



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 412 - Maryland Department of Health – Community Forensic Aftercare Program – Established

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: Tuesday, March 31, 2026

The Maryland Office of the Public Defender (MOPD) respectfully requests that the Committee issue a favorable report on Senate Bill 412, as passed by the Senate.

Senate Bill 412 is the product of extensive negotiations involving the bill sponsors in the Senate and House, and key stakeholders. We urge a favorable report on this bill and urge the committee to review [our previously submitted testimony](#) in its consideration of this bill.¹

We submit this testimony, however, to specifically address a concern raised by the Community Forensic and Assessment Program (CFAP) in discussions about this bill after the House hearing on the Senate Bill 412 cross file ([House Bill 658](#)). Those discussions were focused on the ability of CFAP monitors to make clinical decisions. The original iteration of both Senate Bill 412 and House Bill 658 specifically prevented CFAP monitors from having this power. The amendment to House Bill 658 now allows CFAP to offer clinical recommendations. These recommendations may be provided to the individual's healthcare providers or to the Court. The original prohibition on making clinical decisions was removed, leaving the overall role of CFAP monitors' decision-making authority somewhat ambiguous. We strongly urge this Committee to **reject** any amendment to Senate Bill 412 that would grant CFAP clinical decision-making powers, or that leave the scope of power granted to CFAP open to interpretation.

¹ https://mgaleg.maryland.gov/cmte_testimony/2026/fin/1zgaGRci3SieOTmq_QWy2nF5TKvyS1iVq.pdf

In administrative and judicial proceedings, CFAP monitors have consistently testified that they do not have a treating relationship with the individuals they monitor while those individuals are on conditional release. A treating relationship is governed by professional, ethical, and legal standards of conduct prescribed by the Health Occupations Article and the relevant professional treating relationship is required for a clinician to make clinical or treatment decisions for an individual. This relationship establishes the clinician's obligation to the individual, which takes precedence over any obligation to the clinician's employer or any other entity.

Senate Bill 412, which prohibits CFAP monitors from making clinical decisions, is consistent with the safeguards already established by the Health Occupations Article and relevant professional boards. Without these established safeguards, both the individuals and the Maryland Department of Health (Department) would face risks arising from a dual relationship in which the CFAP monitors are responsible to both parties. By explicitly prohibiting CFAP monitors from making clinical treatment decisions, SB 412 appropriately avoids creating this problematic dual relationship.

If CFAP monitors are to make clinical decisions, the monitors and the Department must also accept the ethical, professional, and legal responsibilities that derive from a treating relationship. This includes bearing liability for adverse outcomes. The Department has unambiguously stated through the testimony of Dr. Everett at the subcommittee meeting, that the role of a CFAP monitor is to observe and report. Not to impose clinical decisions. Recognizing the responsibilities inherent in a treating relationship and the perils of a dual relationship, the Department has made clear that it does not agree to assume the responsibilities of a treating relationship with an individual on conditional release. **MOPD and the Department agree that CFAP monitors cannot make clinical decisions for an individual on conditional release.**

Senate Bill 412 as written, does not abridge a CFAP monitor's ability to provide recommendations to the individual's treatment team. The bill provides for transparent and open communication between the CFAP monitor and the individual's treatment team. CFAP monitors can provide the treatment team with recommendations based on the individual's current and historical presentations, which help inform the team's care and treatment of the individual. For example, recommendations could include changes to supervision levels in housing and day programs, vocational training, education, and other aspects of the individual's treatment in the community. Senate Bill 412 does not abridge a CFAP monitor's ability to make non-treatment monitoring; for example, a CFAP monitor may grant or deny a committed person's request to travel out of state.

To be clear, ensuring that clinical decisions are only made by the treatment team will not abridge the Court's jurisdiction over the individual on conditional release. The individual will remain on conditional release, will continue to be monitored by CFAP, and will be subject to hospital warrants and confinement with the Department should they not comply with the terms of their conditional release.

If for any reason there are urgent concerns that the committed person is a danger to themselves or others, a CFAP monitor can immediately initiate the emergency petition ("EP") process to have the person brought to a hospital for a psychiatric evaluation. The EP can result in a peace officer immediately taking the committed person to a local hospital, even if treating clinicians disagree with this decision.

Under the terms of conditional release, CFAP monitors may also request the individual participate in an independent psychiatric evaluation. If the individual refuses to comply with that request, they can be returned to confinement on the basis of a hospital warrant. CFAP monitors already have broad authority and discretion to make clinical recommendations to the committed person's treatment team for consideration.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 412 as it is written.

Submitted by: Maryland Office of the Public Defender

Authored by: Krystal Williams, Assistant Public Defender, Mental Health Division & Government Relations Division

Sanjeev Varghese, Deputy Chief Attorney, Mental Health Division

Julianna Felkoski, Assistant Public Defender, Mental Health Division