

HOUSE BILL 1017

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CF SB 807

By: **Delegates K. Young, Henson, and Proctor**
Introduced and read first time: February 10, 2022
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Mental Health Law – Assisted Outpatient Treatment Pilot**
3 **Program**

4 FOR the purpose of establishing the Assisted Outpatient Treatment Pilot Program in
5 Frederick County; and generally relating to the Assisted Outpatient Treatment Pilot
6 Program in Frederick County.

7 BY adding to

8 Article – Health – General

9 Section 10–6A–01 through 10–6A–12 to be under the new subtitle “Subtitle 6A.
10 Frederick County Assisted Outpatient Treatment Pilot Program”

11 Annotated Code of Maryland

12 (2019 Replacement Volume and 2021 Supplement)

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

15 **Article – Health – General**

16 **SUBTITLE 6A. FREDERICK COUNTY ASSISTED OUTPATIENT TREATMENT PILOT**
17 **PROGRAM.**

18 **10–6A–01.**

19 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
20 **INDICATED.**

21 **(B) “ASSISTED OUTPATIENT TREATMENT” MEANS A SPECIFIC REGIMEN OF**
22 **OUTPATIENT TREATMENT FOR A MENTAL HEALTH DISORDER TO WHICH AN**
23 **INDIVIDUAL IS ORDERED BY THE COURT TO ADHERE.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (C) "PILOT PROGRAM" MEANS THE ASSISTED OUTPATIENT TREATMENT
2 PILOT PROGRAM.

3 (D) "TREATMENT PLAN" MEANS A PLAN DEVELOPED UNDER THE
4 SUPERVISION OF A TREATING PSYCHIATRIST, INCORPORATING ALL OUTPATIENT
5 TREATMENT SERVICES THAT ARE DETERMINED TO BE ESSENTIAL AND AVAILABLE
6 FOR THE MAINTENANCE OF AN INDIVIDUAL'S HEALTH AND SAFETY.

7 10-6A-02.

8 THIS SUBTITLE APPLIES ONLY IN FREDERICK COUNTY.

9 10-6A-03.

10 THERE IS AN ASSISTED OUTPATIENT TREATMENT PILOT PROGRAM IN
11 FREDERICK COUNTY.

12 10-6A-04.

13 (A) A PETITION FOR ASSISTED OUTPATIENT TREATMENT MAY BE MADE
14 UNDER THIS SUBTITLE BY THE DIRECTOR OF A MENTAL HEALTH PROGRAM
15 RECEIVING STATE FUNDING UNDER SUBTITLE 9, PART I OF THIS TITLE, OR BY ANY
16 INDIVIDUAL AT LEAST 18 YEARS OLD WHO HAS A LEGITIMATE INTEREST IN THE
17 WELFARE OF THE RESPONDENT.

18 (B) THE PETITION FOR ASSISTED OUTPATIENT TREATMENT SHALL BE IN
19 WRITING, SIGNED BY THE PETITIONER, AND SHALL STATE:

20 (1) THE PETITIONER'S NAME, ADDRESS, AND RELATIONSHIP, IF ANY,
21 TO THE RESPONDENT;

22 (2) THE NAME AND ANY KNOWN ADDRESS OF THE RESPONDENT;

23 (3) THAT THE PETITIONER HAS REASON TO BELIEVE THE
24 RESPONDENT MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT IN §
25 10-6A-05 OF THIS SUBTITLE; AND

26 (4) FOR EACH CRITERION FOR ASSISTED OUTPATIENT TREATMENT IN
27 § 10-6A-05 OF THIS SUBTITLE, THE SPECIFIC ALLEGATIONS OF FACT THAT
28 SUPPORT THE PETITIONER'S BELIEF THAT THE RESPONDENT MEETS THE
29 CRITERION.

1 **(C) THE PETITION FOR ASSISTED OUTPATIENT TREATMENT SHALL BE**
2 **ACCOMPANIED BY AN AFFIDAVIT OR AFFIRMATION OF A PSYCHIATRIST, STATING**
3 **THAT THE PSYCHIATRIST IS WILLING AND ABLE TO TESTIFY AT THE HEARING ON THE**
4 **PETITION AND EITHER:**

5 **(1) HAS EXAMINED THE RESPONDENT WITHIN 10 DAYS BEFORE THE**
6 **DATE OF THE PETITION AND HAS CONCLUDED THAT THE RESPONDENT MEETS THE**
7 **CRITERIA FOR ASSISTED OUTPATIENT TREATMENT IN § 10-6A-05 OF THIS**
8 **SUBTITLE; OR**

