

# SENATE BILL 1040

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CF HB 1258

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By: **Senator Garagiola**

Introduced and read first time: March 1, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Mental Hygiene – Reform of Laws and Delivery of Services**

3 FOR the purpose of modifying certain standards for involuntary admissions of  
4 individuals with mental disorders to certain facilities or a Veterans'  
5 Administration hospital under certain circumstances; modifying certain  
6 standards for emergency evaluations of individuals with mental disorders under  
7 certain circumstances; modifying certain standards for clinical review panel  
8 approval; establishing the Task Force on the Delivery of Services to Individuals  
9 with Mental Illness; providing for the membership and staffing of the Task  
10 Force; requiring the Governor to designate the chair of the Task Force;  
11 providing that a member of the Task Force may not receive compensation as a  
12 member of the Task Force but is entitled to certain reimbursement; requiring  
13 the Task Force to examine certain issues and make certain reports to the  
14 Governor and General Assembly; defining certain terms; making stylistic  
15 changes; providing for the termination of certain provisions of this Act; and  
16 generally relating to the reform of mental hygiene laws and delivery of services  
17 to individuals with mental illness.

18 BY renumbering

19 Article – Health – General  
20 Section 10–631 through 10–633, respectively  
21 to be Section 10–632 through 10–634, respectively  
22 Annotated Code of Maryland  
23 (2009 Replacement Volume and 2012 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article – Health – General  
26 Section 10–613, 10–617(a), 10–620, 10–622(a) and (c), 10–623(b), 10–626(a), and  
27 10–708(g)  
28 Annotated Code of Maryland  
29 (2009 Replacement Volume and 2012 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
 2 Article – Health – General  
 3 Section 10–708(a)  
 4 Annotated Code of Maryland  
 5 (2009 Replacement Volume and 2012 Supplement)

6 BY adding to  
 7 Article – Health – General  
 8 Section 10–631  
 9 Annotated Code of Maryland  
 10 (2009 Replacement Volume and 2012 Supplement)

11 BY repealing and reenacting, without amendments,  
 12 Article – Health – General  
 13 Section 10–633(a)  
 14 Annotated Code of Maryland  
 15 (2009 Replacement Volume and 2012 Supplement)  
 16 (As enacted by Section 1 of this Act)

17 BY repealing and reenacting, with amendments,  
 18 Article – Health – General  
 19 Section 10–633(e)  
 20 Annotated Code of Maryland  
 21 (2009 Replacement Volume and 2012 Supplement)  
 22 (As enacted by Section 1 of this Act)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 24 MARYLAND, That Section(s) 10–631 through 10–633, respectively, of Article – Health  
 25 – General of the Annotated Code of Maryland be renumbered to be Section(s) 10–632  
 26 through 10–634, respectively.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 28 read as follows:

29 **Article – Health – General**

30 10–613.

31 **(A)** In Part III of this subtitle[, “involuntary admission”] **THE FOLLOWING**  
 32 **WORDS HAVE THE MEANINGS INDICATED.**

33 **(B)** **“GRAVELY DISABLED” MEANS THAT AN INDIVIDUAL:**

34 **(1) IS INCAPABLE OF MAKING AN INFORMED DECISION; AND**

1           **(2) HAS BEHAVED IN SUCH A MANNER AS TO INDICATE THAT THE**  
2 **INDIVIDUAL IS UNLIKELY, WITHOUT THE SUPERVISION AND THE ASSISTANCE OF**  
3 **OTHERS, TO SATISFY THE INDIVIDUAL’S NEED FOR NOURISHMENT, PERSONAL**  
4 **OR MEDICAL CARE, SHELTER, OR SELF-PROTECTION AND SAFETY, SO THAT IT IS**  
5 **PROBABLE THAT SUBSTANTIAL BODILY HARM, SIGNIFICANT PSYCHIATRIC**  
6 **DETERIORATION OR DEBILITATION, OR SERIOUS ILLNESS WILL RESULT UNLESS**  
7 **ADEQUATE TREATMENT IS PROVIDED TO THE INDIVIDUAL.**

