

(PRE-FILED)

By: **Senators Bromwell and DeGrange**
Requested: July 3, 2001
Introduced and read first time: January 9, 2002
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances - Prescription Drug Monitoring Program**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to
4 establish an electronic monitoring program of controlled dangerous substances
5 prescribed in the State; requiring dispensers of controlled dangerous substances
6 to report to the Department; requiring certain data to be included in the report;
7 requiring that the data be transmitted in an electronic format; authorizing the
8 Department to provide the data to certain individuals; prohibiting authorized
9 individuals who receive the data from providing the information to anyone else;
10 requiring certain individuals using the data for certain purposes to consider
11 certain factors; requiring that the data and reports from the data be confidential
12 and not public record; creating certain criminal penalties for failure to provide
13 data to the Department and for disclosing information to an unauthorized
14 individual; and generally relating to a monitoring program for prescriptions of
15 controlled dangerous substances.

16 BY adding to
17 Article - Criminal Law
18 Section 5-506
19 Annotated Code of Maryland
20 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
21 2002)

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

24 **Article - Criminal Law**

25 5-506.

26 (A) THE DEPARTMENT SHALL ESTABLISH A PROGRAM FOR ELECTRONIC
27 MONITORING OF SCHEDULES II, III, IV, AND V CONTROLLED DANGEROUS
28 SUBSTANCES THAT ARE DISPENSED IN THE STATE BY AN AUTHORIZED PROVIDER, OR

1 DISPENSED TO AN ADDRESS IN THE STATE BY A PHARMACY LICENSED BY THE STATE
2 BOARD OF PHARMACY.

3 (B) (1) EACH DISPENSER IN THE STATE THAT IS LICENSED BY THE BOARD
4 OF PHARMACY SHALL REPORT TO THE DEPARTMENT THE DATA REQUIRED BY THIS
5 SECTION IN A TIMELY MANNER AS REQUIRED BY THE DEPARTMENT.

6 (2) THE DATA FOR EACH CONTROLLED DANGEROUS SUBSTANCE THAT
7 IS DISPENSED SHALL INCLUDE:

8 (I) THE PATIENT IDENTIFIER;

9 (II) THE DRUG DISPENSED;

10 (III) THE DATE OF DISPENSING;

11 (IV) THE QUANTITY DISPENSED;

12 (V) THE PRESCRIBER;

13 (VI) THE DISPENSER; AND

14 (VII) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

15 (3) THE DISPENSER SHALL PROVIDE THE DATA IN THE ELECTRONIC
16 FORMAT SPECIFIED BY THE DEPARTMENT UNLESS A WAIVER HAS BEEN GRANTED
17 BY THE DEPARTMENT TO AN INDIVIDUAL DISPENSER.

18 (4) THIS SUBSECTION DOES NOT REQUIRE REPORTING IF:

19 (I) A DRUG IS ADMINISTERED DIRECTLY TO A PATIENT; OR

20 (II) A DRUG IS DISPENSED BY A PRACTITIONER AT A FACILITY
21 LICENSED BY THE DEPARTMENT, PROVIDED THAT THE QUANTITY DISPENSED IS
22 LIMITED TO AN AMOUNT ADEQUATE TO TREAT THE PATIENT FOR A MAXIMUM OF 48
23 HOURS.

24 (C) (1) THE DEPARTMENT MAY PROVIDE DATA:

25 (I) TO A DESIGNATED REPRESENTATIVE OF A BOARD
26 RESPONSIBLE FOR THE LICENSING, REGULATION, OR DISCIPLINE OF AN
27 AUTHORIZED PROVIDER, OR OTHER PERSON WHO IS AUTHORIZED TO PRESCRIBE,
28 ADMINISTER, OR DISPENSE CONTROLLED DANGEROUS SUBSTANCES AND WHO IS
29 INVOLVED IN A SPECIFIC INVESTIGATION INVOLVING A SPECIFIC PERSON;

30 (II) TO A STATE, FEDERAL, OR LOCAL OFFICER RESPONSIBLE FOR
31 ENFORCING THE LAWS OF THIS STATE OR THE UNITED STATES RELATING TO DRUGS
32 AND WHO IS ENGAGED IN AN INVESTIGATION INVOLVING A SPECIFIC PERSON;

33 (III) TO A STATE-OPERATED MEDICAID PROGRAM;

1 (IV) IN RESPONSE TO A PROPERLY ISSUED SUBPOENA IN A
2 CRIMINAL INVESTIGATION OR PROSECUTION; OR

3 (V) TO AN AUTHORIZED PROVIDER THAT REQUESTS INFORMATION
4 AND CERTIFIES THAT THE REQUESTED INFORMATION IS FOR THE PURPOSE OF
5 PROVIDING MEDICAL OR PHARMACEUTICAL TREATMENT TO A CURRENT PATIENT.

6 (2) A PERSON THAT RECEIVES FROM THE DEPARTMENT DATA OR ANY
7 REPORT OBTAINED FROM THE DATA MAY NOT PROVIDE IT TO ANOTHER EXCEPT BY
8 ORDER OF A COURT OF COMPETENT JURISDICTION.

9 (D) THE DEPARTMENT, LAW ENFORCEMENT OFFICERS, COURTS, AND
10 REGULATORY AGENCIES AND OFFICERS WHO USE THE DATA FOR INVESTIGATIVE OR
11 PROSECUTION PURPOSES SHALL CONSIDER THE NATURE OF THE AUTHORIZED
12 PROVIDER'S PRACTICE AND THE CONDITION FOR WHICH THE PATIENT IS BEING
13 TREATED.

14 (E) THE DATA AND ANY REPORT OBTAINED FROM THE DATA ARE
15 CONFIDENTIAL INFORMATION AND ARE NOT A PUBLIC RECORD.

16 (F) (1) A DISPENSER THAT KNOWINGLY FAILS TO TRANSMIT DATA TO THE
17 DEPARTMENT AS REQUIRED BY SUBSECTION (B) OF THIS SECTION IS GUILTY OF A
18 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500
19 FOR EACH FAILURE TO SUBMIT DATA.

20 (2) A PERSON THAT KNOWINGLY DISCLOSES TRANSMITTED DATA TO A
21 PERSON NOT AUTHORIZED BY SUBSECTION (C) OF THIS SECTION, OR KNOWINGLY
22 OBTAINS INFORMATION UNDER THIS SECTION NOT RELATING TO AN
23 INVESTIGATION, IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
24 IMPRISONMENT NOT EXCEEDING 5 YEARS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2002.