MARYLAND OFFICE OF THE PUBLIC DEFENDER

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POSITION ON PROPOSED LEGISLATION

BILL: HB 1014

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: February 20, 2026

The Maryland Office of the Public Defender respectfully requests that this committee issue an unfavorable report on HB 1014. We strongly oppose this bill for the following reasons:

1) Maryland's existing involuntary civil commitment system effectively identifies and manages the vast majority of dangerously ill, at-risk individuals within the state.
2) A broadened statutory definition of dangerousness will result in an unconstitutional deprivation of liberty.
3) The proposed legislative changes are based on anecdotal evidence rather than data.
4) The proposed standard is too vague and speculative, which will only perpetuate the inconsistent application it is intended to correct.
5) The ambiguity and broad scope of the suggested wording would increase the risk that individuals will exploit the process with malicious intent.
6) The current involuntary civil commitment process disproportionately affects people of color, and the proposed criteria are likely to exacerbate this issue, resulting in more people of color being targeted for commitment.
7) The proposed revisions to the involuntary civil commitment statute introduce highly subjective criteria. In Maryland, these criteria will be applied not only by mental health clinicians but also by law enforcement officers and lay persons. Relying on the judgment of law enforcement and lay persons in this context is inappropriate, given their lack of specific training and expertise. Consequently, this change is likely to significantly increase the number of individuals who are emergency petitioned and then certified for involuntary civil commitment. This will ultimately put a substantial strain on Maryland's already burdened mental health delivery system.
8) Changing the criteria for involuntary commitment and redefining dangerousness will not improve patient care, protect Maryland citizens, or enhance the lives of individuals struggling with mental illness. The General Assembly should look beyond these changes to address the myriad of issues facing this population.
9) The proposed criteria require police officers, lay persons, and mental health clinicians to predict future criminal conduct. Years of research demonstrate that individuals with mental illness are only implicated in approximately 4% of violent acts, and psychiatrists' predictions of future dangerousness are notoriously unreliable.

10) Patients face serious collateral consequences derived from an involuntary civil commitment, and these weigh heavily against using the number of mentally ill individuals eligible for commitment.
11) HB 1014 calls for gross speculation because it eliminates the temporal requirement of imminent danger and allows for involuntary hospitalization based on the risk of future decompensation. At a hearing under Health-Gen. § 10-632, the fact that the speculation is cloaked as the expert opinion of a psychiatrist does not make it reliable. Such testimony is not probative. It is prejudicial. Psychiatric evaluations and assessments are not based on the kinds of precise measurements that allow for reliable predictions of dangerousness or decompensation in the future. Psychiatry involves too much heterogeneity and too many variables, and there are *no* diagnostic tests. Consequently, psychiatrists must rely on subjective and indirect means of evaluating the condition of their patients. In short, psychiatric prognostication is imprecise and prone to error because there are so many unknowns. Additionally, diagnostic error is a serious and woefully understudied problem in psychiatry. *See* Andrea Bradford et al., Diagnostic Error in Mental Health: A Review, 33 BMJ Quality & Safety 663 (2024).
12) Although well-intended, HB 1014 is not a harm reduction strategy. It is a harm multiplier. The harms are not confined to the loss of liberty. As the number of people subject to involuntary hospitalization increases, so too does the number of judgment calls, i.e., cases when some would hospitalize the individual and others would not. According to a recent study published by the Federal Reserve Bank of New York, hospitalization in such cases "nearly doubles the probability of dying by suicide or overdose and also nearly doubles the probability of being charged with a violent crime in the three months after evaluation." Broadening the net of individuals subject to involuntary hospitalization would perpetuate such grievous harms. Natalia Emanuel et al., A Danger to Self and Others: Health and Criminal Consequences of Involuntary Hospitalization 39-40 (2025).

Sufficiency of Current Law

The current involuntary civil commitment system in Maryland successfully identifies the vast majority of individuals who are dangerously ill and at risk. While proponents of the proposed revision have cited multiple painful anecdotes from individuals and families who feel inadequately served, these stories should not overstate the impact of the current definition of dangerousness, as they represent rare occurrences.

