

SENATE BILL 402

J1, E2

9lr2378
CF HB 306

By: **Senators Carter, Smith, Hough, Lee, Waldstreicher, Washington, and West**

Introduced and read first time: January 31, 2019

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2019

CHAPTER _____

1 AN ACT concerning

2 **Mental Health – Involuntary Admission – Inmates in Correctional Facilities**

3 FOR the purpose of ~~repealing a certain provision of law to allow an application for~~
4 ~~involuntary admission to a facility of an inmate in certain institutions to be made by~~
5 ~~any person who has a legitimate interest in the welfare of the individual;~~ altering
6 the circumstances under which a facility operated by the Maryland Department of
7 Health is required to receive and evaluate an inmate in a correctional facility who
8 has been certified for involuntary admission; ~~requiring each correctional facility to~~
9 ~~allow psychiatric evaluations and certification for inpatient admission completed~~
10 ~~under a certain provision of law to be privately paid for;~~ authorizing a court, under
11 certain circumstances, to impose any sanction reasonably designed to compel
12 compliance with a certain provision of this Act; authorizing the correctional facility,
13 or any person who has a certain interest, to file a request with a court, under certain
14 circumstances, to review the admission status of a certain inmate for a certain
15 purpose; authorizing the Department to accept a grant of funds from certain persons
16 for the purpose of complying with a certain provision of this Act; requiring the
17 Secretary of Health, in consultation with the Commissioner of Correction, to report
18 to certain committees of the General Assembly on or before a certain date each year;
19 defining certain terms; and generally relating to the involuntary admission of
20 inmates in correctional facilities.

21 BY repealing and reenacting, with amendments,

22 Article – Health – General

23 Section ~~10-614 and~~ 10-619

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2015 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, The denial of appropriate hospital treatment of inmates certified by mental health professionals as needing psychiatric inpatient care and treatment is a violation of the U.S. Constitution; and

WHEREAS, Keeping seriously mentally ill inmates certified as a danger to self or to others from appropriate inpatient treatment exacerbates their illness and violates their right to due process; and

WHEREAS, Research has shown that psychosis is associated with a very significant increased risk of violence, and treatment with antipsychotic and mood stabilizer medications can significantly reduce the risk of violent behavior; and

WHEREAS, In Maryland, medication over objection can legally be given only in a hospital under close supervision, not in a correctional facility; and

WHEREAS, Research has shown that delay in the treatment of psychosis results in worsening outcomes, increased necessary hospital treatment time, increased risk of relapse, and permanent brain damage; and

WHEREAS, The Maryland Department of Health has been in violation of § 10–619 of the Health – General Article, which requires hospital admission within 12 hours after receiving an admission application with certificates; and

WHEREAS, Seriously mentally ill inmates requiring hospital admission will continue to be unlawfully housed in detention centers unless the courts have oversight and authority to impose reasonable sanctions to incentivize compliance with § 10–619 of the Health – General Article; now, therefore,

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

Article – Health – General

~~10–614.~~

~~[(a) Except as provided in subsection (b) of this section, application]~~
~~APPLICATION for involuntary admission of an individual to a facility or Veterans'~~
~~Administration hospital may be made under this part by any person who has a legitimate~~
~~interest in the welfare of the individual.~~

~~[(b) If the Administration agrees to pay the appropriate expenses, application for~~
~~involuntary admission to a facility of an inmate in an institution under the Division of~~

1 ~~Correction or the Patuxent Institution may be made under this part by the Division or the~~
 2 ~~Patuxent Institution.]~~

3 10-619.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 5 INDICATED.

6 (2) "CORRECTIONAL FACILITY" HAS THE MEANING STATED IN §
 7 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.

8 (3) "INMATE" HAS THE MEANING STATED IN § 1-101 OF THE
 9 CORRECTIONAL SERVICES ARTICLE.

10 (B) (1) Within 12 hours of notification by a physician, licensed psychologist, or
 11 psychiatric nurse practitioner who has certified an individual WHO IS NOT AN INMATE IN
 12 A CORRECTIONAL FACILITY under this part, a facility operated by the Maryland
 13 Department of Health shall receive and evaluate the individual certified for involuntary
 14 admission if:

15 ~~(1)~~ (I) The individual's involuntary admission is not limited by §
 16 10-617 of this subtitle;

17 ~~(2)~~ (II) An application for admission has been completed; ~~AND~~

18 ~~(3)~~ (III) ~~(I)~~ ~~THE INDIVIDUAL IS AN INMATE IN A CORRECTIONAL~~
 19 ~~FACILITY; OR~~

20 ~~(II)~~ ~~IF THE INDIVIDUAL IS NOT AN INMATE IN A CORRECTIONAL~~
 21 ~~FACILITY;~~

22 ~~1~~ A certifying physician, psychologist, or psychiatric nurse
 23 practitioner is unable to place the individual in a facility not operated by the Department;
 24 and

25 [(4)] ~~2~~ (IV) The Department is unable to provide for the placement of
 26 the person other than in a facility operated by the Department.

