

# HOUSE BILL 1233

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CF SB 984

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By: **Delegate Sydnor**

Introduced and read first time: February 10, 2017

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program – Enhanced Security Compassionate**  
3 **Release Program**

4 FOR the purpose of establishing the Enhanced Security Compassionate Release Program  
5 in the Department of Health and Mental Hygiene; providing for the purpose of the  
6 Program; requiring the Program to include a certain initial cap on participation, a  
7 certain requirement that a certain individual be found to be medically incapacitated,  
8 and a requirement that a nursing facility meet certain requirements; providing for  
9 the construction of certain provisions of this Act; requiring the Department to adopt  
10 certain regulations; requiring, on or before a certain date, the Department to apply  
11 to the Centers for Medicare and Medicaid Services for a waiver to establish the  
12 Enhanced Security Compassionate Release Program; requiring the Department to  
13 take certain action if the waiver is approved; making certain provisions of this Act  
14 subject to a certain contingency; providing for the termination of certain provisions  
15 of this Act under certain circumstances; and generally relating to an Enhanced  
16 Security Compassionate Release Program waiver.

17 BY adding to  
18 Article – Health – General  
19 Section 15–140  
20 Annotated Code of Maryland  
21 (2015 Replacement Volume and 2016 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
23 That the Laws of Maryland read as follows:

24 **Article – Health – General**

25 **15–140.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(A) THERE IS AN ENHANCED SECURITY COMPASSIONATE RELEASE**  
2 **PROGRAM IN THE DEPARTMENT.**

3           **(B) THE PURPOSE OF THE ENHANCED SECURITY COMPASSIONATE**  
4 **RELEASE PROGRAM IS TO PROVIDE PROGRAM SERVICES TO AN INDIVIDUAL WHO:**

5                   **(1) REQUIRES SKILLED NURSING CARE OR OTHER RELATED**  
6 **SERVICES;**

7                   **(2) ON THE DAY IMMEDIATELY PRECEDING THE DAY ON WHICH THE**  
8 **INDIVIDUAL BEGINS TO RECEIVE NURSING FACILITY SERVICES, WAS AN INMATE OF**  
9 **A STATE CORRECTIONAL FACILITY;**

10                   **(3) WAS RELEASED AS IF ON PAROLE FROM CONFINEMENT IN THE**  
11 **STATE CORRECTIONAL FACILITY BECAUSE THE INDIVIDUAL IS:**

12                           **(I) TERMINALLY ILL; OR**

13                           **(II) MEDICALLY INCAPACITATED TO AN EXTENT AS TO NOT**  
14 **CONSTITUTE A RISK OF:**

15                                   1. **COMMITTING VIOLENT ACTS AT THE NURSING**  
16 **FACILITY; OR**

17                                   2. **LEAVING THE NURSING FACILITY UNSUPERVISED**  
18 **AND FOR ANY REASON OTHER THAN TO OBTAIN MEDICALLY NECESSARY HEALTH**  
19 **CARE NOT AVAILABLE AT THE NURSING FACILITY;**

20                   **(4) UNLESS THE INDIVIDUAL IS UNABLE TO DO SO BECAUSE THE**  
21 **INDIVIDUAL IS MEDICALLY INCAPACITATED, SIGNS A FORM UNDER WHICH THE**  
22 **INDIVIDUAL ACKNOWLEDGES THAT THE INDIVIDUAL UNDERSTANDS THE REASONS**  
23 **FOR WHICH THE INDIVIDUAL WILL OR MAY BE REQUIRED TO IMMEDIATELY RESUME**  
24 **CONFINEMENT IN A STATE CORRECTIONAL FACILITY; AND**

25                   **(5) MEETS ANY OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED**  
26 **BY THE DEPARTMENT.**

27           **(C) THE ENHANCED SECURITY COMPASSIONATE RELEASE PROGRAM**  
28 **SHALL INCLUDE:**

29                   **(1) AN INITIAL CAP ON WAIVER PARTICIPATION AT 500 INDIVIDUALS;**

1           **(2) A REQUIREMENT THAT AN INDIVIDUAL, WHO HAS BEEN**  
2 **DIAGNOSED AS HAVING ALZHEIMER'S DISEASE AND IS SEVERELY IMPAIRED AS**  
3 **SHOWN BY SCORING LESS THAN EIGHT ON THE BRIEF INTERVIEW FOR MENTAL**  
4 **STATUS TOOL, BE FOUND TO BE MEDICALLY INCAPACITATED; AND**