The OPD's statistics demonstrate the breadth of the current system:

- In 2025, the OPD represented approximately 9,000 individuals in involuntary civil commitment proceedings.
- The OPD has represented between 8,000 and 10,000 clients annually in these proceedings over the past five years.

Furthermore, these totals do not include individuals who were taken to hospital emergency departments for evaluation and ultimately released. Maryland hospital staff have informed the OPD

that approximately 50% of emergency evaluees are discharged because they do not meet the criteria for involuntary hospitalization. This data indicates that the primary challenge is not a systemic barrier to getting individuals emergency-petitioned to Maryland hospitals. Rather, this is indicative of inappropriate and or misapplied uses of involuntary civil commitments.

Maryland's current involuntary commitment statute, which requires a standard of "danger to self or others," is already considered to be one of the most flexible and broadly applicable in the country. Its clear wording allows it to be applied to a wide variety of circumstances.

In a 2022 letter to the Involuntary Commitment Stakeholders Workgroup, the Maryland Psychiatric Society expressed support for the existing dangerousness standard. Instead of changing the definition of dangerousness, the Maryland Psychiatric Society recommends increased training and information regarding the current standard, and its intended application. The current definition, as is, effectively covers a range of complex situations involving serious risk to the individual or others. While highly trained forensic psychiatrists navigate the current statute successfully, other practitioners with less experience would benefit from comprehensive education on applying the law to various scenarios. This targeted education directly addresses the misapplication of the statute, which is rooted in a misunderstanding of the law.

The available data does not support the proponents' claim that police officers and administrative law judges narrowly interpret the current standard. In fact, OPD data indicates that Maryland judges at all levels take a broad view of danger. For example, during the 2025 calendar year, the OPD represented about 9,000 individuals in involuntary civil commitment cases, but administrative law judges released only approximately 125 of those clients at the subsequent commitment hearings. The proponents of the revised standard have not provided any data from Police departments, hospitals, or courts that suggest that this number represents only a fraction of the severely mentally ill population that would otherwise be captured under the broadened definition. They rely heavily on anecdotal evidence. OPD has multiple anecdotes about individuals that OPD represented in involuntary civil commitment cases including:

1. A young woman who was certified to speak “gibberish”. The woman was Ethopian and was speaking Amharic.
2. A trans gender teenager who was certified because his parents believed he was exhibiting symptoms of psychosis. His “symptom” was his gender-identity.
3. A middle-aged man who was certified after being declared “hyper-religious” and delusional by a peace officer. He was a minister for an African-based religious group.
4. An unhoused man who was certified after being observed eating a raw onion while reading a Bible at a mall.
5. An older woman who was certified after her family asserted that she was “cooking too much food” for them. Her psychiatrist had recently prescribed her Adderall, leading to an increase in her activity.

These anecdotes are not an adequate substitute for actual data, but they serve to demonstrate that the current standard for dangerousness already allows for an overly broad interpretation of an

individual's behavior. Essentially, for every anecdote that appears to indicate that the involuntary civil commitment standard is inadequate, there is an anecdote that suggests the process allows for significant overreach.

The Maryland Supreme Court (formerly Court of Appeals) in *In Re: J.C.N.,* 460 Md. 371 (2018) gave a broad interpretation of the current dangerous standard. The Court found that JCN's refusal to take psychiatric and somatic medications, delusions that she could return to pursue her Ph.D. at Yale, and her refusal to believe she had a mental illness were sufficient for an administrative law judge to find her dangerous and civilly commit her to an inpatient psychiatric facility. The Court essentially interpreted Maryland's current standard to include the gravely disabled standard. In fact, every day, in thousands of instances across the State, police officers, district and circuit court judges, and mental health clinicians interpret Maryland's current standard to include the gravely disabled standard when they issue emergency petitions, certificates for involuntary psychiatric admissions, and orders for involuntary civil commitment.