8           **(C) “INCAPABLE OF MAKING AN INFORMED DECISION” MEANS THAT AN**  
9 **INDIVIDUAL IS UNAWARE OF THE EFFECTS OF THE INDIVIDUAL’S PSYCHIATRIC**  
10 **DISORDER OR THAT THE INDIVIDUAL LACKS THE CAPACITY TO MAKE A**  
11 **WELL-REASONED, WILLFUL, AND KNOWING DECISION CONCERNING THE**  
12 **INDIVIDUAL’S OWN MEDICAL OR PSYCHIATRIC TREATMENT, TAKING INTO**  
13 **CONSIDERATION THE HISTORY, IF AVAILABLE, OF THE INDIVIDUAL’S**  
14 **NONCOMPLIANCE WITH TREATMENT OR OF CRIMINAL ACTS RELATED TO THE**  
15 **INDIVIDUAL’S MENTAL ILLNESS.**

16           **(D) “INVOLUNTARY ADMISSION” includes every admission of a minor to a**  
17 **State facility unless the admission is a voluntary admission authorized under Part II**  
18 **of this subtitle.**

19           **(E) “MENTAL DISORDER” DOES NOT INCLUDE:**

20           **(1) INTELLECTUAL DISABILITY;**

21           **(2) CONDITIONS THAT PRIMARILY ARE CAUSED BY DRUG OR**  
22 **ALCOHOL ABUSE;**

23           **(3) EPILEPSY, MULTIPLE SCLEROSIS, PARKINSON’S DISEASE,**  
24 **ALZHEIMER’S DISEASE, AND OTHER KNOWN NEUROLOGICAL DISORDERS;**

25           **(4) NORMAL AGE-RELATED CHANGES IN THE BRAIN;**

26           **(5) BRAIN CHANGES RELATED TO TERMINAL MEDICAL**  
27 **CONDITIONS;**

28           **(6) PERSONALITY DISORDERS AS DEFINED IN THE AMERICAN**  
29 **PSYCHIATRIC ASSOCIATION’S “DIAGNOSTIC AND STATISTICAL MANUAL OF**  
30 **MENTAL DISORDERS”; AND**

31           **(7) PERVASIVE DEVELOPMENTAL DISORDERS AS DEFINED IN THE**  
32 **AMERICAN PSYCHIATRIC ASSOCIATION’S “DIAGNOSTIC AND STATISTICAL**  
33 **MANUAL OF MENTAL DISORDERS”.**

1 10-617.

2 (a) A facility or Veterans' Administration hospital may not admit the  
3 individual under Part III of this subtitle unless:

4 (1) The individual has a mental disorder;

5 (2) The individual needs inpatient care or treatment;

6 (3) The individual [presents]:

7 **(I) IS REASONABLY EXPECTED, IN THE FORESEEABLE**  
8 **FUTURE, TO PRESENT** a danger to the life or safety of the individual or of others; **OR**

9 **(II) IS GRAVELY DISABLED;**

10 (4) The individual is unable or unwilling to be admitted voluntarily;  
11 and

12 (5) There is no available, less restrictive form of intervention that is  
13 consistent with the welfare and safety of the individual.

14 10-620.

15 (a) In Part IV of this subtitle the following words have the meanings  
16 indicated.

17 (b) "Court" means a district or circuit court of this State.

18 (c) "Emergency evaluatee" means an individual for whom an emergency  
19 evaluation is sought or made under Part IV of this subtitle.

20 (d) (1) "Emergency facility" means a facility that the Department  
21 designates, in writing, as an emergency facility.

22 (2) "Emergency facility" includes a licensed general hospital that has  
23 an emergency room, unless the Department, after consultation with the health officer,  
24 exempts the hospital.

25 **(E) "GRAVELY DISABLED" HAS THE MEANING STATED IN § 10-613 OF**  
26 **THIS SUBTITLE.**

27 **(F) "INCAPABLE OF MAKING AN INFORMED DECISION" HAS THE**  
28 **MEANING STATED IN § 10-613 OF THIS SUBTITLE.**

1           **[(e)] (G)**     (1)   “Mental disorder” means the behavioral or other symptoms  
2 that indicate:

3                       (i)    To a lay petitioner who is submitting an emergency petition,  
4 a clear disturbance in the mental functioning of another individual; and

5                       (ii)   To the following health professionals doing an examination,  
6 at least one mental disorder that is described in the version of the American  
7 Psychiatric Association’s “Diagnostic and Statistical Manual – Mental Disorders” that  
8 is current at the time of the examination:

- 9                               1.    Physician;
- 10                              2.    Psychologist;
- 11                              3.    Clinical social worker;
- 12                              4.    Licensed clinical professional counselor;
- 13                              5.    Clinical nurse specialist in psychiatric and mental  
14 health nursing (APRN/PMH);
- 15                              6.    Psychiatric nurse practitioner (CRNP–PMH); or
- 16                              7.    Licensed clinical marriage and family therapist.

