

SENATE BILL 789

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By: **Senators Lam, Hayes, and Washington**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Involuntary Commitment – Procedures for Admission**

3 FOR the purpose of authorizing local correctional facilities to apply for involuntary
4 admission to a certain facility of a certain inmate if the Behavioral Health
5 Administration agrees to pay certain expenses; requiring the Administration to
6 accept certain inmates in a certain manner; prohibiting the Administration from
7 refusing to admit an inmate based on the source of the referral of the inmate;
8 requiring a certain examining physician to disclose the need for a certain order to
9 certain individuals under certain circumstances; providing that a certain notification
10 include a copy of a certain order under certain circumstances; adding certain legal
11 counsel to the entities that are to receive certain notice from a certain emergency
12 facility within a certain time period; adding certain individuals who are involuntarily
13 admitted to a facility under a certain provision of law to the individuals for whom a
14 certain report shall be prepared and certain court procedures shall be followed;
15 providing that a certain court order under a certain provision of law is a detainer
16 against an individual until a certain condition is met; and generally relating to the
17 involuntary admission of individuals into Behavioral Health Administration
18 facilities and the procedures for involuntary admission.

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 10–614, 10–625, and 10–626
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2018 Supplement)

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

26 **Article – Health – General**

27 10–614.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (b) If the Administration agrees to pay the appropriate expenses, application for
5 involuntary admission to a facility of an inmate in an institution under the Division of
6 Correction [or], the Patuxent Institution, **OR A LOCAL CORRECTIONAL FACILITY** may be
7 made under this part by the Division [or], the Patuxent Institution, **OR A LOCAL**
8 **CORRECTIONAL FACILITY**.

9 (c) **(1) THE ADMINISTRATION SHALL ACCEPT INMATES IN A FACILITY IN**
10 **ACCORDANCE WITH THIS SECTION IN THE ORDER IN WHICH AN APPLICATION IS**
11 **RECEIVED.**

12 **(2) THE ADMINISTRATION MAY NOT REFUSE TO ADMIT AN INMATE**
13 **BASED ON THE SOURCE OF THE REFERRAL OF THE INMATE.**

14 10-625.

15 (a) **(1) [If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF** an
16 emergency evaluatee meets the requirements for an involuntary admission and is unable or
17 unwilling to agree to a voluntary admission under this subtitle, the examining physician
18 shall take the steps needed for involuntary admission of the emergency evaluatee to an
19 appropriate facility, which may be a general hospital with a licensed inpatient psychiatric
20 unit.

21 **(2) IF THE EMERGENCY EVALUEE IS AN INDIVIDUAL HELD IN**
22 **PRETRIAL DETENTION, THE EXAMINING PHYSICIAN SHALL DISCLOSE THE NEED FOR**
23 **AN APPROPRIATE ORDER FOR CONDITIONAL RELEASE TO THE COURT, STATE'S**
24 **ATTORNEY, AND ANY DEFENSE COUNSEL.**

25 (b) (1) If the examining physician is unable to have the emergency evaluatee
26 admitted to a facility, the physician shall notify the Department.

27 **(2) IF THE EMERGENCY EVALUEE IS AN INDIVIDUAL HELD IN**
28 **PRETRIAL DETENTION, THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF**
29 **THIS SUBSECTION SHALL INCLUDE A COPY OF AN APPROPRIATE ORDER FOR**
30 **CONDITIONAL PRETRIAL RELEASE ISSUED BY THE COURT.**

31 **(3)** Within 6 hours after notification, the Department shall provide for
32 admission of the emergency evaluatee to an appropriate facility.

33 (c) (1) Within 30 hours after the emergency facility completes an application
34 for the involuntary admission of an emergency evaluatee, the emergency facility shall notify

1 the Mental Health Division in the Office of the Public Defender, **OR IF APPLICABLE,**
2 **OTHER LEGAL COUNSEL,** by e-mail or facsimile, of the completion of the application.

3 (2) The notice required under paragraph (1) of this subsection shall include
4 any legal documents relating to the acceptance of the emergency evaluatee into the
5 emergency facility, including the emergency petition, application for involuntary
6 admission, and certification for involuntary admission.

7 (3) The notice required under paragraph (1) of this subsection does not
8 apply to a patient who agrees to voluntary admission.

9 10-626.

10 (a) A court may order, at any time, an emergency evaluation under Part IV of this
11 subtitle of an individual who has been arrested, if the court finds probable cause to believe
12 that the individual has a mental disorder and the individual presents a danger to the life
13 or safety of the individual or of others.

14 (b) The court order for an emergency evaluation shall state the grounds.

15 (c) Unless the court directs otherwise, an individual who is taken to an emergency
16 facility under this section shall stay in the custody of the peace officer until the individual
17 either is admitted to an appropriate facility or returned to the court or an appropriate jail.

18 (d) If an individual was detained lawfully before the court ordered an emergency
19 evaluation under this section and the individual does not meet the requirements for
20 involuntary admission under this subtitle **OR THE INDIVIDUAL WAS INVOLUNTARILY**
21 **ADMITTED UNDER § 10-625 OF THIS SUBTITLE AND IS APPROVED FOR DISCHARGE:**

22 (1) The examining physician shall send a brief report of the evaluation to
23 the court; and

24 (2) The peace officer shall:

25 (i) Return to the court the individual, the court order, and the report
26 of the examining physician; or

27 (ii) If the court is not in session, take the individual to an appropriate
28 jail and, before the end of the next day that the court is in session, return to the court the
29 individual and the report of the examining physician.

30 (e) A court order under this section **OR § 10-625 OF THIS SUBTITLE** is a detainer
31 against an individual until:

32 (1) The charges against the individual are dismissed, nol prossed, or
33 stotted; or

1 (2) The individual appears in court.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
3 1, 2019.