9 **(2) WAS NOT SUCCESSFUL IN PERSUADING THE RESPONDENT TO**
10 **SUBMIT TO AN EXAMINATION, DESPITE REASONABLE EFFORTS, WITHIN 10 DAYS**
11 **BEFORE THE DATE OF THE PETITION, AND HAS REASON TO BELIEVE THAT THE**
12 **RESPONDENT MEETS THE CRITERIA FOR ASSISTED OUTPATIENT TREATMENT IN §**
13 **10-6A-05 OF THIS SUBTITLE.**

14 **10-6A-05.**

15 **THE COURT MAY ORDER THE RESPONDENT TO RECEIVE ASSISTED**
16 **OUTPATIENT TREATMENT ON A FINDING BY CLEAR AND CONVINCING EVIDENCE**
17 **THAT:**

18 **(1) THE RESPONDENT RESIDES IN FREDERICK COUNTY AND IS AT**
19 **LEAST 18 YEARS OLD;**

20 **(2) THE RESPONDENT HAS A MENTAL DISORDER;**

21 **(3) THE RESPONDENT IS CAPABLE OF SURVIVING SAFELY IN THE**
22 **COMMUNITY WITH APPROPRIATE OUTPATIENT TREATMENT AND SUPPORT;**

23 **(4) THE RESPONDENT, IF NOT ADHERENT TO OUTPATIENT**
24 **TREATMENT, IS LIKELY TO DETERIORATE TO THE EXTENT THAT THE RESPONDENT**
25 **WILL COME TO PRESENT A DANGER TO THE LIFE OR SAFETY OF THE RESPONDENT**
26 **OR OTHERS;**

27 **(5) THE RESPONDENT IS UNLIKELY TO ADEQUATELY ADHERE TO**
28 **OUTPATIENT TREATMENT ON A VOLUNTARY BASIS, AS DEMONSTRATED BY THE**
29 **RESPONDENT'S RECENT HISTORY OF TREATMENT NONADHERENCE OR SPECIFIC**
30 **ASPECTS OF THE RESPONDENT'S CLINICAL CONDITION THAT PREVENT THE**
31 **RESPONDENT FROM MAKING RATIONAL AND INFORMED DECISIONS REGARDING**
32 **MENTAL HEALTH TREATMENT; AND**

1 **(6) ASSISTED OUTPATIENT TREATMENT IS THE LEAST RESTRICTIVE**
2 **ALTERNATIVE APPROPRIATE TO MAINTAIN THE HEALTH AND SAFETY OF THE**
3 **RESPONDENT.**

4 **10-6A-06.**

5 **(A) (1) NOT LATER THAN THE DATE OF THE PSYCHIATRIST'S TESTIMONY**
6 **REQUIRED UNDER § 10-6A-07 OF THIS SUBTITLE, THE PETITIONER SHALL PROVIDE**
7 **A TREATMENT PLAN IN WRITING TO THE COURT AND THE RESPONDENT.**

8 **(2) FOR EACH SERVICE LISTED IN THE TREATMENT PLAN, A**
9 **COMMUNITY-BASED PROVIDER THAT HAS AGREED TO PROVIDE THE SERVICE TO**
10 **THE RESPONDENT SHALL BE IDENTIFIED TO PROVIDE THE SERVICE.**

11 **(3) IF THE TREATMENT PLAN INCLUDES MEDICATION, THE TYPES OF**
12 **MEDICATION TO BE TAKEN SHALL BE IDENTIFIED, ALTHOUGH THE SPECIFIC**
13 **MEDICATIONS OR DOSES NEED NOT BE IDENTIFIED.**

14 **(B) (1) THE RESPONDENT, THE RESPONDENT'S GUARDIAN, THE**
15 **RESPONDENT'S HEALTH CARE AGENT, AND ANY INDIVIDUAL DESIGNATED BY THE**
16 **RESPONDENT SHALL BE GIVEN A REASONABLE OPPORTUNITY TO PARTICIPATE IN**
17 **THE DEVELOPMENT OF THE TREATMENT PLAN.**

18 **(2) IF THE RESPONDENT HAS EXECUTED A MENTAL HEALTH ADVANCE**
19 **DIRECTIVE, ANY DIRECTIONS INCLUDED IN THE ADVANCE DIRECTIVE SHALL BE**
20 **HONORED IN THE DEVELOPMENT OF THE TREATMENT PLAN UNLESS CONSIDERED**
21 **CONTRARY TO THE BEST INTEREST OF THE RESPONDENT BY THE PSYCHIATRIST.**

