

SENATE BILL 645

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2002 Regular Session
2lr1888
CF 2lr1313

By: **Senators Green and Forehand**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Hygiene - Involuntary Admission, Emergency Evaluation, and**
3 **Clinical Review - Standards**

4 FOR the purpose of modifying certain standards for involuntary admissions of
5 individuals with mental disorders to certain facilities or a Veterans'
6 Administration hospital under certain circumstances; modifying certain
7 standards for emergency evaluations of individuals with mental disorders under
8 certain circumstances; modifying certain standards for clinical review panel
9 approval; defining certain terms; making stylistic changes; and generally
10 relating to standards for involuntary admissions, emergency evaluations, and a
11 clinical review panel of individuals with mental disorders.

12 BY renumbering

13 Article - Health - General
14 Section 10-631 through 10-633, respectively
15 to be Section 10-632 through 10-634, respectively
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2001 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article - Health - General
20 Section 10-613, 10-617(a), 10-622(a) and (c), 10-623(b), 10-626(a), and
21 10-708(g)
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2001 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article - Health - General
26 Section 10-620(a) and 10-708(a)
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2001 Supplement)

29 BY adding to

1 Article - Health - General
2 Section 10-620(g) and (h) and 10-631
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2001 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article - Health - General
7 Section 10-633(a)
8 Annotated Code of Maryland
9 (2000 Replacement Volume and 2001 Supplement)
10 (As enacted by Section 1 of this Act)

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 10-633(e)
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2001 Supplement)
16 (As enacted by Section 1 of this Act)

17 Preamble

18 WHEREAS, Timely treatment of serious mental illnesses can prevent suicide
19 and harm to others; and

20 WHEREAS, Timely treatment of serious mental illness can prevent the
21 inability of the individual to care for himself or herself and resulting homelessness;
22 and

23 WHEREAS, Timely treatment of serious mental illness can prevent the
24 individual's criminalization and incarceration resulting from behavior caused by
25 untreated illness; and

26 WHEREAS, The State of Maryland is committed to the medically appropriate
27 treatment of serious mental illness; and

28 WHEREAS, The State has an interest in preserving the lives and protecting the
29 safety of all of its citizens; now, therefore,

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That Section(s) 10-631 through 10-633, respectively, of Article -
32 Health - General of the Annotated Code of Maryland be renumbered to be Section(s)
33 10-632 through 10-634, respectively.

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

Article - Health - General

10-613.

(A) In Part III of this subtitle[, "involuntary admission"] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "INVOLUNTARY ADMISSION" includes every admission of a minor to a State facility unless the admission is a voluntary admission authorized under Part II of this subtitle.

(C) "INCAPABLE OF MAKING AN INFORMED DECISION" MEANS THAT AN INDIVIDUAL IS UNAWARE OF THE EFFECTS OF THE INDIVIDUAL'S PSYCHIATRIC DISORDER OR THAT THE INDIVIDUAL LACKS THE CAPACITY TO MAKE A WELL-REASONED, WILLFUL, AND KNOWING DECISION CONCERNING THE INDIVIDUAL'S MEDICAL OR PSYCHIATRIC TREATMENT, TAKING INTO CONSIDERATION THE HISTORY, IF AVAILABLE, OF THE INDIVIDUAL'S NONCOMPLIANCE WITH TREATMENT OR OF CRIMINAL ACTS RELATED TO THE INDIVIDUAL'S MENTAL ILLNESS.

(D) "GRAVELY DISABLED" MEANS THAT AN INDIVIDUAL:

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

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

10-617.

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

(1) The individual has a mental disorder;

(2) The individual needs inpatient care or treatment;

(3) The individual:

(I) [presents] PRESENTS a danger to the life or safety of the individual or of others;

(II) HAS RECENTLY CAUSED SIGNIFICANT DAMAGE TO THE PROPERTY OF OTHERS, NOT INCLUDING GENUINE ACCIDENTS; OR

(III) IS GRAVELY DISABLED;

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

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

4 10-620.

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

7 (G) "INCAPABLE OF MAKING AN INFORMED DECISION" HAS THE MEANING
8 STATED IN § 10-613 OF THIS SUBTITLE.

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

11 10-622.

12 (a) A petition for emergency evaluation of an individual may be made under
13 this section only if the petitioner has reason to believe that the individual has a
14 mental disorder and that [there is clear and imminent danger of the individual's
15 doing bodily harm to the individual or another] THE INDIVIDUAL:

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

18 (2) HAS RECENTLY CAUSED SIGNIFICANT DAMAGE TO THE
19 SUBSTANTIAL PROPERTY OF OTHERS, NOT INCLUDING GENUINE ACCIDENTS; OR

20 (3) IS GRAVELY DISABLED.

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

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

23 (ii) State the petitioner's:

24 1. Name;

25 2. Address; and

26 3. Home and work telephone numbers;

27 (iii) State the emergency evaluatee's:

28 1. Name; and

29 2. Description;

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

1 10-626.

2 (a) A court may order, at any time, an emergency evaluation under Part IV of
3 this subtitle of an individual who has been arrested, if the court finds probable cause
4 to believe that the individual has a mental disorder and [there appears to be clear
5 and imminent danger of the individual's doing bodily harm to the individual or
6 another.] THE INDIVIDUAL:

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

9 (2) HAS RECENTLY CAUSED SIGNIFICANT DAMAGE TO THE
10 SUBSTANTIAL PROPERTY OF OTHERS, NOT INCLUDING GENUINE ACCIDENTS; OR

11 (3) IS GRAVELY DISABLED.

12 10-631.

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

15 (B) "INCAPABLE OF MAKING AN INFORMED DECISION" HAS THE MEANING
16 STATED IN § 10-613 OF THIS SUBTITLE.

17 (C) "GRAVELY DISABLED" HAS THE MEANING STATED IN § 10-613 OF THIS
18 SUBTITLE.

19 10-633.

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

24 (e) The hearing officer shall:

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

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

30 (i) The individual has a mental disorder;

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

32 (iii) The individual:

33 1. [presents] PRESENTS a danger to the life or safety of the
34 individual or of others;

1 to the individual or to others] MEET THE CRITERIA FOR INVOLUNTARY ADMISSION
2 UNDER § 10-617(A)(3) OF THIS TITLE; or

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

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2002.