



DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

March 5, 2020

The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Senate Bill 731 - Criminal Procedure - Committed Persons - Release Proceedings - Letter of Information

Dear Chairman Smith and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of information for Senate Bill 731 (SB 731) for the Committee's consideration.

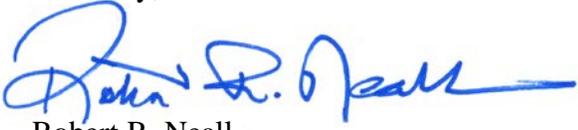
SB731 adds burdensome provisions to the statutes governing the release of individuals committed to the Department as not criminally responsible ("NCR"). The proposed amendments will add both time and cost to the release process. As a result, NCR patients will spend more time than necessary in the hospital, and the hospitals will not have beds needed for the Department's continued compliance with Ch. 188, 2018 Md. Laws.

For example, section 3-119(b) of the Criminal Procedure Article provides for an administrative hearing before an administrative law judge to determine whether an NCR patient is eligible for release. Those hearings are typically scheduled within thirty days of a request and are governed by the Office of Administrative Hearings (OAH) rules – including a rule that limits discovery to documents and the identity of witnesses. SB731 proposes to amend section 3-119(b) to instead provide that the circuit court's discovery rules apply to the administrative release hearings. All of these discovery items (interrogatories, document requests, deposition notices) would add time between the request for a release hearing and the actual hearing.

SB731 also proposes to amend the provisions regarding changes to conditional release orders by requiring a hearing on every requested change. In calendar year 2019, the Department requested extensions of thirty-nine conditional release orders, with very few hearings on those requests. SB 731 would require hearings on each of these requests, with both representatives from the Attorney General's Office and the Department attending each one. Preparing for and attending all of these hearings would be burdensome on both OAG and Department staff.

If you have any questions, please do not hesitate to contact Director of Governmental Affairs Webster Ye at (410) 260-3190 or webster.ye@maryland.gov or Kathleen Ellis, principal counsel at kathleen.ellis@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert R. Neall", with a long horizontal flourish extending to the right.

Robert R. Neall
Secretary