In Re: J.C.N., 460 Md. 371 (2018), the Maryland Supreme Court (formerly Court of Appeals) effectively incorporated the "gravely disabled" standard into Maryland's existing criteria for civil commitment. The Court affirmed the administrative law judge's finding that J.C.N. was dangerous and warranted civil commitment to an inpatient psychiatric facility, citing her refusal to take necessary psychiatric and somatic medications, her delusions about resuming her Ph.D. at Yale, and her denial of having a mental illness. This interpretation is consistent with how the standard is applied daily across the State. In thousands of instances, police officers, district and circuit court judges, and mental health clinicians rely on this implicit "gravely disabled" component when issuing emergency petitions, certificates for involuntary psychiatric admissions, and orders for involuntary civil commitment.

While the intention behind this proposed legislation is to address the issue of inconsistent application of the current legal standard by those on the front lines, including judicial officers, emergency first responders, and mental health treatment professionals, its current drafting is fundamentally flawed and will likely fail to achieve its objective. Paradoxically, the new statutory language is poised to inherit the very same defect it aims to cure. The core problem lies in the continued reliance on highly subjective and nebulous terms. The bill introduces phrases such as **"indigence," "substantial deterioration," "substantially impaired,"** and **"substantial risk."** Each of these terms is an open invitation to widely divergent, individual, and subjective interpretation.

The basic challenge within the current civil commitment framework does not stem from an ill-defined legal standard of "dangerousness," but rather from a systemic failure to consistently and accurately apply this standard across the various institutions and individuals involved. A more effective and necessary intervention, therefore, is not legislative redefinition, but the immediate and widespread implementation of comprehensive, mandatory training for all stakeholders in the involuntary civil commitment process.

This critical need for education was identified by many participants in the 2021 Involuntary Civil Commitment Workgroup and was one of the recommendations that received consensus. Regrettably,

this recommendation, to provide comprehensive training around the dangerousness standard, was never implemented. The Workgroup also had consensus on the recommendation to gather additional data elements about civil commitment, to more readily identify uses and misuses of the current system. This recommendation has also not yet been implemented. This lack of implementation was a missed opportunity to improve the integrity and consistency of a process that impacts individuals' civil liberties and access to necessary mental health care. Ironically, the one recommendation that stakeholders could not reach a consensus on, was redefining the definition of the dangerousness standard in regulations. We urge this body to revisit the two recommendations that received full and thorough evaluation, and consensus to elevate, as the next appropriate step in addressing how civil commitments are used in Maryland.

Racial Disparity Exists In The Involuntary Civil Commitment Process

Racial bias in the involuntary civil commitment process is a real concern. Data collected by the OPD over the past year shows the disparities amongst racial groups. We see these disparities play out daily and recognize the inequitable patterns in our data. A study reported in a 2021 article in the Journal of Psychiatric Services demonstrated that Black persons of Caribbean or African descent with their first episode of psychosis were significantly more likely to be forced into treatment than non-Black individuals. Revising the definition of dangerousness to satisfy individuals and organizations that seek to make more people eligible for involuntary civil commitment will have a disparate impact on people of color. More research is needed to explore the role of race in Maryland's involuntary commitment process and the role of racial prejudice in the assessment of dangerousness.

Revising The Dangerousness Standard Will Not Address The Myriad Issues That Impact The Lives Of Individuals With Serious Mental Illness

By redefining dangerousness to expand the number of individuals eligible for involuntary inpatient commitment, the General Assembly will not address the many concerns raised by individuals and organizations supporting this change. The language would result in inappropriate, one-size-fits-all solutions (i.e., institutionalized forced medical care regardless of complicating factors) for all situations. For example, a person might be schizophrenic and also experiencing housing or food insecurity. Involuntary hospitalization will not resolve this person's issues. The involuntary commitment model is not equipped to provide the solutions to large systemic problems, such as limited affordable housing options, lack of community services, the Department of Social Services' inadequate placement options, lack of Partial Hospitalization Programs or rehabilitation placements, and limited outpatient resources, which can easily lead to difficult circumstances. There is no medication for homelessness, for example, and making it "dangerous" by definition, as long as the unhoused person is also mentally ill, seems to lead to a situation where a fundamental liberty is being infringed upon due to inadequate social support or limited financial means.

