

HB0823/663621/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 823

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**and Lopez**” and substitute “**Lopez, Pena-Melnyk, Cullison, Alston, Bagnall, Bhandari, Guzzone, Hill, Hutchinson, Kaiser, Kerr, R. Lewis, Martinez, Rosenberg, Taveras, White, and Woods**”; strike beginning with “providing” in line 4 down through “hospital” in line 7 and substitute “requiring the Office of the Public Defender to provide representation in assisted outpatient treatment proceedings”; and strike in their entirety lines 9 through 13, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 16–204(b)(1)

Annotated Code of Maryland

(2018 Replacement Volume and 2022 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 12, insert:

“Article – Criminal Procedure

16–204.

(b) (1) Indigent defendants or parties shall be provided representation under this title in:

(i) a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a serious offense;

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(ii) a criminal or juvenile proceeding in which an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge;

(iii) a postconviction proceeding for which the defendant has a right to an attorney under Title 7 of this article;

(iv) any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result;

(v) a proceeding involving children in need of assistance under § 3–813 of the Courts Article; [or]

(vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part III of the Family Law Article, including:

1. for a parent, a hearing in connection with guardianship or adoption;

2. a hearing under § 5–326 of the Family Law Article for which the parent has not waived the right to notice; and

3. an appeal; OR

(VII) AN ASSISTED OUTPATIENT TREATMENT PROCEEDING UNDER TITLE 10, SUBTITLE 6A OF THE HEALTH – GENERAL ARTICLE.”

On pages 2 through 4, strike in their entirety the lines beginning with line 14 on page 2 through line 6 on page 4, inclusive.

AMENDMENT NO. 3

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On page 4, after line 13, insert:

“(C) “CARE COORDINATION TEAM” MEANS A MULTIDISCIPLINARY TEAM ESTABLISHED BY A LOCAL BEHAVIORAL HEALTH AUTHORITY.”;

in line 14, strike “(C)” and substitute “(D)”; after line 14, insert:

“(E) “SERIOUS AND PERSISTENT MENTAL ILLNESS” MEANS A MENTAL ILLNESS THAT IS SEVERE IN DEGREE AND PERSISTENT IN DURATION, THAT CAUSES A SUBSTANTIALLY DIMINISHED LEVEL OF FUNCTIONING IN THE PRIMARY ASPECTS OF DAILY LIVING AND AN INABILITY TO MEET THE ORDINARY DEMANDS OF LIFE, AND THAT MAY LEAD TO AN INABILITY TO MAINTAIN INDEPENDENT FUNCTIONING IN THE COMMUNITY WITHOUT INTENSIVE TREATMENT AND SUPPORT.”;

in line 15, strike “(D)” and substitute “(F)”; in the same line, strike “TREATING”; in line 16, strike “PSYCHIATRIST” and substitute “CARE COORDINATION TEAM”; in line 18, after “SAFETY” insert “AND THAT INCLUDE, AT A MINIMUM, CASE MANAGEMENT OR ASSERTIVE COMMUNITY TREATMENT SERVICES AND PEER SUPPORT SERVICES”; in line 20, before “A” insert “(A) (1)”; and after line 21, insert:

“(2) A COUNTY MAY PARTNER WITH ANOTHER COUNTY TO ESTABLISH AN ASSISTED OUTPATIENT TREATMENT PROGRAM.

(3) AN ASSISTED OUTPATIENT TREATMENT PROGRAM SHALL BE AVAILABLE ONLY TO RESIDENTS OF THE COUNTY OR COUNTIES THAT ESTABLISH THE PROGRAM.

(B) (1) AN ASSISTED OUTPATIENT TREATMENT PROGRAM ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE APPROVED

(Over)

AND OVERSEEN BY THE LOCAL BEHAVIORAL HEALTH AUTHORITY FOR THE COUNTY.

(2) A COUNTY SHALL SUBMIT TO THE LOCAL BEHAVIORAL HEALTH AUTHORITY A PLAN FOR PERIODIC MEETINGS WITH THE COURT DURING THE PERIOD OF THE RESPONDENT’S ASSISTED OUTPATIENT TREATMENT.

On page 5, in line 14, strike “EITHER” and substitute “HAS”; in line 15, strike “HAS EXAMINED” and substitute “EXAMINED”; in line 16, strike “AND HAS CONCLUDED” and substitute “; AND”

(2) CONCLUDED;

strike beginning with “; OR” in line 18 down through “SUBTITLE” in line 23; after line 23, insert:

“(D) (1) A PETITION FOR ASSISTED OUTPATIENT TREATMENT SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE RESPONDENT RESIDES OR IN THE COUNTY OF THE LAST KNOWN RESIDENCE OF THE RESPONDENT.

