocates because it involves balancing the fundamental right to individual liberty with the potential medical necessity of treatment, even when treatment will prevent harm to oneself or others. Although it is always a difficult question, there are times when a person's mental illness symptoms become so severe that mental health providers and courts must consider whether to follow the legal procedure for inpatient commitment. In those situations, a person should only be committed if an inpatient facility is the least restrictive environment for safe and effective treatment. Ideally, treatment would always happen in community-based settings. However, as Justice Ruth Bader Ginsberg wrote in the landmark *Olmstead* case, some people "are not prepared at particular times . . . for the risks and exposure of the less protective environment of community settings," and "institutional settings are needed and must remain available."<sup>1</sup>

Maryland's current criteria that should determine danger to self lacks a level of detail needed to ensure that only people in need of immediate psychiatric care will be civilly committed to an inpatient facility. NAMI Maryland encourages the Finance Committee to consider the lack of clarity in current law, the 2021 BHA workgroup recommendations, and increased protections that SB707 would put in place for people who may be subject to civil commitment proceedings.

## **Current Standard of Danger to Self is Vague. SB707 Provides Clarity**

Maryland's legal criterion to determine dangerousness for inpatient civil commitment, "[t]he individual presents a danger to the life or safety of the individual or of others,"<sup>2</sup> is so vague that it leads to inconsistent interpretations across the state.<sup>3</sup> That indistinct language is unfair to people who are being evaluated for civil commitment and frustrating to courts and mental health professionals tasked with applying it. SB707 addresses that inadequacy in the law by creating specific criteria for danger to self.

SB707 includes criteria that clarify the legal standard of dangerousness, which will allow for more accurate evaluations of whether a person actually poses a risk of harm

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to self. Under SB707, the court would be able to hear evidence that a person would, without treatment, “suffer substantial deterioration of the individual’s judgment, reasoning, or ability to control behavior.” This criterion, sometimes known as “psychiatric deterioration,” allows mental health professionals and the court to consider the impending consequence of nontreatment based on current condition and an individual’s psychiatric history. At least 26 states have psychiatric deterioration language in their inpatient civil commitment criteria.<sup>4</sup>

This legislation also would allow consideration of a person’s ability to provide for their own basic needs, “including food, clothing, shelter, medical care, self-protection, or safety, to such a degree as to create a substantial risk of serious bodily harm, serious illness, or death.” This criterion is rooted not only in common sense, but also in compassion. People living with serious mental illness are sometimes unable, because of their symptoms, to look after their own basic human needs. That is not their fault; mental illnesses are involuntary conditions that can, in their most severe forms, impair a person’s ability to make decisions. The mental illness itself robs an individual of aspects of life that most people take for granted. For the vast majority of people with serious mental illness, medication and other treatments can reestablish and maintain their ability to provide for their own basic needs. In extreme cases, civil commitment may be temporarily medically necessary to prevent the type of harm to self described in SB707. Maryland’s mental health providers and courts need these specific criteria to help determine whether a person’s mental illness symptoms, through lack of immediate treatment, are causing harm to that person.

## **Civil Commitment Workgroup Recommendations**

In 2021, the Behavioral Health Association convened a stakeholder workgroup to review civil commitment in Maryland, and a significant piece of its recommendations are reflected in SB707. Regarding the circumstances when mental illness symptoms deprive a person of their ability to provide for their own basic needs, the workgroup recommended the following language:

The individual has behaved in a manner that indicates he or she is unable, without supervision and the assistance of others, to meet his or her need for nourishment, medical care, shelter or self-protection and safety such as to create a substantial risk for bodily harm, serious illness, or death.<sup>5</sup>

That is substantively similar to language contained in SB707:

[A person will] be unable, except for reasons of indigence, to provide for the individual’s basic needs, including food, clothing, shelter, medical care, self-protection, or safety, to such a degree as to create a substantial risk of serious bodily harm, serious illness, or death.<sup>6</sup>

