

SENATE BILL 402

J1, E2

9lr2378
CF HB 306

By: **Senators Carter, Smith, Hough, Lee, Waldstreicher, Washington, and West**
Introduced and read first time: January 31, 2019
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Health – Involuntary Admission – Inmates in Correctional Facilities**

3 FOR the purpose of repealing a certain provision of law to allow an application for
4 involuntary admission to a facility of an inmate in certain institutions to be made by
5 any person who has a legitimate interest in the welfare of the individual; altering
6 the circumstances under which a facility operated by the Maryland Department of
7 Health is required to receive and evaluate an inmate in a correctional facility who
8 has been certified for involuntary admission; requiring each correctional facility to
9 allow psychiatric evaluations and certification for inpatient admission completed
10 under a certain provision of law to be privately paid for; authorizing a court, under
11 certain circumstances, to impose any sanction reasonably designed to compel
12 compliance with a certain provision of this Act; authorizing the correctional facility,
13 or any person who has a certain interest, to file a request with a court, under certain
14 circumstances, to review the admission status of a certain inmate for a certain
15 purpose; authorizing the Department to accept a grant of funds from certain persons
16 for the purpose of complying with a certain provision of this Act; requiring the
17 Secretary of Health, in consultation with the Commissioner of Correction, to report
18 to certain committees of the General Assembly on or before a certain date each year;
19 defining certain terms; and generally relating to the involuntary admission of
20 inmates in correctional facilities.

21 BY repealing and reenacting, with amendments,
22 Article – Health – General
23 Section 10–614 and 10–619
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2018 Supplement)

26 Preamble

27 WHEREAS, The denial of appropriate hospital treatment of inmates certified by
28 mental health professionals as needing psychiatric inpatient care and treatment is a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 violation of the U.S. Constitution; and

2 WHEREAS, Keeping seriously mentally ill inmates certified as a danger to self or to
3 others from appropriate inpatient treatment exacerbates their illness and violates their
4 right to due process; and

5 WHEREAS, Research has shown that psychosis is associated with a very significant
6 increased risk of violence, and treatment with antipsychotic and mood stabilizer
7 medications can significantly reduce the risk of violent behavior; and

8 WHEREAS, In Maryland, medication over objection can legally be given only in a
9 hospital under close supervision, not in a correctional facility; and

10 WHEREAS, Research has shown that delay in the treatment of psychosis results in
11 worsening outcomes, increased necessary hospital treatment time, increased risk of
12 relapse, and permanent brain damage; and

13 WHEREAS, The Maryland Department of Health has been in violation of §
14 10–619 of the Health – General Article, which requires hospital admission within 12 hours
15 after receiving an admission application with certificates; and

16 WHEREAS, Seriously mentally ill inmates requiring hospital admission will
17 continue to be unlawfully housed in detention centers unless the courts have oversight and
18 authority to impose reasonable sanctions to incentivize compliance with § 10–619 of the
19 Health – General Article; now, therefore,

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

22 **Article – Health – General**

23 10–614.

24 [(a) Except as provided in subsection (b) of this section, application]
25 **APPLICATION** for involuntary admission of an individual to a facility or Veterans'
26 Administration hospital may be made under this part by any person who has a legitimate
27 interest in the welfare of the individual.

28 [(b) If the Administration agrees to pay the appropriate expenses, application for
29 involuntary admission to a facility of an inmate in an institution under the Division of
30 Correction or the Patuxent Institution may be made under this part by the Division or the
31 Patuxent Institution.]

32 10–619.

33 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**

1 INDICATED.

2 (2) "CORRECTIONAL FACILITY" HAS THE MEANING STATED IN §
3 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.

4 (3) "INMATE" HAS THE MEANING STATED IN § 1-101 OF THE
5 CORRECTIONAL SERVICES ARTICLE.

6 (B) Within 12 hours of notification by a physician, licensed psychologist, or
7 psychiatric nurse practitioner who has certified an individual under this part, a facility
8 operated by the Maryland Department of Health shall receive and evaluate the individual
9 certified for involuntary admission if:

10 (1) The individual's involuntary admission is not limited by § 10-617 of
11 this subtitle;

12 (2) An application for admission has been completed; AND

13 (3) (I) THE INDIVIDUAL IS AN INMATE IN A CORRECTIONAL
14 FACILITY; OR

15 (II) IF THE INDIVIDUAL IS NOT AN INMATE IN A CORRECTIONAL
16 FACILITY:

17 1. A certifying physician, psychologist, or psychiatric nurse
18 practitioner is unable to place the individual in a facility not operated by the Department;
19 and

20 [(4)] 2. The Department is unable to provide for the placement of the
21 person other than in a facility operated by the Department.