(2) ON THE FILING OF A PETITION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CIRCUIT COURT SHALL NOTIFY THE COUNTY ATTORNEY AND THE MENTAL HEALTH DIVISION IN THE OFFICE OF THE PUBLIC DEFENDER OF THE FILING OF THE PETITION.

(E) A PETITION FILED UNDER THIS SUBTITLE SHALL BE HELD UNDER SEAL AND MAY NOT BE PUBLISHED ON MARYLAND JUDICIARY CASE SEARCH.;

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in line 25, strike “(A)”; and in lines 29 and 31, in each instance, strike “MENTAL DISORDER” and substitute “SERIOUS AND PERSISTENT MENTAL ILLNESS”.

On page 6, in lines 1 and 5, in each instance, strike “48-MONTH” and substitute “36-MONTH”; in line 3, strike “HOSPITALIZATION” and substitute “INPATIENT ADMISSION TO A PSYCHIATRIC HOSPITAL FOR AT LEAST 48 HOURS”; in line 4, after “FACILITY;” insert “OR”; in line 7, after the second “OR” insert “PATTERNS OF”; strike beginning with second “OR” in line 8 down through “ACT;” in line 14; in line 15, strike “SURVIVING” and substitute “MAINTAINING HEALTH AND SAFETY”; strike beginning with “THAT” in line 20 down through “OTHERS” in line 21; in line 24, strike “RECENT”; strike beginning with “OR” in line 24 down through “TREATMENT” in line 27 and substitute “, WHICH MAY NOT INCLUDE NONADHERENCE DUE TO FINANCIAL, TRANSPORTATION, OR LANGUAGE ISSUES, IN THE IMMEDIATELY PRECEDING 36-MONTH PERIOD”; in line 28, strike “ASSISTED” and substitute “IN VIEW OF THE RESPONDENT’S TREATMENT HISTORY AND BEHAVIOR AT THE TIME THE PETITION IS FILED, ASSISTED”; and strike in their entirety lines 31 through 33, inclusive.

On page 7, in line 2, strike beginning with “NOT” in line 1 down through “(2)” in line 4 and substitute “WITHIN 10 DAYS AFTER THE FILING OF THE PETITION WITH THE CIRCUIT COURT UNDER § 10-6A-03 OF THIS SUBTITLE, THE CARE COORDINATION TEAM SHALL DEVELOP A TREATMENT PLAN.”

(2);

strike in their entirety lines 7 through 9, inclusive; strike beginning with “IN” in line 16 down through “PSYCHIATRIST” in line 18; after line 18, insert:

“(3) (1) THE RESPONDENT SHALL HAVE AN OPPORTUNITY TO VOLUNTARILY AGREE TO THE TREATMENT PLAN.”

(Over)

(II) IF THE RESPONDENT VOLUNTARILY AGREES TO THE TREATMENT PLAN, THE PETITIONER’S ATTORNEY SHALL:

1. NOTIFY THE COURT THAT THE PARTIES ARE DISMISSING THE CASE IN ACCORDANCE WITH MARYLAND RULE 2-506; AND

2. FILE A STIPULATED AGREEMENT THAT INCLUDES THE TREATMENT PLAN.

(4) THE CARE COORDINATION TEAM SHALL PROVIDE TO THE RESPONDENT, THE COUNTY ATTORNEY, AND THE OFFICE OF THE PUBLIC DEFENDER THE TREATMENT PLAN AND THE PROVIDERS THAT ARE INCLUDED IN THE TREATMENT PLAN.

(5) IF THE CARE COORDINATION TEAM CHANGES THE TREATMENT PLAN OR THE PROVIDERS INCLUDED IN THE TREATMENT PLAN BEFORE THE HEARING CONDUCTED UNDER § 10-6A-06 OF THIS SUBTITLE, THE RESPONDENT, THE COUNTY ATTORNEY, AND THE OFFICE OF THE PUBLIC DEFENDER PROMPTLY SHALL BE NOTIFIED OF THE CHANGE AND THE JUSTIFICATION FOR THE CHANGE.”;

in line 23, after “BE” insert “SCHEDULED”; in the same line, strike “3 BUSINESS” and substitute “30”; strike in their entirety lines 25 through 27, inclusive, and substitute:

“(3) A HEARING SHALL BE SCHEDULED ONLY IF THE RESPONDENT HAS NOT AGREED TO ENTER VOLUNTARY TREATMENT.”;

in line 31, after “ATTORNEY,” insert “OR IS UNABLE TO OBTAIN AN ATTORNEY DUE TO THE RESPONDENT’S MENTAL ILLNESS,”; strike beginning with “AN” in line 32

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down through “RESPONDENT” in line 33 and substitute “THE OFFICE OF THE PUBLIC DEFENDER”; and after line 33, insert:

“(3) ALL RULES OF CIVIL PROCEDURE SHALL APPLY TO CASES FILED UNDER THIS SUBTITLE.