17                   (2)   “Mental disorder” does not include **[intellectual]**:

18                           **(I)    INTELLECTUAL** disability;

19                           **(II)   CONDITIONS THAT PRIMARILY ARE DUE TO DRUG OR**  
20 **ALCOHOL ABUSE;**

21                           **(III)   EPILEPSY, MULTIPLE SCLEROSIS, PARKINSON’S**  
22 **DISEASE, ALZHEIMER’S DISEASE, AND OTHER KNOWN NEUROLOGICAL**  
23 **DISORDERS;**

24                           **(IV)   NORMAL AGE–RELATED CHANGES IN THE BRAIN;**

25                           **(V)   BRAIN CHANGES RELATED TO TERMINAL MEDICAL**  
26 **CONDITIONS;**

27                           **(VI)   PERSONALITY DISORDERS AS DEFINED IN THE**  
28 **AMERICAN PSYCHIATRIC ASSOCIATION’S “DIAGNOSTIC AND STATISTICAL**  
29 **MANUAL OF MENTAL DISORDERS”;** AND

1                                   **(VII) PERVASIVE DEVELOPMENTAL DISORDERS.**

2           **[(f) (H)]**       “Peace officer” means a sheriff, a deputy sheriff, a State police  
3 officer, a county police officer, a municipal or other local police officer, or a Secret  
4 Service agent who is a sworn special agent of the United States Secret Service or  
5 Department of Homeland Security authorized to exercise powers delegated under 18  
6 U.S.C. § 3056.

7   10–622.

8           (a)    A petition for emergency evaluation of an individual may be made under  
9 this section only if the petitioner has reason to believe that the individual:

10                   (1)    Has a mental disorder; and

11                   (2)    **(I)**    **[The individual presents] IS REASONABLY EXPECTED, IN**  
12 **THE FORESEEABLE FUTURE, TO PRESENT** a danger to the life or safety of the  
13 individual or of others; **OR**

14                                   **(II) IS GRAVELY DISABLED.**

15           (c)    (1)    A petition under this section shall:

16                                   (i)    Be signed and verified by the petitioner;

17                                   (ii)   State the petitioner’s:

18   1.    Name;

19   2.    Address; and

20   3.    Home and work telephone numbers;

21                                   (iii)   State the emergency evaluatee’s:

22   1.    Name; and

23   2.    Description;

24                                   (iv)   State the following information, if available:

25   1.    The address of the emergency evaluatee; and

1                   2.     The name and address of the spouse or a child,  
2 parent, or other relative of the emergency evaluatee or any other individual who is  
3 interested in the emergency evaluatee;

4                   (v)     If the individual who makes the petition for emergency  
5 evaluation is an individual authorized to do so under subsection (b)(1)(i) of this  
6 section, contain the license number of the individual;

7                   (vi)    Contain a description of the behavior and statements of the  
8 emergency evaluatee or any other information that led the petitioner to believe that the  
9 emergency evaluatee has a mental disorder and that the individual [presents a danger  
10 to the life or safety of the individual or of others];

11                   **1.     IS REASONABLY EXPECTED, IN THE FORESEEABLE  
12 FUTURE, TO PRESENT A DANGER TO THE LIFE OR SAFETY OF THE INDIVIDUAL  
13 OR OF OTHERS; OR**

14                   **2.     IS GRAVELY DISABLED; and**

15                   (vii)   Contain any other facts that support the need for an  
16 emergency evaluation.

17                   (2)     The petition form shall contain a notice that the petitioner:

18                   (i)     May be required to appear before a court; and

19                   (ii)    Makes the statements under penalties of perjury.

20     10-623.

21                   (b)     After review of the petition, the court shall endorse the petition if the  
22 court finds probable cause to believe that the emergency evaluatee has shown the  
23 symptoms of a mental disorder and that the individual [presents a danger to the life or  
24 safety of the individual or of others]:

25                   **(1)     IS REASONABLY EXPECTED, IN THE FORESEEABLE FUTURE,  
26 TO PRESENT A DANGER TO THE LIFE OR SAFETY OF THE INDIVIDUAL OR OF  
27 OTHERS; OR**

28                   **(2)     IS GRAVELY DISABLED.**

29     10-626.