Eleven advocacy organizations, two community-based crisis providers, the Maryland Hospital Association, four local behavioral health authorities, four persons with lived experience, and five state government agencies (BHA, Dept. of Disabilities, MDH, OAD, OPD) took part in the 2021 workgroup, examined the issue of Maryland’s inpatient civil commitment standard, and recommended the above language be part of the determination of whether a person poses a danger to self or others. NAMI Maryland urges the committee to review the workgroup recommendations. The Lt. Governor presided over that process, and although we respect the intent of that group to promulgate its recommendations as regulations, improvements to Maryland’s civil commitment criteria would be more meaningful if codified as statute via SB707.

## **SB707 Increases Constitutional Protections**

Any element of state law related to inpatient civil commitment must conform to federal legal protections that safeguard the rights and liberties of people who may be a danger to themselves or others.<sup>7</sup> SB707 adds due process protections to Maryland law that are currently lacking. There are two types of due process guaranteed by the Fourteenth Amendment to the U.S. Constitution. Procedural due process relates to the processes that the state must follow before infringing on a person’s rights or liberty, while substantive due process relates to the reasons the state can use before doing so. Maryland already conforms to procedural due process requirements with civil commitments by requiring notice, a hearing, right to counsel, and other procedural elements necessary to safeguard against undue infringements upon personal liberty.<sup>8</sup> But current Maryland law is lacking in substantive due process guarantees and this bill provides safeguards needed to temporarily commit a person who is a threat to themselves or others.

Maryland currently has no clear definition of danger to self, but states must prove by clear and convincing evidence that a person “requires hospitalization for his own welfare and protection of others.”<sup>9</sup> Asking mental health providers and courts to meet the burden of proof without a clear definition of dangerousness to self is both an unrealistic expectation on those decisionmakers and, more importantly, unfair to any person under evaluation for civil commitment. SB707’s provisions, especially the criteria related to likely substantial deterioration and inability to provide for one’s own basic needs, mean that a person would not be subject to inpatient civil commitment without meeting those specific requirements. Compared to current Maryland law, that is a higher bar for the state to meet and temporarily confine a person to inpatient psychiatric treatment. The state should always have such obstacles before any infringement on liberty, even if that infringement is temporary and medically necessary. SB707 would solidify substantive due process in Maryland’s civil commitment law.

NAMI Maryland welcomes the opportunity to work with bill sponsors, committee members, and organizations in opposition on compromises and amendments, and we urge a favorable report on SB707.

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<sup>1</sup> *Olmstead v. L. C.*, 527 U.S. 581, 605 (1999) (quoting Brief for American Psychiatric Association et al. as Amicus Curiae 22–23).

<sup>2</sup> Md. Code Ann., Health-General § 10-632(e)(2).

<sup>3</sup> *Involuntary Commitment Stakeholders' Workgroup Report*, Maryland Dept. of Health, 2021, <https://health.maryland.gov/bha/Documents/Involuntary%20Commitment%20Stakeholders.Final%20report%208.11.21.docx.pdf>.

<sup>4</sup> Lisa Dailey et al., *Grading the States: An Analysis of U.S. Psychiatric Treatment Laws* at pg. 39, Treatment Advocacy Center, 2020, <https://www.tac.org/wp-content/uploads/2023/11/Grading-the-States-2020.pdf>. Louisiana became twenty-sixth state to pass a psychiatric deterioration law in 2022, Louisiana House Bill 335 (2022).

<sup>5</sup> Stakeholders' Workgroup Report, pg. 2.

<sup>6</sup> SB707, Section 1(C)(3).

<sup>7</sup> *O'Connor v. Donaldson*, 422 U.S. 563 (1975).

<sup>8</sup> Md. Code Ann., Health-General § 10-622—10-624.

<sup>9</sup> *Foucha v. Louisiana*, 504 U.S. 71, 75 (1992) (quoting *Addington v. Texas*, 441 U.S. 418 (1979)).