5           **(3) A REQUIREMENT THAT, IN ORDER TO RECEIVE REIMBURSEMENT**  
6 **FOR PROVIDING SERVICES, A NURSING FACILITY:**

7           **(I) IF REQUIRED BY THE DEPARTMENT OF CORRECTIONAL**  
8 **SERVICES, ENSURE THAT THE INDIVIDUAL IS CONFINED TO A DISTINCT PART OF THE**  
9 **NURSING FACILITY THAT:**

10           **1. HAS BEDS ONLY FOR OTHER INDIVIDUALS RECEIVING**  
11 **SERVICES UNDER THIS SECTION;**

12           **2. CANNOT BE ENTERED OR EXITED WITHOUT THE USE**  
13 **OF A KEY OR OTHER DEVICE THAT IS USABLE ONLY BY AUTHORIZED INDIVIDUALS**  
14 **AND THAT KEEPS THE PART SECURE FROM OTHER PARTS OF THE NURSING FACILITY**  
15 **AND THE OUTDOORS; AND**

16           **3. USES ELECTRONIC OR BIOMETRIC SYSTEMS TO**  
17 **MONITOR THE LOCATION OF THE INDIVIDUAL AND ENSURE THAT THE INDIVIDUAL**  
18 **IS ACCOUNTED FOR AT ALL TIMES;**

19           **(II) EMPLOY FULL-TIME, OR CONTRACT FOR THE FULL-TIME**  
20 **SERVICES OF, AT LEAST ONE LAW ENFORCEMENT OFFICER FOR EACH PART OF THE**  
21 **NURSING FACILITY THAT HAS BEDS USED BY INDIVIDUALS RECEIVING SERVICES**  
22 **UNDER THIS SECTION; AND**

23           **(III) EMPLOY, OR CONTRACT FOR THE SERVICES OF, OTHER**  
24 **SECURITY PERSONNEL FOR THE NURSING FACILITY AS REQUIRED BY REGULATIONS**  
25 **ADOPTED BY THE DEPARTMENT.**

26           **(D) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT, INTERFERE WITH,**  
27 **OR INTERRUPT ANY SERVICES REIMBURSED THROUGH THE PROGRAM UNDER THIS**  
28 **TITLE.**

29           **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**  
30 **SECTION.**

31           SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2017,  
32 the Department of Health and Mental Hygiene shall apply to the Centers for Medicare and  
33 Medicaid Services for a waiver to establish the Enhanced Security Compassionate Release

1 Program described in § 15–140 of the Health – General Article, as enacted by Section 1 of  
2 this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That:

4 (a) Section 1 of this Act is contingent on receipt by the Department of Health and  
5 Mental Hygiene of a letter confirming approval by the Centers for Medicare and Medicaid  
6 Services of the waiver for establishment of the Enhanced Security Compassionate Release  
7 Program applied for by the Department under Section 2 of this Act.

8 (b) The Department of Health and Mental Hygiene, within 5 days after receiving  
9 the approval letter from the Centers for Medicare and Medicaid Services, shall forward a  
10 copy of the letter to the Department of Legislative Services, 90 State Circle, Annapolis,  
11 Maryland 21401.

12 (c) (1) If a letter confirming approval of the waiver for the establishment of  
13 the Enhanced Security Compassionate Release Program is received by the Department of  
14 Health and Mental Hygiene on or before July 1, 2019, Section 1 of this Act shall take effect  
15 on the date that notice of the approval letter is received by the Department of Legislative  
16 Services.

17 (2) If the Department of Health and Mental Hygiene does not receive an  
18 approval letter on or before July 1, 2019, Section 1 of this Act, with no further action  
19 required by the General Assembly, shall be null and void and of no further force and effect.

20 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this  
21 Act, this Act shall take effect July 1, 2017.