22 (C) EACH CORRECTIONAL FACILITY SHALL ALLOW PSYCHIATRIC
23 EVALUATIONS AND CERTIFICATION FOR INPATIENT ADMISSION COMPLETED UNDER
24 § 10-616 OF THIS SUBTITLE TO BE PRIVATELY PAID FOR, WHETHER OR NOT THE
25 CERTIFYING PHYSICIAN, PSYCHOLOGIST, OR PSYCHIATRIC NURSE PRACTITIONER
26 COMPLETING THE EVALUATION AND CERTIFICATION IS EMPLOYED OR CONTRACTED
27 BY THE CORRECTIONAL FACILITY.

28 (D) IF THE DEPARTMENT FAILS TO ADMIT AN INMATE TO A DESIGNATED
29 STATE FACILITY WITHIN THE TIME PERIOD SPECIFIED UNDER SUBSECTION (B) OF
30 THIS SECTION:

31 (1) A COURT MAY IMPOSE ANY SANCTIONS REASONABLY DESIGNED
32 TO COMPEL COMPLIANCE WITH SUBSECTION (B) OF THIS SECTION, INCLUDING

1 REQUIRING THE DEPARTMENT TO REIMBURSE A CORRECTIONAL FACILITY FOR
2 EXPENSES AND COSTS INCURRED IN RETAINING THE INMATE BEYOND THE TIME
3 PERIOD SPECIFIED AT THE DAILY RATE SPECIFIED IN § 9-402(B) OF THE
4 CORRECTIONAL SERVICES ARTICLE; AND

5 (2) THE CORRECTIONAL FACILITY, OR ANY PERSON WHO HAS A
6 LEGITIMATE INTEREST IN THE WELFARE OF THE INMATE, MAY FILE A REQUEST WITH
7 A COURT TO REVIEW THE ADMISSION STATUS OF THE INMATE TO DETERMINE
8 WHETHER THE DEPARTMENT HAS COMPLIED WITH SUBSECTION (B) OF THIS
9 SECTION.

10 (E) THE DEPARTMENT MAY ACCEPT A GRANT OF FUNDS FROM THE
11 FEDERAL GOVERNMENT OR ANY OTHER PUBLIC OR PRIVATE FOUNDATION OR
12 AGENCY FOR THE PURPOSE OF COMPLYING WITH SUBSECTION (B) OF THIS SECTION
13 WITH REGARD TO INMATES IN CORRECTIONAL FACILITIES.

14 (F) ON OR BEFORE OCTOBER 31 EACH YEAR, THE SECRETARY, IN
15 CONJUNCTION WITH THE COMMISSIONER OF CORRECTION, SHALL REPORT TO THE
16 SENATE JUDICIAL PROCEEDINGS COMMITTEE AND THE HOUSE JUDICIARY
17 COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
18 ARTICLE, ON THE ADMISSION OF INMATES TO STATE FACILITIES UNDER
19 SUBSECTION (B) OF THIS SECTION, INCLUDING:

20 (1) THE MEAN AND RANGE OF WAIT TIMES FOR STATE FACILITY
21 ADMISSION FOR:

22 (I) STATE PRISON INMATES;

23 (II) PATUXENT INSTITUTION INMATES;

24 (III) BALTIMORE CITY DETENTION CENTER INMATES; AND

25 (IV) COUNTY DETENTION CENTER INMATES;

26 (2) THE NUMBER OF INMATES IN EACH FACILITY LISTED UNDER ITEM
27 (1) OF THIS SUBSECTION WHO WAITED OVER 12 HOURS FOR STATE FACILITY
28 ADMISSION; AND

29 (3) THE TOTAL AMOUNT OF PAYMENTS MADE BY THE DEPARTMENT
30 AS A RESULT OF SANCTIONS IMPOSED BY A COURT UNDER SUBSECTION (D)(1) OF
31 THIS SECTION DURING THE REPORTING YEAR.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
33 1, 2019.

