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DEPUTY MAJORITY WHIP

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony for Senate Bill 551
Criminal Procedure – Committed Persons – Release Proceedings
February 9, 2024

Good afternoon, Chair Smith, and members of the Judicial Proceedings Committee,

When an individual is found Not Criminally Responsible (“NCR”), courts commit that individual to the Department of Health for the care and treatment of their mental illnesses. Conditional release is the release of these individuals from psychiatric hospitals while requiring continuing treatment. Under current law, following judicial commitment, these individuals may request conditional release. At a hearing, the individual must show, by preponderance of the evidence that, if released, they would not be dangerous to themselves or others due to a mental illness.¹

Senate Bill 551 (“SB 551”) enhances judicial procedures involving conditional release for committed persons in a multitude of ways. First, regarding conditional release or discharge hearings, SB 551 applies the Maryland Rules governing discovery in the Circuit Court, regardless of venue. This ensures that individuals found NCR and petitioning for conditional release have discovery tools to fully exercise their constitutional rights.

Second, SB 551 explicitly states that courts have discretion to extend conditional release for up to five years. This clarification is intended to benefit the courts interpreting the law. Third, when a committed person requests a hearing regarding conditional release, SB 551 requires a hearing. Some courts have noted that in the current law, there is no explicit right to a hearing—SB 551 ensures these individuals the right to be heard.

Fourth, SB 551 requires courts to notify a committed person’s counsel of record if a warrant is issued for the person on conditional release. Providing notice of an alleged conditional release violation grants the individual’s counsel the opportunity to investigate the accusations and advocate for their clients.

¹ Md Code, Criminal Procedure § 3-114(d).

Finally, SB 551 clarifies that the Maryland Department of Health must provide certain records relating to treatment or conditional release upon request of any party. This modification recognizes that all parties need access to treatment information to foster more productive negotiations, and informed discussions.

For the reasons stated above, I respectfully request a favorable report for SB 551.