30                   (a)     A court may order, at any time, an emergency evaluation under Part IV  
31 of this subtitle of an individual who has been arrested, if the court finds probable

1 cause to believe that the individual has a mental disorder and the individual [presents  
2 a danger to the life or safety of the individual or of others]:

3 (1) IS REASONABLY EXPECTED, IN THE FORESEEABLE FUTURE,  
4 TO PRESENT A DANGER TO THE LIFE OR SAFETY OF THE INDIVIDUAL OR OF  
5 OTHERS; OR

6 (2) IS GRAVELY DISABLED.

7 10-631.

8 (A) IN PART V OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
9 MEANINGS INDICATED.

10 (B) "GRAVELY DISABLED" HAS THE MEANING STATED IN § 10-613 OF  
11 THIS SUBTITLE.

12 (C) "INCAPABLE OF MAKING AN INFORMED DECISION" HAS THE  
13 MEANING STATED IN § 10-613 OF THIS SUBTITLE.

14 (D) "MENTAL DISORDER" DOES NOT INCLUDE:

15 (1) INTELLECTUAL DISABILITY;

16 (2) CONDITIONS THAT PRIMARILY ARE CAUSED BY DRUG OR  
17 ALCOHOL ABUSE;

18 (3) EPILEPSY, MULTIPLE SCLEROSIS, PARKINSON'S DISEASE,  
19 ALZHEIMER'S DISEASE, AND OTHER KNOWN NEUROLOGICAL DISORDERS;

20 (4) NORMAL AGE-RELATED CHANGES IN THE BRAIN;

21 (5) BRAIN CHANGES RELATED TO TERMINAL MEDICAL  
22 CONDITIONS;

23 (6) PERSONALITY DISORDERS AS DEFINED IN THE AMERICAN  
24 PSYCHIATRIC ASSOCIATION'S "DIAGNOSTIC AND STATISTICAL MANUAL OF  
25 MENTAL DISORDERS"; AND

26 (7) PERVASIVE DEVELOPMENTAL DISORDERS AS DEFINED IN THE  
27 AMERICAN PSYCHIATRIC ASSOCIATION'S "DIAGNOSTIC AND STATISTICAL  
28 MANUAL OF MENTAL DISORDERS".



1 10-633.

2 (a) Any individual proposed for involuntary admission under Part III of this  
3 subtitle shall be afforded a hearing to determine whether the individual is to be  
4 admitted to a facility or a Veterans' Administration hospital as an involuntary patient  
5 or released without being admitted.

6 (e) The hearing officer shall:

7 (1) Consider all the evidence and testimony of record; and

8 (2) Order the release of the individual from the facility unless the  
9 record demonstrates by clear and convincing evidence that at the time of the hearing  
10 each of the following elements exist as to the individual whose involuntary admission  
11 is sought:

12 (i) The individual has a mental disorder;

13 (ii) The individual needs in-patient care or treatment;

14 (iii) The individual [presents]:

15 **1. IS REASONABLY EXPECTED, IN THE FORESEEABLE**  
16 **FUTURE, TO PRESENT** a danger to the life or safety of the individual or of others; **OR**

17 **2. IS GRAVELY DISABLED;**

18 (iv) The individual is unable or unwilling to be voluntarily  
19 admitted to the facility;

20 (v) There is no available less restrictive form of intervention  
21 that is consistent with the welfare and safety of the individual; and

22 (vi) If the individual is 65 years old or older and is to be  
23 admitted to a State facility, the individual has been evaluated by a geriatric  
24 evaluation team and no less restrictive form of care or treatment was determined by  
25 the team to be appropriate.

26 10-708.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Panel" means a clinical review panel that determines, under the  
29 provisions of this section, whether to approve that medication be administered to an  
30 individual who objects to the medication.

1 (3) "Medication" means psychiatric medication prescribed for the  
2 treatment of a mental disorder.

3 (4) "Lay advisor" means an individual at a facility, who is  
4 knowledgeable about mental health practice and who assists individuals with rights  
5 complaints.

