

SENATE BILL 713

Unofficial Copy
J1

2003 Regular Session
3lr2585

By: **Senator Stone**
Introduced and read first time: February 21, 2003
Assigned to: Rules
Re-referred to: Finance, February 26, 2003
Reassigned: Education, Health, and Environmental Affairs, February 27, 2003

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 21, 2003

CHAPTER _____

1 AN ACT concerning

2 **Public Safety and Health - Mental Hygiene Administration - Emergency**
3 **Evaluation - Petition, Standards, and Content Release of Inmates**

4 FOR the purpose of ~~modifying certain standards for emergency evaluations of~~
5 ~~individuals with mental disorders; authorizing an employee of a correctional~~
6 ~~facility in which an individual is confined to petition for an emergency~~
7 ~~evaluation of the individual; authorizing certain individuals who make a~~
8 ~~petition for emergency evaluation to base the petition on certain information;~~
9 ~~modifying the required elements of a petition for emergency evaluation; and~~
10 ~~generally relating to emergency evaluations of individuals with mental~~
11 ~~disorders requiring certain managing officials of certain correctional facilities or~~
12 ~~their designees to direct that an application be submitted for an involuntary~~
13 ~~admission of certain inmates upon release from confinement under certain~~
14 ~~circumstances; requiring that certain managing officials make certain referrals~~
15 ~~and give certain notice if certain conditions are established; and generally~~
16 ~~relating to actions to be taken by correctional facilities on releasing inmates~~
17 ~~with mental disorders or other conditions.~~

18 BY repealing and reenacting, without amendments,
19 Article - Correctional Services
20 Section 1-101(a) and (d)
21 Annotated Code of Maryland
22 (1999 Volume and 2002 Supplement)

23 BY repealing and reenacting, with amendments,

1 Article - Health - General
 2 Section ~~10-622, 10-623, and 10-626~~ 10-614
 3 Annotated Code of Maryland
 4 (2000 Replacement Volume and 2002 Supplement)

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

7 **Article - Correctional Services**

8 1-101.

9 (a) In this article the following words have the meanings indicated.

10 (d) "Correctional facility" means a facility that is operated for the purpose of
 11 detaining or confining adults who are charged with or found guilty of a crime.

12 **Article - Health - General**

13 ~~10-622.~~

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

16 ~~(1) [has] HAS a mental disorder [and that there is clear and imminent
 17 danger of the individual's doing bodily harm to the individual or another]; AND~~

18 ~~(2) THE INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY OF
 19 THE INDIVIDUAL OR OF OTHERS.~~

20 ~~(b) (1) The petition for emergency evaluation of an individual may be made
 21 by:~~

22 ~~[(1)] (1) A physician, a psychologist, a clinical social worker, a licensed
 23 clinical professional counselor, or a health officer or designee of a health officer who
 24 has examined the individual;~~

25 ~~[(2)] (II) A peace officer who personally has observed the individual OR
 26 THE INDIVIDUAL'S BEHAVIOR; [or]~~

27 ~~(III) AN EMPLOYEE OF A CORRECTIONAL FACILITY IN WHICH THE
 28 INDIVIDUAL IS CONFINED; OR~~

29 ~~[(3)] (IV) Any other interested person.~~

30 ~~(2) AN INDIVIDUAL WHO MAKES A PETITION FOR EMERGENCY
 31 EVALUATION UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION MAY BASE THE
 32 PETITION ON:~~

33 ~~(I) THE EXAMINATION OR OBSERVATION; OR~~

1 (II) OTHER INFORMATION OBTAINED THAT IS PERTINENT TO THE
2 FACTORS GIVING RISE TO THE PETITION.

3 (e) (1) A petition under this section shall:

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

5 (ii) State the petitioner's:

6 1. Name;

7 2. Address; and

8 3. Home and work telephone numbers;

9 (iii) State the emergency evaluatee's:

10 1. Name; and

11 2. Description;

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

13 1. The address of the emergency evaluatee; and

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

17 (v) Contain a description of the behavior and statements of the
18 emergency evaluatee OR ANY OTHER INFORMATION that led the petitioner to believe
19 that the emergency evaluatee has a mental disorder and that [there is clear and
20 imminent danger of the emergency evaluatee's doing bodily harm to the emergency
21 evaluatee or another] THE INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY
22 OF THE INDIVIDUAL OR OF OTHERS; and

23 (vi) Contain any other facts that support the need for an emergency
24 evaluation.

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

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

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

28 (d) (1) A petitioner who is a physician, psychologist, clinical social worker,
29 licensed clinical professional counselor, health officer, or designee of a health officer
30 shall give the petition to a peace officer.

31 (2) The peace officer shall explain to the petitioner:

- 1 (i) The serious nature of the petition; and
2 (ii) The meaning and content of the petition.

