
By: **Delegates Dembrow, Griffith, and Amedori**
Introduced and read first time: March 2, 2001
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sexually Violent Predators - Chemical or Physical**
3 **Treatment**

4 FOR the purpose of authorizing a court to reduce the sentence of certain defendants if
5 the defendant elects to either be given a certain chemical treatment or undergo
6 physical castration as a condition of supervised probation; requiring the court to
7 consider certain items when making a determination whether a defendant
8 meets certain criteria; requiring a certain treatment to be administered or
9 supervised by the Department of Public Safety and Correctional Services;
10 requiring the Department to adopt certain regulations; requiring the defendant
11 to arrange for a certain procedure and provide certain documentation under
12 certain circumstances; providing that supervised release under certain
13 circumstances may not begin until the Department receives certain
14 documentation; requiring a defendant who elects supervised release under
15 certain circumstances to make a certain acknowledgment in writing to the court;
16 providing that a defendant will be subject to a certain period of incarceration if
17 the defendant violates a condition of a certain supervised release; defining
18 certain terms; making the provisions of this Act severable; and generally
19 relating to the chemical and physical treatment of sexually violent predators.

20 BY repealing and reenacting, without amendments,
21 Article - Criminal Procedure
22 Section 11-701(h)
23 Annotated Code of Maryland
24 (As enacted by S.B. 1 of the Acts of the General Assembly of 2001)

25 BY adding to
26 Article - Criminal Procedure
27 Section 11-703.1
28 Annotated Code of Maryland
29 (As enacted by S. B. 1 of the Acts of the General Assembly of 2001)

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

1

Article - Criminal Procedure

2 11-701.

3 (h) "Sexually violent predator" means a person who:

4 (1) is convicted of a subsequent sexually violent offense; and

5 (2) has been determined in accordance with this subtitle to be at risk of
6 committing another sexually violent offense.

7 11-703.1.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "MPA" MEANS MEDROXYPROGESTERONE ACETATE.

11 (3) "SUPERVISED RELEASE" MEANS RELEASE FROM CUSTODY ON
12 PAROLE, MANDATORY RELEASE AS A RESULT OF DIMINUTION CREDITS, PROBATION,
13 WORK RELEASE, OR ANY OTHER EARLY RELEASE PROGRAM SUPERVISED BY THE
14 DEPARTMENT.15 (B) (1) THIS SECTION APPLIES TO A DEFENDANT DETERMINED BY THE
16 COURT TO BE:17 (I) A SEXUALLY VIOLENT PREDATOR AS DEFINED IN § 11-701(H) OF
18 THIS SUBTITLE; AND19 (II) SUFFERING FROM A MENTAL ABNORMALITY THAT CAN BE
20 ABATED BY CHEMICAL OR PHYSICAL TREATMENT.21 (2) IN MAKING A DETERMINATION WHETHER A DEFENDANT IS
22 SUFFERING FROM A MENTAL ABNORMALITY THAT CAN BE ABATED BY CHEMICAL OR
23 PHYSICAL TREATMENT, THE COURT SHALL CONSIDER:24 (I) AN EVALUATION OF THE DEFENDANT BY AN EXPERT IN THE
25 TREATMENT OF SEXUAL OFFENDERS, AS DESIGNATED BY THE COURT;26 (II) AN EVALUATION OF THE DEFENDANT BY A PHYSICIAN, AS
27 DESIGNATED BY THE COURT; AND28 (III) ANY RELEVANT EVIDENCE, INCLUDING EXPERT TESTIMONY,
29 INTRODUCED BY THE DEFENDANT.30 (C) NOTWITHSTANDING ANY OTHER LAW, A COURT MAY REDUCE THE
31 SENTENCE OF A DEFENDANT IF THE DEFENDANT ELECTS, AS A CONDITION OF
32 SUPERVISED RELEASE, TO:

33 (1) BE TREATED WITH MPA OR ITS CHEMICAL EQUIVALENT; OR

1 (2) UNDERGO PHYSICAL CASTRATION.

2 (D) (1) (I) IF A DEFENDANT ELECTS TO BE TREATED WITH MPA OR ITS
3 CHEMICAL EQUIVALENT, THE TREATMENT SHALL BE ADMINISTERED BY, OR UNDER
4 THE SUPERVISION OF, THE DEPARTMENT.

5 (II) THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING
6 THE ADMINISTRATION AND SUPERVISION OF A TREATMENT PROGRAM INVOLVING
7 MPA OR IT CHEMICAL EQUIVALENT TO A DEFENDANT PARTICIPATING IN
8 SUPERVISED RELEASE UNDER THIS SECTION.

9 (2) (I) IF A DEFENDANT ELECTS TO UNDERGO PHYSICAL CASTRATION,
10 THE DEFENDANT SHALL:

11 1. ARRANGE FOR THE PROCEDURE AT THE COST OF THE
12 DEFENDANT; AND

13 2. PROVIDE THE DEPARTMENT WITH DOCUMENTATION
14 FROM A MEDICAL PROFESSIONAL THAT THE PROCEDURE HAS BEEN PERFORMED.

15 (II) SUPERVISED RELEASE GRANTED UNDER SUBSECTION (C)(2) OF
16 THIS SECTION MAY NOT BEGIN UNTIL THE DEPARTMENT RECEIVES THE
17 DOCUMENTATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

18 (E) A DEFENDANT WHO ELECTS A CONDITION OF SUPERVISED RELEASE
19 UNDER SUBSECTION (C) OF THIS SECTION SHALL ACKNOWLEDGE TO THE COURT IN
20 WRITING THE DEFENDANT'S KNOWING AND VOLUNTARY CONSENT TO THE
21 CONDITION.

22 (F) IF A DEFENDANT ELECTS A CONDITION OF SUPERVISED RELEASE UNDER
23 SUBSECTION (C) OF THIS SECTION AND VIOLATES THE CONDITION, THE DEFENDANT
24 MAY NOT PARTICIPATE IN SUPERVISED RELEASE AND SHALL BE INCARCERATED FOR
25 THE REMAINDER OF THE DEFENDANT'S SENTENCE OR ANY TIME PERIOD
26 DETERMINED APPROPRIATE BY THE COURT.

27 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
28 Act or the application thereof to any person or circumstance is held invalid for any
29 reason in a court of competent jurisdiction, the invalidity does not affect other
30 provisions or any other application of this Act which can be given effect without the
31 invalid provision or application, and for this purpose the provisions of this Act are
32 declared severable.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2001.