22 **10-6A-07.**

23 **(A) (1) ON RECEIPT OF A PETITION FOR ASSISTED OUTPATIENT**
24 **TREATMENT THAT MEETS THE REQUIREMENTS OF § 10-6A-04 OF THIS SUBTITLE,**
25 **THE COURT SHALL SCHEDULE THE DATE FOR A HEARING.**

26 **(2) THE HEARING SHALL BE NOT LATER THAN 3 BUSINESS DAYS**
27 **AFTER THE DATE THE PETITION IS RECEIVED BY THE COURT.**

28 **(3) AN ADJOURNMENT SHALL BE GRANTED ONLY FOR GOOD CAUSE**
29 **SHOWN AND IN CONSIDERATION OF THE NEED TO PROVIDE ASSISTED OUTPATIENT**
30 **TREATMENT EXPEDITIOUSLY.**

31 **(B) (1) THE RESPONDENT SHALL BE REPRESENTED BY COUNSEL AT THE**
32 **HEARING AND AT ALL STAGES OF THE PROCEEDINGS.**

1 **(2) AT THE HEARING, THE RESPONDENT SHALL BE GIVEN AN**
2 **OPPORTUNITY TO PRESENT EVIDENCE, TO CALL WITNESSES ON THE RESPONDENT'S**
3 **BEHALF, AND TO CROSS-EXAMINE ADVERSE WITNESSES.**

4 **(C) IF THE RESPONDENT DOES NOT APPEAR AT THE HEARING AFTER**
5 **REASONABLE EFFORTS TO SECURE THE RESPONDENT'S APPEARANCE, THE COURT**
6 **MAY CONDUCT THE HEARING IN THE RESPONDENT'S ABSENCE.**

7 **(D) (1) THE COURT SHALL SUSPEND THE HEARING IF THE RESPONDENT**
8 **HAS NOT BEEN EXAMINED BY A PSYCHIATRIST WITHIN 10 DAYS BEFORE THE DATE**
9 **OF THE PETITION.**

10 **(2) IF THE RESPONDENT HAS REFUSED TO BE EXAMINED BY THE**
11 **PSYCHIATRIST WHOSE AFFIDAVIT OR AFFIRMATION ACCOMPANIED THE PETITION,**
12 **THE COURT MAY INVITE THE RESPONDENT TO CONSENT TO EXAMINATION BY A**
13 **PSYCHIATRIST APPOINTED BY THE COURT.**

14 **(3) (I) IF THE RESPONDENT DOES NOT CONSENT TO THE**
15 **EXAMINATION, OR HAS NOT APPEARED AT THE HEARING AFTER REASONABLE**
16 **EFFORTS TO SECURE THE RESPONDENT'S APPEARANCE, AND THE COURT FINDS**
17 **PROBABLE CAUSE TO BELIEVE THAT THE ALLEGATIONS IN THE PETITION ARE TRUE,**
18 **THE COURT MAY DIRECT THAT THE RESPONDENT BE TAKEN INTO CUSTODY AND**
19 **TRANSPORTED TO AN APPROPRIATE FACILITY FOR EXAMINATION BY A**
20 **PSYCHIATRIST.**

21 **(II) THE RETENTION OF THE RESPONDENT AT A FACILITY IN**
22 **ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED 24**
23 **HOURS.**

24 **(4) A HEARING SUSPENDED IN ACCORDANCE WITH THIS SUBSECTION**
25 **SHALL RESUME EXPEDITIOUSLY AFTER THE COMPLETION OF THE REQUIRED**
26 **EXAMINATION.**

27 **(E) (1) THE PETITIONER'S PRESENTATION OF EVIDENCE SHALL INCLUDE**
28 **THE TESTIMONY OF A PSYCHIATRIST WHOSE MOST RECENT EXAMINATION OF THE**
29 **RESPONDENT OCCURRED AT LEAST 10 DAYS BEFORE THE DATE OF THE PETITION**
30 **AND WHO RECOMMENDS ASSISTED OUTPATIENT TREATMENT.**

