

## HB32/SB43

### Forensic Review Board and Community Forensic Aftercare Program

Maryland is facing a shortage of psychiatric beds for those in need. Too often we see people staying in detention centers while waiting for a bed to open in a psychiatric facility, not receiving the treatment they need <sup>1</sup>. As of January 2024, the average wait time for a forensic bed was 30 days <sup>2</sup>. Meanwhile, Marylanders who are found Not Criminally Responsible are in psychiatric facilities with an opaque and difficult process for seeking conditional release into the community. As of January 2024, 98% of Maryland's state hospital rooms were occupied <sup>3</sup>. By increasing transparency and access to this process, we can treat people in the community who don't need to be hospitalized and free up beds for those who do. Below are the bodies related to this process.

#### **Forensic Review Board (FRB):**

Patients who are committed to state mental health facilities have the right to an annual conditional release hearing. There is a lack of transparency in the process of obtaining conditional release as most are handled by internal hospital policy, specific to each hospital. In most hospitals in the state, there are boards that have the final say on whether or not a patient is approved for conditional release called the Forensic Review Board. These are largely independently-formed bodies within the hospital and there is currently no state statute related to their management or transparency.

#### **Community Forensic Aftercare Program (CFAP):**

Similarly, the program for monitoring released patients, the Community Forensic Aftercare Program, has no statute or regulations. CFAP monitors are tasked with monitoring treatment plans, condition compliance, and other factors of release. CFAP monitors are social workers but are not in a treating relationship with the individuals they monitor. Therefore, CFAP monitors cannot make treatment decisions. Still, they approve or deny requests related to many aspects of patients' lives, such as time with their families, career advancement opportunities, and access to education. In addition, without overall statute or regulations, individual monitors have no consistency in how they manage this process.

#### **This bill will:**

- ✓ Create consistency and transparency among the two programs directly related to a patient's release and subsequent re-entry into society
- ✓ Create statute for FRBs that:
  - Defines procedures for the board (e.g. members must be healthcare providers, boards must have an odd number of members, members cannot review a case without a quorum, etc.)
  - Requires a written record of the board's decisions with their reasoning to be placed in the patient's medical file and accessible by those with authority (advocates, lawyers, etc.)
- ✓ Create statute for CFAP that:
  - Clarifies CFAP may not make clinical decisions for patients
  - Requires regular CFAP meetings with patients, their mental health teams, and/or advocates appointed by patients
  - Stipulates that if CFAP receives an allegation of a patient out of compliance with the conditions of their release, there must be a proper notification process and connection to the State's Attorney
  - Requires timely distribution of records when requested

For more information please contact:

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<sup>1</sup><https://www.baltimoresun.com/2021/11/03/shortage-of-inpatient-beds-in-maryland-psychiatric-hospitals-is-putting-children-at-risk-officials-worry/>

<sup>2</sup><https://www.tac.org/wp-content/uploads/2024/02/Prevention-Over-Punishment-Full-Report.pdf>

<sup>3</sup><https://www.tac.org/wp-content/uploads/2024/02/Prevention-Over-Punishment-Full-Report.pdf>