A Broad Statutory Definition Of "Dangerousness" Will Result In an Unconstitutional Deprivation of Liberty and an Infringement on Due Process Rights

It is well established by the Supreme Court that civil commitment laws should ensure a balance

Between the interests of public safety and individual civil liberties. *See O'Connor v. Donaldson,* 422 U.S. 563 (1975). The Supreme Court has noted that the loss of liberty that results from civil commitment can be severe and have significant damaging long-term impacts on an individual, and as such, **the Court has emphasized the use of a "least restrictive setting" standard of care, while noting that civil commitment is the most restrictive setting**. *See Olmstead v. L.C.ex rel.Zimring,* 527 U.S. 581 (1999).

The proposed revision allows for such an expansive definition of dangerousness that individual autonomy and civil liberties are unduly at risk, particularly in regard to the following proposed text:

(3) Be unable, except for reasons of indigence, to provide for the individual's basic needs, including food, clothing, shelter, medical care, self-protection, safety, to such a degree as to create a substantial risk of serious bodily harm, serious injury, or death; or (4) Suffer substantial deterioration of the individual's judgment, reasoning, or ability to control behavior…

One can think of numerous situations in which an individual with mental illness may exercise their right to make autonomous decisions regarding lifestyle choices that may be socially eccentric or idiosyncratic, without rising to a level of dangerousness that requires civil commitment. For example, while the public might prefer that individuals with mental illness do not reside in shelters, live in encampments, or experience homelessness, such individuals have the right to determine their own living situation, even if it comes with an Increased risk to their safety, as many who face homelessness often experience. Likewise, it is well-established that individuals, including those with mental illness, have rights regarding the kind of medical care they receive, even if it involves the rejection of potentially life- saving Interventions. In both of these cases, an administrative law judge could reasonably determine that an individual be involuntarily committed on the basis of the proposed revision.

Broadening the definition leads to even more resources being spent in unproductive ways. The use of locked psychiatric units as a primary form of treatment is not supporting a "least-restrictive setting" standard of care and can lead the State of Maryland to be in violation of the mandates of the Americans with Disabilities Act and *Olmstead.* More community-based care and social supports would be the best use of the State's dollars and time. Forced treatment has not been shown to increase outpatient compliance nor reduce readmission, and over-reliance on hospitalization is very expensive.

The proposed statute introduces a significant shift in the criteria for civil commitment by removing the traditional time limit for demonstrable dangerous behavior. This change, in conjunction with a broadened definition of "danger," fundamentally alters the legal standard for involuntary detention. Specifically, expanding "danger" to include non-imminent risks, such as the mere prediction of an individual's future mental or behavioral deterioration, allows the state to significantly restrict an individual's fundamental liberty *without* the immediate, compelling necessity that has historically been required to justify such a severe intervention.

Under established legal and constitutional principles, the power of the state to involuntarily commit an individual is typically limited to cases where there is a clear, present, and current threat of harm to self

or others. The proposed statute dismantles this standard, permitting preventative detention based on speculative or long-term risk assessments. This move raises serious due-process concerns, as it lowers the evidentiary bar for commitment and places excessive weight on predictive psychiatry rather than on objective, recent, and actionable behavior. In essence, the State can now justify the deprivation of liberty not on what the individual *has done* or *is about to do*, but on what a police officer, judge, or mental health professional predicts they *might do* at some undetermined point in the future. This is particularly troubling in light of all of the research which indicates that psychiatrists' predictions of future dangerousness and future decompensation are unreliable. See Diagnostic Error in Mental Health: A Review, 33 BMJ Quality & Safety 663 (2024).

The proposed definition includes criteria that are ineffectual, will be difficult for first responders and mental health treatment professionals to accurately assess, and will permit the unconstitutional involuntary hospitalization of individuals who may or may not become dangerous in the future. Such an expansion of the dangerousness also increases the risk that a panoply of idiosyncratic behaviors may fall under the "dangerous" umbrella.

