

Department of Legislative Services
Maryland General Assembly
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FISCAL NOTE

Senate Bill 645 (Senators Green and Forehand)
Education, Health, and Environmental Affairs

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

This bill broadens the standards for emergency evaluations of individuals with mental disorders and for involuntarily admitting those individuals to certain public or private facilities or Veterans' Administration hospitals.

Fiscal Summary

State Effect: The broader standards for involuntary admission may result in an increase in general fund expenditures for the Department of Health and Mental Hygiene, Office of Administrative Hearings, Judiciary, and Office of the Public Defender based on any increase in the number of petitions for involuntary admission to treat individuals with mental disorders. Revenues would not be affected.

Local Effect: Increase in workload and expenditures for circuit courts if the bill prompts a significant increase in the number of petitions for involuntary admission. Revenues would not be affected.

Small Business Effect: None.

Analysis

Bill Summary: The additional standards for emergency evaluations and involuntary admissions for individuals with mental disorders are if the individual: (1) is reasonably expected to present a danger to the life or safety of the individual or others in the

foreseeable future; (2) has recently caused significant damage to the substantial property of others, not including genuine accidents; or (3) is gravely disabled.

A gravely disabled person is an individual who is incapable of making an informed decision and 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.

A person is incapable of making an informed decision when that 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 of the individual's noncompliance with treatment or of criminal acts related to the individual's mental illness.

The bill also adds that a clinical review panel may approve the administration of medication or medications to an individual and approve alternative medications if the panel determines that without the medication the individual is at substantial risk of continued hospitalization because of relapsing into a condition in which the individual is unlikely 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.

Current Law: A petition for emergency evaluation of an individual may be made by: (1) a physician, a psychologist, a clinical social worker, or a health officer or designee of a health officer who has examined the individual; (2) a peace officer who personally has observed the individual; or (3) any other interested person. The petition may be made only if the petitioner has reason to believe that the individual has a mental disorder and that there is a clear and imminent danger of the individual's doing bodily harm to himself or herself or another person.

A petition must include a description of the behavior and statements of the individual that led the petitioner to believe that the individual has a mental disorder and that there is clear and imminent danger of the individual doing bodily harm to himself or herself or another person.

In addition to the initial petition for involuntary admission, two physicians or one physician and one psychologist must complete certificates that include a diagnosis of a mental disorder of the individual and an opinion that the individual needs inpatient care

or treatment and admission to an inpatient facility is needed for the protection of the individual or another person.

If the petitioner is not a physician, a psychologist, a clinical social worker, a health officer or designee of a health officer, or a peace officer, the petitioner must present the petition to the District Court or circuit court of the State for immediate review. After reviewing the petition, the court must endorse the petition if the court finds probable cause to believe that the emergency evaluatee has shown the symptoms of a mental disorder and that there appears to be a clear and imminent danger of the emergency evaluatee's doing bodily harm to the emergency evaluatee or another.

In addition, the District Court or circuit court may order, at any time, an emergency evaluation of an individual who is arrested if the court finds probable cause to believe that the individual has a mental disorder and there appears to be clear and imminent danger of the individual's doing bodily harm to the individual or another.

An individual with a mental disorder who is proposed for involuntary admission is entitled to a hearing within ten days of the initial confinement before an administrative law judge to determine whether the individual is to be admitted to a public or private clinic, hospital, or other institution or to a Veterans' Administration hospital as an involuntary patient or be released without being admitted.

A public or private clinic, hospital, or other institution that treats individuals who have mental disorders or a Veterans' Administration hospital may not accept an involuntarily admitted person unless the individual has a mental disorder, needs inpatient care or treatment, presents a danger to the life or safety of the individual or others, is unable or unwilling to be admitted voluntarily, and there is no available, less restrictive form of intervention that is consistent with the welfare and safety of the individual.

Once an individual is admitted to a public or private clinic, hospital, or other institution, a clinical review panel may approve the administration of medication or medications and may recommend and approve alternative medications if the panel determines that: (1) the medication is prescribed by a psychiatrist for the purpose of treating the individual's mental disorder; (2) the administration of medication represents a reasonable exercise of professional judgment; and (3) without the medication, the individual is at substantial risk of continued hospitalization.

Background: The Office of the Public Defender represents virtually every individual who challenges a petition for involuntary admission to a facility for treatment of a mental disorder before an administrative law judge. There are between 120 and 150 involuntary civil commitment hearings each month in the State.

The Department of Health and Mental Hygiene's Mental Hygiene Administration (MHA) does not keep records of the number of individuals involuntarily admitted to State or private clinics, hospitals, or other institutions for treatment for a mental disorder. However, MHA reports that in most cases when a person discovers that the State is seeking to have him or her involuntarily admitted to a facility for treatment, that person voluntarily agrees to be committed because it will be easier for the individual to be discharged at a later date.

State Expenditures: General fund expenditures could increase in fiscal 2003 and subsequent years if petitions for involuntary admission of individuals with mental disorders to State or private clinics, hospitals, other institutions or Veterans' Administration hospitals increase under the broader standards. However, it cannot be reliably determined how many more individuals might be petitioned for involuntary admission nor how long they might stay at the facility for treatment.

The Office of Administrative Hearings (OAH) expects that the bill will result in an increase in the number of hearings for individuals challenging the involuntary admission petition for treatment for mental disorders and increase the length of the hearings. While there is the potential OAH might require additional judges to handle the increased workload, OAH expects it should be able to handle the increased caseload with existing resources.

The Office of the Public Defender expects to see a dramatic rise in the number of protracted hearings challenging the petitions for involuntary treatment of mental disorders. The complexity and the length of time required for each hearing is expected by the office to result in a substantial increase in expenditures. However, the office cannot reliably estimate how many more hearings will take place as a result of this bill.

The District Court also may see an increase in petitions to involuntarily admit individuals with mental disorders for treatment. However, it cannot be reliably estimated how many additional petitions would result from this bill nor whether the additional petitions could be handled within existing resources.

Local Expenditures: Circuit courts may see an increase in petitions to involuntarily admit individuals with mental disorders to public or private clinics, hospitals, other facilities, or Veterans' Administration hospitals for treatment. However, it cannot be reliably determined how many additional petitions would result from this bill nor whether the additional petitions could be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 923 (Delegate Sher, *et al.*) – Environmental Matters.

Information Source(s): Department of Health and Mental Hygiene, Office of Administrative Hearings, Office of the Public Defender, Department of Legislative Services

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Analysis by: Lisa A. Daigle

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510