

HB 312– Criminal Procedure - Incompetency to Stand Trial

House Judiciary Committee

February 4, 2025

Position: Oppose

Mental Health Association of Maryland (MHAMD) is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health and substance use disorders (collectively referred to as behavioral health). We appreciate the opportunity to provide this testimony in opposition to HB 312.

HB 312 would extend the period of time that a person, who has been determined incompetent to stand trial, could be detained in a state hospital from a maximum of five years to a maximum of ten years, if the person has been charged with first-degree murder or sexually assaultive behavior. In addition, the bill would allow a victim to petition the court to extend the time of detention.

It is vital to remember that a person determined incompetent to stand trial has not been found guilty of any crime by a court of law.

The purpose of current Maryland law on incompetency is to provide rehabilitative services to permit an individual to become competent to stand trial on criminal charges. The National Judicial College has stated that best practice is for the initial competency restoration to be no more than 120 days. If at the end of the 120-day period, a treating mental health professional states that there is a substantial probability that the defendant can be restored to competency in the **foreseeable future**, it may be appropriate to extend treatment for an additional, limited number of days.¹ Research has shown that if a person has not been restored to competency within this period of time, it is highly unlikely that they will ever be restored to competency.

The guidance of the National Judicial College has been adopted by twenty states, which have a maximum treatment period of one year or less.

Extending in statute the time period for dismissal of charges far beyond the time during which the person is likely to be restored to competency is unjust, pointless, expensive, and would strain the state's already overcrowded state hospital system.

For these reasons MHAMD opposes HB 312 and urges an unfavorable report.

¹ "Mental Competency Best Practices Model," the National Judicial College, 2011.
<http://jec.unm.edu/about-jec/news/njc-launches-mental-competency-best-practices-website>