The Proposed Changes increase The Likelihood of Abuse of The Process For Malicious Purposes

The proposed statute is problematic due to its inherent vagueness, speculative nature, and overbreadth, features that collectively raise concerns regarding its potential to increase abuse of the involuntary commitment process. The Office of the Public Defender (OPD) has witnessed malicious misuse under the existing, less permissive statutes. We are aware of numerous instances in which this process has been weaponized by individuals engaged in adversarial civil litigation, most notably in contentious divorce and child custody disputes, where one party seeks a strategic advantage or inflicts retaliatory harm by questioning the other's mental fitness.

Furthermore, this abuse is used as a tool for coercive control, particularly by perpetrators of domestic violence seeking to silence, discredit, or incapacitate their victims. The statute's lack of precise standards will disproportionately benefit those seeking to exploit a vulnerable individual's wealth, property, or estate for malicious financial gain. By lowering the threshold for involuntary commitment and broadening the criteria, the result of enacting this statute will be to significantly ease the path for those willing to manipulate and weaponize the mental health system for purely personal, malicious, and self-serving purposes.

There Are Serious Collateral Consequences Derivative Of Involuntary Commitment That Weigh Heavily Against Increasing The Number of Mentally Ill Individuals Eligible For Commitment

Involuntary civil commitment carries profound and lasting consequences for both adults and minors, adding significant burdens to vulnerable individuals with mental illnesses. These severe impacts, which can last for the remainder of an individual's life, stem automatically and potentially from the commitment and include a broad range of legal, economic, and social ramifications.

Key collateral consequences include:

- **Legal Restrictions:** Required registration with the Department of Public Safety and the FBI; restrictions on owning and purchasing firearms under both Maryland and federal law; loss of the right to vote; and loss of a driver's license.
- **Professional and Social Impacts:** Disqualification from certain employment; loss of professional licenses; inability to serve as a guardian or custodian of a child in need of assistance; loss of a security clearance; and immigration consequences.
- **Family Law:** The commitment can negatively impact child custody cases.
- **Social Stigma:** Perhaps the most significant consequence is the social stigmatization that results from being declared in need of mental treatment and committed to a psychiatric facility.

(See: DL v. Sheppard Pratt, 465 MD. 339 (2019))

Broadening The Definition Of Dangerousness Will Put A Strain On The Already Overburdened Mental Health Delivery System

Under Maryland law, the dangerous standard will be applied not only by mental health clinicians but also by law enforcement officers and lay persons. Relying on the judgment of law enforcement and lay persons in this context is inappropriate, given their lack of specific training and expertise. Consequently, this change is likely to significantly increase the number of individuals who are emergency petitioned and then certified for involuntary civil commitment. This will ultimately put a substantial strain on Maryland's already burdened mental health delivery system.

Broadening the definition will not demonstrably improve outcomes for more individuals. The high number of involuntary admissions already occurring shows that getting people in crisis into a facility is not the primary barrier to care. **The current challenge is the severe overburdening of the inpatient hospital system. Facilities are full, and emergency departments are holding patients for extended periods while searching for beds.** The OPD has represented clients who have remained in emergency departments for 60 to 90 days awaiting an inpatient psychiatric bed. **An increase in involuntary admissions, therefore, will only exacerbate the strain on a system that is already struggling to accommodate the current number of people certified for admission.**

In the current context – specifically, regarding the consideration of revising the "dangerousness" standard – the necessary foundational evidence is critically absent. The precise scope, nature, or extent of any systemic issue that might be addressed by such a revision remains completely unknown. Without a rigorous, data-driven understanding of the problem this legislative change is intended to solve, there is insufficient empirical support to justify the claim that revising the dangerousness standard would, in fact, result in a measurable enhancement of safety – either for the group of individuals subject to civil commitment proceedings or for the surrounding community. Implementing changes of this magnitude, based on unknown variables, represents a potentially detrimental policy action that privileges speculative benefit over the protection of established rights and proven equity concerns.

We therefore request an unfavorable report on HB 1014.

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