

May 27, 1986

The Honorable Melvin A. Steinberg  
President of the Senate  
State House  
Annapolis, Maryland 21404

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 1061. I strongly support increasing community services for the adolescent mentally ill. However, uncertainties related to application of the bill's funding formula create needless legal risks to the State, particularly given my commitment, stated below, to administratively implement its provisions.

This legislation requires the Governor to include certain funds in the operating budget for the Mental Hygiene Administration for Fiscal Year 1988. This minimum level of additional funding is determined by the operation of a formula which attempts to calculate the amount of net federal Medicaid reimbursements that the State will obtain in Fiscal Year 1987 for adolescents in State psychiatric facilities. These estimated federal funds are to be placed in the Fiscal Year 1988 State operating budget, in addition to the Fiscal Year 1987 level of non-Medicaid monies, to be used for community residential and support services for persons with mental disorders under the age of 21.

Article III, § 52 of the Maryland Constitution authorizes the General Assembly to enact laws requiring the Governor to include in the budget a minimum level of funding for particular programs. The Attorney General has stated that "such a statute must clearly prescribe a dollar amount on an objective basis from which a level of funding can easily be computed." 65 Opinions of the Attorney General 108, 110 (1980).

This bill requires that the mandatory appropriation be made as follows:

"Multiply \$100 (one-half of the average per diem Medicaid rate of reimbursement established by the Cost Accounting Division of the Department of Health and Mental Hygiene) by the number of Medicaid eligible persons under the age of 21 in each Department of Health and Mental Hygiene psychiatric facility accredited by the Joint Commission for the Accreditation of Hospitals as of September, 1986. Multiply that product by the number of bed days during fiscal year 1986 for each of the above persons."

In his bill review letter to me dated May 22, 1986, Attorney General Sachs observes:

"We recognize that an absolutely literal application of the formula would pose serious difficulties. The formula lacks a precise indication of when the relevant population is to