31 **(2) THE PSYCHIATRIST SHALL STATE THE FACTS AND CLINICAL**
32 **DETERMINATIONS PROVIDING THE BASIS FOR THE PSYCHIATRIST'S OPINION THAT**
33 **THE RESPONDENT MEETS EACH OF THE CRITERIA FOR ASSISTED OUTPATIENT**
34 **TREATMENT IN § 10-6A-05 OF THIS SUBTITLE.**

1 **(F) (1) THE PETITIONER'S PRESENTATION OF EVIDENCE SHALL INCLUDE**
2 **THE TESTIMONY OF A TREATING PSYCHIATRIST, WHO MAY BE BUT NEED NOT BE THE**
3 **EXAMINING PSYCHIATRIST WHO TESTIFIED UNDER SUBSECTION (E) OF THIS**
4 **SECTION, TO EXPLAIN THE TREATMENT PLAN.**

5 **(2) FOR EACH CATEGORY OF PROPOSED TREATMENT, THE TREATING**
6 **PSYCHIATRIST SHALL STATE THE CLINICAL BASIS FOR THE DETERMINATION THAT**
7 **THE TREATMENT IS ESSENTIAL TO THE MAINTENANCE OF THE RESPONDENT'S**
8 **HEALTH OR SAFETY.**

9 **(3) THE TREATING PSYCHIATRIST SHALL TESTIFY AS TO THE**
10 **PARTICIPATION, IF ANY, OF THE RESPONDENT IN THE DEVELOPMENT OF THE**
11 **TREATMENT PLAN.**

12 **(4) IF, THE RESPONDENT HAS EXECUTED A MENTAL HEALTH**
13 **ADVANCE DIRECTIVE, THE TREATING PSYCHIATRIST SHALL STATE THE**
14 **CONSIDERATION GIVEN TO ANY DIRECTION INCLUDED IN THE ADVANCE DIRECTIVE**
15 **IN DEVELOPING THE TREATMENT PLAN.**

16 **10-6A-08.**

17 **(A) IF, AFTER HEARING ALL RELEVANT EVIDENCE, THE COURT DOES NOT**
18 **FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT MEETS THE**
19 **CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, THE COURT SHALL DENY THE**
20 **PETITION.**

21 **(B) (1) IF AFTER HEARING ALL RELEVANT EVIDENCE, THE COURT FINDS**
22 **BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT MEETS THE**
23 **CRITERIA FOR ASSISTED OUTPATIENT TREATMENT, THE COURT SHALL ORDER THE**
24 **RESPONDENT TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT FOR A PERIOD**
25 **NOT TO EXCEED 1 YEAR.**

26 **(2) THE COURT'S ORDER SHALL INCORPORATE A TREATMENT PLAN**
27 **THAT SHALL BE LIMITED IN SCOPE TO THE ELEMENTS INCLUDED IN THE**
28 **TREATMENT PLAN PRESENTED TO THE COURT, BUT SHALL INCLUDE ONLY THOSE**
29 **ELEMENTS THAT THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE TO BE**
30 **ESSENTIAL TO THE MAINTENANCE OF THE RESPONDENT'S HEALTH OR SAFETY.**

31 **10-6A-09.**

32 **(A) IN THIS SECTION, "MATERIAL CHANGE" MEANS AN ADDITION OR A**
33 **DELETION OF A CATEGORY OF SERVICES, AN ADDITION TO OR A DELETION FROM THE**

1 TREATMENT PLAN, OR ANY DEVIATION FROM THE TERMS OF THE TREATMENT PLAN
2 RELATING TO THE ADMINISTRATION OF MEDICATION.

3 (B) AT ANY TIME DURING THE PERIOD OF AN ORDER FOR ASSISTED
4 OUTPATIENT TREATMENT, THE PETITIONER OR RESPONDENT MAY MOVE THAT THE
5 COURT STAY, VACATE, OR MODIFY THE ORDER.

6 (C) A MATERIAL CHANGE TO THE TREATMENT PLAN OF A RESPONDENT
7 UNDER COURT ORDER DOES NOT REQUIRE THE RESPONDENT'S COMPLIANCE
8 UNLESS EXPLICITLY AUTHORIZED IN ADVANCE BY THE TERMS OF THE COURT
9 ORDER OR INCORPORATED BY THE COURT ON A FINDING BY CLEAR AND
10 CONVINCING EVIDENCE THAT THE MATERIAL CHANGE IS ESSENTIAL TO THE
11 MAINTENANCE OF THE RESPONDENT'S HEALTH OR SAFETY.