“(4) THIS SUBTITLE MAY NOT BE CONSTRUED TO ABRIDGE THE RIGHTS OF A RESPONDENT, AND ANY RIGHT NORMALLY AFFORDED TO AN INDIVIDUAL IN A CIVIL OR CRIMINAL MATTER SHALL APPLY.

“(5) PARTICIPATION IN ASSISTED OUTPATIENT TREATMENT MAY NOT BE USED AGAINST A RESPONDENT IN A SUBSEQUENT LEGAL MATTER THAT CARRIES NEGATIVE COLLATERAL CONSEQUENCES.”.

On page 8, strike in their entirety lines 4 through 26, inclusive; and in line 27, strike “(F)” and substitute “(D)”.

On page 9, in line 1, strike “(G)” and substitute “(E)”; in lines 2, 5, 9, and 13, in each instance, strike “TREATING”; in line 2, after “PSYCHIATRIST” insert “TO EXPLAIN THE TREATMENT PLAN”; in the same line, strike “MAY” and substitute “:

(I) MAY;

in line 3, strike “(F)” and substitute “(D)”; in line 4, strike “, TO EXPLAIN THE TREATMENT PLAN” and substitute “;AND

(II) HAS MET WITH THE RESPONDENT OR HAS MADE A GOOD FAITH EFFORT TO MEET WITH THE RESPONDENT, IS FAMILIAR WITH THE RELEVANT HISTORY TO THE EXTENT PRACTICABLE, AND HAS EXAMINED THE TREATMENT PLAN”;

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and strike in their entirety lines 16 and 17.

On page 10, strike beginning with “RELATING” in line 3 down through “MEDICATION” in line 4; in line 15, strike “5 BUSINESS” and substitute “30”; strike “PETITION” and substitute “MOTION, AND ANY TIMELY REPLIES TO THE MOTION,”; in line 16, strike “HOLD A HEARING” and substitute “RESPOND TO THE MOTION”; in line 24, after “(F)” insert “(1)”; in the same line, strike “TREATING”; and after line 26, insert:

“(2) THE CARE COORDINATION TEAM SHALL NOTIFY THE COURT AND THE ATTORNEYS FOR THE PETITIONER AND RESPONDENT IF A CHANGE IS MADE TO A TREATMENT PLAN IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.”.

On pages 10 and 11, strike in their entirety the lines beginning with line 28 on page 10 through line 3 on page 11, inclusive.

On page 11, in line 4, strike “(C)” and substitute “(A)”; in the same line, strike “IN RESPONSE TO THE NOTICE, OR AT” and substitute “AT”; after line 7, insert:

“(B) TO THE EXTENT PRACTICABLE, IF A PETITION FOR EMERGENCY EVALUATION OF THE RESPONDENT IS FILED OR IF THE RESPONDENT IS THE SUBJECT OF OTHER COURT INVOLVEMENT, THE PETITIONER SHALL NOTIFY THE RESPONDENT’S CARE COORDINATION TEAM OF THE PETITION OR OTHER COURT INVOLVEMENT.”;

in line 8, strike “(D)” and substitute “(C)”; strike beginning with “(1)” line 8 down through “FAILURE” in line 9 and substitute “FAILURE”; strike in their entirety lines 12 through 16, inclusive; in line 18, strike “(A)”; strike beginning with “A” in line 19 down

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through “ORDER” in line 21 and substitute “THE RESPONDENT’S CARE COORDINATION TEAM SHALL PROVIDE THE RESPONDENT WITH A PLAN FOR CONTINUED TREATMENT, IF CONSIDERED NECESSARY”; and strike in their entirety lines 22 through 27, inclusive.

AMENDMENT NO. 4

On page 11, in line 29, strike “(A)”.