27 (2) WITHIN 8 DAYS OF NOTIFICATION BY A PHYSICIAN, LICENSED
 28 PSYCHOLOGIST, OR PSYCHIATRIC NURSE PRACTITIONER WHO HAS CERTIFIED AN
 29 INDIVIDUAL WHO IS AN INMATE IN A CORRECTIONAL FACILITY UNDER THIS PART, A
 30 FACILITY OPERATED BY THE MARYLAND DEPARTMENT OF HEALTH SHALL RECEIVE
 31 AND EVALUATE THE INDIVIDUAL CERTIFIED FOR INVOLUNTARY ADMISSION IF:

1 **(I) THE INDIVIDUAL'S INVOLUNTARY ADMISSION IS NOT**
2 **LIMITED BY § 10-617 OF THIS SUBTITLE; AND**

3 **(II) AN APPLICATION FOR ADMISSION HAS BEEN COMPLETED.**

4 ~~**(C) EACH CORRECTIONAL FACILITY SHALL ALLOW PSYCHIATRIC**~~
5 ~~**EVALUATIONS AND CERTIFICATION FOR INPATIENT ADMISSION COMPLETED UNDER**~~
6 ~~**§ 10-616 OF THIS SUBTITLE TO BE PRIVATELY PAID FOR, WHETHER OR NOT THE**~~
7 ~~**CERTIFYING PHYSICIAN, PSYCHOLOGIST, OR PSYCHIATRIC NURSE PRACTITIONER**~~
8 ~~**COMPLETING THE EVALUATION AND CERTIFICATION IS EMPLOYED OR CONTRACTED**~~
9 ~~**BY THE CORRECTIONAL FACILITY.**~~

10 ~~**(D)**~~ **(C)** IF THE DEPARTMENT FAILS TO ADMIT AN INMATE TO A
11 DESIGNATED STATE FACILITY WITHIN THE TIME PERIOD SPECIFIED UNDER
12 SUBSECTION ~~**(B)**~~ **(B)(2)** OF THIS SECTION:

13 **(1)** A COURT MAY IMPOSE ANY SANCTIONS REASONABLY DESIGNED
14 TO COMPEL COMPLIANCE WITH SUBSECTION ~~**(B)**~~ **(B)(2)** OF THIS SECTION,
15 INCLUDING REQUIRING THE DEPARTMENT TO REIMBURSE A CORRECTIONAL
16 FACILITY FOR EXPENSES AND COSTS INCURRED IN RETAINING THE INMATE BEYOND
17 THE TIME PERIOD SPECIFIED AT THE DAILY RATE SPECIFIED IN § 9-402(B) OF THE
18 CORRECTIONAL SERVICES ARTICLE; AND

19 **(2)** THE CORRECTIONAL FACILITY, OR ANY PERSON WHO HAS A
20 LEGITIMATE INTEREST IN THE WELFARE OF THE INMATE, MAY FILE A REQUEST WITH
21 A COURT TO REVIEW THE ADMISSION STATUS OF THE INMATE TO DETERMINE
22 WHETHER THE DEPARTMENT HAS COMPLIED WITH SUBSECTION ~~**(B)**~~ **(B)(2)** OF THIS
23 SECTION.

24 ~~**(E)**~~ **(D)** THE DEPARTMENT MAY ACCEPT A GRANT OF FUNDS FROM THE
25 FEDERAL GOVERNMENT OR ANY OTHER PUBLIC OR PRIVATE FOUNDATION OR
26 AGENCY FOR THE PURPOSE OF COMPLYING WITH SUBSECTION ~~**(B)**~~ **(B)(2)** OF THIS
27 SECTION WITH REGARD TO INMATES IN CORRECTIONAL FACILITIES.

28 ~~**(F)**~~ **(E)** ON OR BEFORE OCTOBER 31 EACH YEAR, THE SECRETARY, IN
29 CONJUNCTION WITH THE COMMISSIONER OF CORRECTION, SHALL REPORT TO THE
30 SENATE JUDICIAL PROCEEDINGS COMMITTEE AND THE HOUSE JUDICIARY
31 COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
32 ARTICLE, ON THE ADMISSION OF INMATES TO STATE FACILITIES UNDER
33 SUBSECTION ~~**(B)**~~ **(B)(2)** OF THIS SECTION, INCLUDING:

34 **(1)** THE MEAN AND RANGE OF WAIT TIMES FOR STATE FACILITY
35 ADMISSION FOR:

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- (I) STATE PRISON INMATES;
- (II) PATUXENT INSTITUTION INMATES;
- (III) BALTIMORE CITY DETENTION CENTER INMATES; AND
- (IV) COUNTY DETENTION CENTER INMATES;

(2) THE NUMBER OF INMATES IN EACH FACILITY LISTED UNDER ITEM (1) OF THIS SUBSECTION WHO WAITED OVER ~~12 HOURS~~ 8 DAYS FOR STATE FACILITY ADMISSION; AND

(3) THE TOTAL AMOUNT OF PAYMENTS MADE BY THE DEPARTMENT AS A RESULT OF SANCTIONS IMPOSED BY A COURT UNDER SUBSECTION ~~(D)(1)~~ (C)(1) OF THIS SECTION DURING THE REPORTING YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.