12 (D) NOT LATER THAN 5 BUSINESS DAYS AFTER RECEIVING A PETITION FOR
13 A MATERIAL CHANGE TO THE INCORPORATED TREATMENT PLAN, THE COURT SHALL
14 HOLD A HEARING UNLESS THE RESPONDENT INFORMS THE COURT THAT THE
15 RESPONDENT AGREES TO THE PROPOSED MATERIAL CHANGE.

16 (E) NONMATERIAL CHANGES TO THE TREATMENT PLAN SHALL BE DEEMED
17 TO REQUIRE THE RESPONDENT'S COMPLIANCE WITHOUT FURTHER ACTION BY THE
18 COURT.

19 (F) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A TREATING
20 PSYCHIATRIST TO DELAY CHANGES TO THE RESPONDENT'S TREATMENT PLAN AS
21 CIRCUMSTANCES MAY IMMEDIATELY REQUIRE.

22 10-6A-10.

23 (A) IF, AFTER REASONABLE EFFORTS TO SOLICIT COMPLIANCE, THE
24 RESPONDENT HAS MATERIALLY FAILED TO COMPLY WITH THE ORDER OF ASSISTED
25 OUTPATIENT TREATMENT, A TREATING PSYCHIATRIST MAY CONSIDER THE FAILURE
26 TO COMPLY AS PERTINENT INFORMATION IN DETERMINING WHETHER A PETITION
27 FOR EMERGENCY EVALUATION UNDER § 10-622 OF THIS TITLE IS WARRANTED.

28 (B) IF A PETITION FOR EMERGENCY EVALUATION IS FILED, THE
29 PSYCHIATRIST SHALL NOTIFY THE COURT IN WRITING OF THE REASONS FOR AND
30 FINDINGS OF THE EVALUATION.

31 (C) IN RESPONSE TO THE NOTICE, OR AT ANY TIME DURING THE PERIOD OF
32 THE ASSISTED OUTPATIENT TREATMENT ORDER ON ITS OWN MOTION, THE COURT
33 MAY CONVENE THE PARTIES FOR A CONFERENCE TO REVIEW THE PROGRESS OF THE
34 RESPONDENT.

1 (D) FAILURE TO COMPLY WITH AN ORDER OF ASSISTED OUTPATIENT
2 TREATMENT IS NOT GROUNDS FOR A FINDING OF CONTEMPT OF COURT OR FOR
3 INVOLUNTARY ADMISSION UNDER THIS TITLE.

4 **10-6A-11.**

5 (A) AT LEAST 30 DAYS BEFORE THE EXPIRATION OF AN ORDER OF ASSISTED
6 OUTPATIENT TREATMENT, A PETITIONER MAY PETITION THE COURT TO ORDER
7 CONTINUED ASSISTED OUTPATIENT TREATMENT FOR A PERIOD NOT TO EXCEED 1
8 YEAR FROM THE DATE OF THE EXPIRATION OF THE CURRENT ORDER.

9 (B) IF THE COURT'S DISPOSITION OF THE PETITION FILED UNDER
10 SUBSECTION (A) OF THIS SECTION DOES NOT OCCUR BEFORE THE DATE OF THE
11 EXPIRATION OF THE CURRENT ORDER, THE CURRENT ORDER SHALL REMAIN IN
12 EFFECT UNTIL THE DISPOSITION.

13 (C) THE PROCEDURES FOR OBTAINING ANY ORDER UNDER THIS SECTION
14 SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

15 **10-6A-12.**

16 ON OR BEFORE DECEMBER 1 EACH YEAR, THE ADMINISTRATION SHALL
17 SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE
18 STATE GOVERNMENT ARTICLE, A REPORT ON THE PILOT PROGRAM THAT
19 INCLUDES:

20 (1) THE NUMBER OF INDIVIDUALS WHO WERE ORDERED TO RECEIVE
21 ASSISTED OUTPATIENT TREATMENT UNDER THE PILOT PROGRAM DURING THE
22 IMMEDIATELY PRECEDING 12-MONTH PERIOD;

23 (2) THE PERCENTAGE OF INDIVIDUALS WHO ADHERED TO THE
24 TREATMENT PLANS ESTABLISHED FOR THE INDIVIDUALS UNDER THE PILOT
25 PROGRAM; AND

26 (3) A COST SAVINGS ANALYSIS REGARDING THE FUNDS SAVED BY
27 INDIVIDUALS RECEIVING OUTPATIENT TREATMENT UNDER THE PILOT PROGRAM.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2022.