6 (g) The panel may approve the administration of medication or medications  
7 and may recommend and approve alternative medications if the panel determines  
8 that:

9 (1) The medication is prescribed by a psychiatrist for the purpose of  
10 treating the individual's mental disorder;

11 (2) The administration of medication represents a reasonable exercise  
12 of professional judgment; and

13 (3) Without the medication, the individual is at substantial risk of  
14 continued hospitalization because of:

15 (i) Remaining seriously mentally ill with no significant relief of  
16 the mental illness symptoms that cause the individual to [be a danger to the  
17 individual or to others] **MEET THE CRITERIA FOR INVOLUNTARY ADMISSION  
18 UNDER § 10-617(A)(3) OF THIS TITLE;**

19 (ii) Remaining seriously mentally ill for a significantly longer  
20 period of time with mental illness symptoms that cause the individual to [be a danger  
21 to the individual or to others] **MEET THE CRITERIA FOR INVOLUNTARY ADMISSION  
22 UNDER § 10-617(A)(3) OF THIS TITLE;** or

23 (iii) Relapsing into a condition in which the individual is [in  
24 danger of serious physical harm resulting from the individual's inability to provide for  
25 the individual's essential human needs of health or safety] **UNLIKELY TO SATISFY  
26 THE INDIVIDUAL'S NEED FOR NOURISHMENT, PERSONAL OR MEDICAL CARE,  
27 SHELTER, OR SELF-PROTECTION AND SAFETY, SO THAT IT IS PROBABLE THAT  
28 SUBSTANTIAL BODILY HARM, SIGNIFICANT PSYCHIATRIC DETERIORATION OR  
29 DEBILITATION, OR SERIOUS ILLNESS WILL RESULT.**

30 SECTION 3. AND BE IT FURTHER ENACTED, That:

31 (a) There is a Task Force on the Delivery of Services to Individuals with  
32 Mental Illness.

33 (b) The Task Force consists of the following members:

- 1                   (1)     one member of the Senate of Maryland, appointed by the President  
2 of the Senate;
- 3                   (2)     one member of the House of Delegates, appointed by the Speaker of  
4 the House;
- 5                   (3)     the Secretary of Health and Mental Hygiene, or the Secretary's  
6 designee;
- 7                   (4)     the Secretary of Public Safety and Correctional Services, or the  
8 Secretary's designee;
- 9                   (5)     the Attorney General, or the Attorney General's designee;
- 10                  (6)     the Executive Director of the Mental Hygiene Administration, or  
11 the Executive Director's designee;
- 12                  (7)     the Executive Director of the Alcohol and Drug Abuse  
13 Administration, or the Executive Director's designee; and
- 14                  (8)     the following members, appointed by the Governor:
- 15                           (i)     one representative of the Maryland Hospital Association;
- 16                           (ii)    one representative of MedChi, The Maryland State Medical  
17 Society;
- 18                           (iii)  one representative of the Mental Health Association of  
19 Maryland;
- 20                           (iv)   one representative of the National Alliance on Mental  
21 Illness;
- 22                           (v)    one representative of the Community Behavioral Health  
23 Association of Maryland;
- 24                           (vi)   one representative of the Maryland Disability Law Center;
- 25                           (vii)  one representative of the Maryland Psychiatric Society; and
- 26                           (viii) one representative of the Office of the Public Defender.
- 27                  (c)     The Governor shall designate the chair of the Task Force.
- 28                  (d)     The Department of Health and Mental Hygiene shall provide staff for the  
29 Task Force.

1 (e) A member of the Task Force:

2 (1) may not receive compensation as a member of the Task Force; but

3 (2) is entitled to reimbursement for expenses under the Standard  
4 State Travel Regulations, as provided in the State budget.

5 (f) The Task Force shall examine issues relating to the delivery of services to  
6 individuals with mental illness in the State, including:

7 (1) the feasibility and desirability of:

8 (i) establishing involuntary outpatient commitment of mentally  
9 ill individuals; and

10 (ii) admitting mentally ill individuals involuntarily into  
11 facilities for inpatient treatment and care until the individuals are psychiatrically  
12 stable instead of requiring release from facilities when the individuals are no longer  
13 dangerous;

14 (2) expanding the use of and increasing funding for crisis services,  
15 diversion services, and mental health courts; and

16 (3) eliminating procedural barriers to keeping mentally ill individuals  
17 hospitalized for longer periods of time, if needed, to reduce the likelihood of psychiatric  
18 deterioration and arrest of the individuals after discharge.

19 (g) The Task Force shall report its findings and recommendations to the  
20 Governor and, in accordance with § 2-1246 of the State Government Article, the  
21 General Assembly:

22 (1) in an interim report on or before January 1, 2014; and

23 (2) in a final report on or before January 1, 2015.

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 July 1, 2013. Section 3 of this Act shall remain effective for a period of 2 years and, at  
26 the end of June 30, 2015, with no further action required by the General Assembly,  
27 Section 3 of this Act shall be abrogated and of no further force and effect.