

HOUSE BILL 801

E2

4r1901
CF SB 551

By: **Delegates Kaufman, Clippinger, Embry, Phillips, Taylor, and Williams**

Introduced and read first time: January 31, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Committed Persons – Release Proceedings**

3 FOR the purpose of providing that certain provisions of the Maryland Rules relating to
4 discovery apply in a certain administrative proceeding; requiring a court that
5 receives a certain report to promptly notify certain persons; requiring the Maryland
6 Department of Health to notify the court and certain persons if the Department
7 receives a certain report; requiring a court to hold a hearing on request by any party
8 after a certain application is made; establishing that a certain applicant has a certain
9 burden of proof to establish a certain issue by a preponderance of the evidence;
10 authorizing a court to modify a certain conditional release in a certain manner at a
11 certain time; requiring the Department to provide certain documents on request by
12 certain persons; and generally relating to release proceedings.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 3–119, 3–121(b), and 3–122
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2023 Supplement)

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

20 **Article – Criminal Procedure**

21 3–119.

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.



1 (a) (1) Not earlier than 1 year after the initial release hearing ends or was
2 waived, and not more than once a year thereafter, a committed person may apply for release
3 under either subsection (b) or (c) of this section, but not both.

4 (2) Notwithstanding the time restrictions in paragraph (1) of this
5 subsection, a committed person may file an application for release at any time if the
6 application is accompanied by an affidavit of a physician or licensed psychologist that states
7 an improvement in the mental condition of the committed person since the last hearing.

8 (b) (1) To apply for release under this subsection, the committed person shall
9 file an application for release with the Health Department and notify the court and State's
10 Attorney, in writing, of this request.

11 (2) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
12 **SUBSECTION**, the provisions of this title governing administrative hearing and judicial
13 determination of eligibility for release apply to any application for release under this
14 subsection.

15 **(3) IN A PROCEEDING HELD UNDER THIS TITLE TO DETERMINE**
16 **ELIGIBILITY FOR CONDITIONAL RELEASE OR DISCHARGE, THE MARYLAND RULES**
17 **GOVERNING DISCOVERY IN CIVIL MATTERS IN THE CIRCUIT COURT SHALL APPLY**
18 **REGARDLESS OF THE VENUE OF THE HEARING.**

19 (c) (1) To apply for release under this subsection, the committed person shall
20 file a petition for release with the court that ordered commitment.

21 (2) The committed person shall send a copy of the petition for release to the
22 Health Department and the State's Attorney.

23 (3) If the committed person requests a trial by jury, the trial shall be held
24 in a circuit court with a jury as in a civil action at law.

25 (4) The trier of fact shall:

26 (i) determine whether the committed person has proved eligibility
27 for release by a preponderance of the evidence; and

28 (ii) render a verdict for:

- 29 1. continued commitment;
- 30 2. conditional release; or
- 31 3. discharge from commitment.

1 (5) If the trier of fact renders a verdict for conditional release, within 30
2 days after the verdict, the court shall release the committed person under conditions it
3 imposes in accordance with specific recommendations for conditions under § 3–116(b) of
4 this title.

5 (d) (1) An appeal from a District Court order shall be on the record in the
6 circuit court.

7 (2) An appeal from a circuit court order shall be by application for leave to
8 appeal to the Appellate Court of Maryland.

9 3–121.

10 (b) (1) If a court receives a report that alleges that a committed person has
11 violated a condition of a conditional release, the court promptly shall:

12 (i) notify:

13 1. the Health Department;

14 2. **COUNSEL OF RECORD FOR THE COMMITTED PERSON;**

15 and

16 [(ii)] 3. [notify] the State's Attorney; and

17 (II) provide **THE STATE'S ATTORNEY WITH** the name, address, and
18 telephone number of the person who reported the violation and a copy of the order for
19 conditional release.

20 (2) If the Health Department receives a report that alleges that a
21 committed person has violated conditional release, the Department shall:

22 (i) notify:

23 1. the court;

24 2. **COUNSEL OF RECORD FOR THE COMMITTED PERSON;**

25 and

26 3. the State's Attorney; and

27 (ii) provide the State's Attorney with the name, address, and
28 telephone number of the person who reported the violation and a copy of the order for
29 conditional release.

30 3–122.

1 (a) (1) An application to the court for a change in conditional release of a
2 committed person may be made by:

3 (i) the Health Department or the State's Attorney at any time; or

4 (ii) the committed person not earlier than 6 months after the court
5 ordered the conditional release, unless the court for good cause permits an earlier
6 application.

7 (2) The applicant for a change in conditional release shall notify the court
8 and other parties, in writing, of the application and the reasons for the requested change.

9 (3) **ON REQUEST BY ANY PARTY, THE COURT SHALL HOLD A HEARING**
10 **AFTER AN APPLICATION IS MADE UNDER THIS SUBSECTION TO DETERMINE**
11 **WHETHER THE APPLICANT HAS SATISFIED THE REQUIREMENTS FOR RELEASE**
12 **UNDER § 3-114 OF THIS TITLE.**

13 (b) The **APPLICANT HAS THE** burden [of proof of] **TO ESTABLISH, BY A**
14 **PREPONDERANCE OF THE EVIDENCE,** any issue raised [by the] **IN AN** application for
15 change in conditional release [rests with the applicant] **UNDER SUBSECTION (A) OF THIS**
16 **SECTION.**

17 **(C) ON WRITTEN REQUEST BY THE STATE'S ATTORNEY, THE COMMITTED**
18 **PERSON, OR COUNSEL OF RECORD FOR THE COMMITTED PERSON, THE HEALTH**
19 **DEPARTMENT SHALL PROVIDE ALL REPORTS, ASSESSMENTS, EVALUATIONS, AND**
20 **SIMILAR DOCUMENTS CONCERNING THE COMMITTED PERSON PREPARED OR**
21 **CONDUCTED BY, FOR, OR AT THE DIRECTION OF THE HEALTH DEPARTMENT DURING**
22 **THE PERIOD OF THE COMMITTED PERSON'S COMMITMENT OR CONDITIONAL**
23 **RELEASE.**

24 ~~(e)~~ **(D)** After the court considers the application for change in conditional
25 release and the evidence, in accordance with § 3-114 of this title, the court shall:

26 (1) change the conditions;

27 (2) impose appropriate additional conditions;

28 (3) revoke the conditional release;

29 (4) continue the present conditions of release; [or]

30 (5) extend the conditional release by an additional term [of] **NOT**
31 **EXCEEDING 5 years;**

1 **(6) SHORTEN THE CONDITIONAL RELEASE; OR**

2 **(7) TERMINATE THE CONDITIONAL RELEASE.**

3 ~~(D)~~ **(E)** (1) Not earlier than 1 year after the court action on the application
4 for change filed by the committed person, and not more than once a year thereafter, a
5 committed person may reapply for a change in conditional release.

6 (2) Notwithstanding the time restrictions in paragraph (1) of this
7 subsection, a committed person may apply for a change in conditional release at any time
8 if the application is accompanied by an affidavit of a physician or licensed psychologist that
9 states an improvement in the mental condition of the committed person.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.