On page 12, strike in their entirety lines 1 through 12, inclusive, and substitute:

“(1) PROGRAM STATISTICS FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD, INCLUDING THE NUMBER OF:

(I) PETITIONS FILED;

(II) RESPONDENTS UNDER COURT ORDER; AND

(III) VOLUNTARY AGREEMENTS MADE BY RESPONDENTS TO COMPLY WITH A TREATMENT PLAN;

(2) DEMOGRAPHIC CHARACTERISTICS OF ASSISTED OUTPATIENT TREATMENT PROGRAM RECIPIENTS DURING THE IMMEDIATELY PRECEDING 12-MONTH PERIOD, INCLUDING:

(I) AVERAGE AGE;

(II) LIVING SITUATION AT THE TIME OF THE ISSUANCE OF THE ASSISTED OUTPATIENT TREATMENT ORDER;

(Over)

(III) LIVING SITUATION AT THE TIME OF THE EXPIRATION OF THE ASSISTED OUTPATIENT TREATMENT ORDER;

(IV) GENDER;

(V) MARITAL STATUS;

(VI) RACE AND ETHNICITY;

(VII) RELIGION;

(VIII) FAMILIAL STATUS;

(IX) NATIONAL ORIGIN;

(X) SEXUAL ORIENTATION;

(XI) GENDER IDENTITY; AND

(XII) DISABILITY;

(3) INFORMATION ON DIAGNOSES OF ASSISTED OUTPATIENT TREATMENT RECIPIENTS, INCLUDING THE PERCENTAGE OF RECIPIENTS WITH SCHIZOPHRENIA, PSYCHOSIS, OR BIPOLAR DISORDER, OR WHO ARE REPORTED AS HAVING AN ALCOHOL OR SUBSTANCE USE DISORDER;

(4) INFORMATION ON THE BEHAVIORAL HEALTH SERVICES OFFERED THROUGH TREATMENT PLANS USED BY RESPONDENTS INCLUDING THE

FREQUENCY WITH WHICH THOSE SERVICES WERE INCLUDED IN TREATMENT PLANS;

(5) INFORMATION ON SIGNIFICANT LIFE EVENTS OF RECIPIENTS, INCLUDING THE PERCENTAGE OF ASSISTED OUTPATIENT TREATMENT RECIPIENTS WHO HAVE EXPERIENCED HOMELESSNESS, WERE INCARCERATED, OR WERE HOSPITALIZED IN A PSYCHIATRIC HOSPITAL IN THEIR LIFETIME;

(6) RECIPIENT OUTCOMES, INCLUDING:

(i) THE PERCENTAGE OF RECIPIENTS WHO HAVE BEEN HOMELESS, HOSPITALIZED, OR INCARCERATED WHILE A RECIPIENT OF ASSISTED OUTPATIENT TREATMENT COMPARED TO THE TIME BEING HOMELESS, HOSPITALIZED, OR INCARCERATED BEFORE RECEIVING ASSISTED OUTPATIENT TREATMENT SERVICES;

(ii) THE PERCENTAGE OF ASSISTED OUTPATIENT TREATMENT RECIPIENTS RECEIVING SERVICES DURING THE FIRST 6 MONTHS OF ASSISTED OUTPATIENT TREATMENT AND AT THE MOST RECENT FOLLOW-UP COMPARED TO BEFORE RECEIVING ASSISTED OUTPATIENT TREATMENT;

(iii) ENGAGEMENT AND ADHERENCE RATINGS AT 6 MONTHS AND AT THE MOST RECENT FOLLOW-UP COMPARED TO ENGAGEMENT AND ADHERENCE RATINGS AT THE ONSET OF ASSISTED OUTPATIENT TREATMENT;

(iv) REDUCED DIFFICULTY IN AREAS OF SELF-CARE AND SOCIAL AND COMMUNITY FUNCTIONING AT 6 MONTHS AND AT THE MOST RECENT FOLLOW-UP COMPARED TO DIFFICULTIES AT THE ONSET OF ASSISTED OUTPATIENT TREATMENT;

(Over)

(V) REDUCED INCIDENCE OF HARMFUL BEHAVIORS AT 6 MONTHS AND AT THE MOST RECENT FOLLOW-UP COMPARED TO INCIDENCE OF HARMFUL BEHAVIORS AT THE ONSET OF ASSISTED OUTPATIENT TREATMENT; AND

(VI) A SUMMARY OF THE OUTCOMES INCLUDED IN THE REPORT UNDER ITEMS (I) THROUGH (V) OF THIS ITEM; AND

(7) A SURVEY OF THE SATISFACTION OF THE RECIPIENTS WITH THE PROGRAM.”.