

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 731
Criminal Procedure – Committed Persons – Release Proceedings
DATE: February 26, 2020
(3/5)
POSITION: Oppose as drafted

The Maryland Judiciary opposes Senate Bill 731 as drafted. This bill makes changes to Title 3 of the Criminal Procedure Article regarding procedures for releasing a defendant who has been committed to a designated health facility based on a finding that the defendant is not criminally responsible.

On page 4, line 31 through page 5, line 9, it is not clear why the court would need to notify the Office of the Public Defender (OPD) of a violation of a condition of release in situations where the committed person has their own attorney of record. This notification is also required on page 6, lines 12 through 14, regarding a finding of no probable cause. This notification to the OPD seems unnecessary in circumstances where an individual has private representation.

In addition, at Criminal Procedure Article, § 3-119(b)(2)(ii), the bill calls for the Maryland Rules governing discovery to be applied in administrative hearings for committed persons, which could require Judiciary involvement to enforce discovery requirements. For instance, courts could be required to consider motions to compel discovery or motions for sanctions for non-compliance with the rules regarding discovery. This would cause the blending of administrative and judicial proceedings.

cc. Hon. Clarence Lam
Judicial Council
Legislative Committee
Kelley O'Connor