3 ~~10-623.~~

4 (a) ~~If the petitioner under Part IV of this subtitle is not a physician, a~~
5 ~~psychologist, a clinical social worker, a licensed clinical professional counselor, a~~
6 ~~health officer or designee of a health officer, or a peace officer, the petitioner shall~~
7 ~~present the petition to the court for immediate review.~~

8 (b) ~~After review of the petition, the court shall endorse the petition if the court~~
9 ~~finds probable cause to believe that the emergency evaluatee has shown the symptoms~~
10 ~~of a mental disorder and that [there appears to be clear and imminent danger of the~~
11 ~~emergency evaluatee's doing bodily harm to the emergency evaluatee or another] THE~~
12 ~~INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY OF THE INDIVIDUAL OR~~
13 ~~OF OTHERS.~~

14 (c) ~~If the court does not find probable cause, the court shall indicate that fact~~
15 ~~on the petition, and no further action may be taken under the petition.~~

16 ~~10-626.~~

17 (a) ~~A court may order, at any time, an emergency evaluation under Part IV of~~
18 ~~this subtitle of an individual who has been arrested, if the court finds probable cause~~
19 ~~to believe that the individual has a mental disorder and [there appears to be clear~~
20 ~~and imminent danger of the individual's doing bodily harm to the individual or~~
21 ~~another] THE INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY OF THE~~
22 ~~INDIVIDUAL OR OF OTHERS.~~

23 (b) ~~The court order for an emergency evaluation shall state the grounds.~~

24 (c) ~~Unless the court directs otherwise, an individual who is taken to an~~
25 ~~emergency facility under this section shall stay in the custody of the peace officer~~
26 ~~until the individual either is admitted to an appropriate facility or returned to the~~
27 ~~court or an appropriate jail.~~

28 (d) ~~If an individual was detained lawfully before the court ordered an~~
29 ~~emergency evaluation under this section and the individual does not meet the~~
30 ~~requirements for involuntary admission under this subtitle:~~

31 (1) ~~The examining physician shall send a brief report of the evaluation to~~
32 ~~the court; and~~

33 (2) ~~The peace officer shall:~~

34 (i) ~~Return to the court the individual, the court order, and the~~
35 ~~report of the examining physician; or~~

1 (ii) If the court is not in session, take the individual to an
2 appropriate jail and, before the end of the next day that the court is in session, return
3 to the court the individual and the report of the examining physician.

4 (e) A court order under this section is a detainer against an individual until:

5 (1) The charges against the individual are dismissed, not prosed, or
6 steted; or

7 (2) The individual appears in court.

8 10-614.

9 (a) Except as provided in subsection (b) of this section, application for
10 involuntary admission of an individual to a facility or Veterans' Administration
11 hospital may be made under Part III of this subtitle by any person who has a
12 legitimate interest in the welfare of the individual.

13 (b) If the Administration agrees to pay the appropriate expenses, application
14 for involuntary admission to a facility of an inmate in an institution under the
15 Division of Correction or the Patuxent Institution may be made under Part III of this
16 subtitle by the Division or the Patuxent Institution.

17 (C) FOR AN INMATE WHO HAS HAD A HISTORY OF MENTAL DISORDER OR
18 TREATMENT, THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY, AS DEFINED
19 IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE, OR THE MANAGING
20 OFFICIAL'S DESIGNEE SHALL DIRECT THAT AN APPLICATION FOR THE INMATE'S
21 INVOLUNTARY ADMISSION BE SUBMITTED UNDER THIS SUBTITLE IF:

22 (1) THERE IS PROBABLE CAUSE AT THE TIME OF RELEASE TO BELIEVE
23 THAT:

24 (I) THE INMATE HAS SHOWN THE SYMPTOMS OF A MENTAL
25 DISORDER; AND

26 (II) THE INMATE PRESENTS A DANGER TO THE LIFE OR SAFETY OF
27 THE INMATE OR OF OTHERS; AND

28 (2) THE INMATE'S RELEASE IS NOT TO ANOTHER TERM OF
29 CONFINEMENT.

30 (D) IF AN INMATE'S CONDITION AT THE TIME OF RELEASE UNDER
31 SUBSECTION (C) OF THIS SECTION DOES NOT MEET THE STANDARD FOR
32 INVOLUNTARY ADMISSION, BUT THE INMATE NEEDS TREATMENT FOR A MENTAL
33 DISORDER OR SERVICES REGARDING MENTAL RETARDATION FOR THE PROTECTION
34 OF SOCIETY OR THE TREATMENT OF THE INMATE, THE MANAGING OFFICIAL SHALL
35 REFER TO AND NOTIFY, AS SOON AS PRACTICABLE BEFORE THE RELEASE, THE CORE
36 SERVICES AGENCY FOR THE JURISDICTION IN WHICH THE INMATE WILL RESIDE OR
37 THE DEVELOPMENTAL DISABILITIES ADMINISTRATION, AS APPROPRIATE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2003.