

SENATE BILL 194

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2004 Regular Session
(41r0099)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **The President (By Request - Administration) and Senators
Astle, Brochin, DeGrange, Garagiola, Giannetti, Haines, Harris, Hogan,
Hooper, Jacobs, Jimeno, Kittleman, Kramer, McFadden, Munson,
Schrader, ~~and Stone Stone, Lawlah, Green, Hollinger, Hughes, and
Forehand~~ Forehand, Britt, Conway, Currie, Exum, Gladden, Jones, and
Kelley**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Substance Abuse - Parole - Civil Commitment - Diversion**

3 FOR the purpose of requiring the Parole Commission to consider certain reports
4 relating to drug and alcohol use when considering suitability for parole under
5 certain circumstances; establishing parole eligibility for certain nonviolent
6 offenders who are ordered to undergo drug or alcohol treatment; establishing
7 procedures for certain criminal defendants to receive certain dispositions in
8 certain criminal cases under certain circumstances; authorizing a court, under
9 certain circumstances, to enter a certain order; establishing a certain fee;
10 requiring certain dispositions in criminal cases to be entered in certain State
11 records; making certain offenders eligible for certain treatment; altering
12 procedures relating to evaluation and treatment of criminal defendants for drug

1 and alcohol abuse under certain circumstances; requiring certain evaluations be
2 conducted in a certain manner; authorizing a court to order certain evaluations
3 under certain circumstances; authorizing a court to order certain treatment that
4 the Department of Health and Mental Hygiene or its local designee considers
5 necessary under certain circumstances; requiring that a defendant ordered to
6 treatment be supervised in a certain manner; providing that certain evaluation
7 requirements and departmental regulations for local designees of the
8 Department under this Act are not applicable under certain circumstances;
9 authorizing a court to issue a warrant for the arrest of a certain individual
10 under certain circumstances; establishing the Maryland Substance Abuse Fund
11 to be used for evaluation and treatment of criminal defendants for certain drug
12 or alcohol abuse problems; establishing certain procedures relating to the Fund
13 and money received by the Fund; requiring counties to establish a local drug and
14 alcohol council; establishing the membership of the council; establishing certain
15 procedures; requiring local plans consisting of certain matters concerning drug
16 and alcohol treatment; providing for the staggering of the terms of certain
17 members of a local drug and alcohol council; providing that certain planning,
18 reporting, and reviewing for a local drug and alcohol abuse council under this
19 Act are not applicable under certain circumstances; requiring the Department to
20 provide to the Governor and the General Assembly a certain report by a certain
21 date; making this Act subject to a certain contingency; providing for the effective
22 dates of this Act; and generally relating to drug and alcohol treatment.

23 BY repealing and reenacting, with amendments,
24 Article - Correctional Services
25 Section 7-301(a) and 7-305
26 Annotated Code of Maryland
27 (1999 Volume and 2003 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article - Criminal Law
30 Section 5-609(a)
31 Annotated Code of Maryland
32 (2002 Volume and 2003 Supplement)

33 BY repealing and reenacting, with amendments,
34 Article - Criminal Law
35 Section 5-609(b)
36 Annotated Code of Maryland
37 (2002 Volume and 2003 Supplement)

38 BY adding to
39 Article - Criminal Procedure
40 Section 6-229, 6-230, and 6-231
41 Annotated Code of Maryland
42 (2001 Volume and 2003 Supplement)

1 BY repealing and reenacting, with amendments,
 2 Article - Criminal Procedure
 3 Section 10-105
 4 Annotated Code of Maryland
 5 (2001 Volume and 2003 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - Health - General
 8 Section 8-505 through 8-507, inclusive
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume and 2003 Supplement)

11 BY adding to
 12 Article - Health - General
 13 Section 8-6A-01 to be under the new subtitle "Subtitle 6A. Maryland Substance
 14 Abuse Fund"; and 8-1001 to be under the new subtitle "Subtitle 10. Local
 15 Drug and Alcohol Councils"
 16 Annotated Code of Maryland
 17 (2000 Replacement Volume and 2003 Supplement)

18 ~~BY repealing and reenacting, with amendments,~~
 19 ~~Article - Transportation~~
 20 ~~Section 16-117 and 16-117.1~~
 21 ~~Annotated Code of Maryland~~
 22 ~~(2002 Replacement Volume and 2003 Supplement)~~

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

25 **Article - Correctional Services**

26 7-301.

27 (a) (1) Except as otherwise provided in this section, the Commission shall
 28 request that the Division of Parole and Probation make an investigation for inmates
 29 in a local correctional facility and the Division of Correction make an investigation for
 30 inmates in a State correctional facility that will enable the Commission to determine
 31 the advisability of granting parole to an inmate who:

32 (i) has been sentenced under the laws of the State to serve a term
 33 of 6 months or more in a correctional facility; and

34 (ii) has served in confinement one-fourth of the inmate's aggregate
 35 sentence.

1 (2) Except as PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, OR AS
 2 otherwise provided by law or in a predetermined parole release agreement, an inmate
 3 is not eligible for parole until the inmate has served in confinement one-fourth of the
 4 inmate's aggregate sentence.

5 (3) AN INMATE MAY BE RELEASED ON PAROLE AT ANY TIME IN ORDER
 6 TO UNDERGO DRUG OR ALCOHOL TREATMENT IF THE INMATE:

7 (I) IS NOT SERVING A SENTENCE FOR A CRIME OF VIOLENCE, AS
 8 DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE;

9 (II) IS NOT SERVING A SENTENCE FOR A VIOLATION OF TITLE 3,
 10 SUBTITLE 6, § 5-608(D), § 5-609(D), § 5-612, § 5-613, § 5-614, § 5-621, § 5-622, OR § 5-628
 11 OF THE CRIMINAL LAW ARTICLE; AND

12 (III) HAS BEEN DETERMINED TO BE AMENABLE TO DRUG OR
 13 ALCOHOL TREATMENT.

14 7-305.

15 Each hearing examiner and commissioner determining whether an inmate is
 16 suitable for parole, and the Commission before entering into a predetermined parole
 17 release agreement, shall consider:

18 (1) the circumstances surrounding the crime;

19 (2) the physical, mental, and moral qualifications of the inmate;

20 (3) the progress of the inmate during confinement, including the
 21 academic progress of the inmate in the mandatory education program required under
 22 § 22-102 of the Education Article;

23 (4) A REPORT ON A DRUG OR ALCOHOL EVALUATION ~~ORDERED BY THE~~
 24 ~~COMMISSION THAT HAS BEEN CONDUCTED UNDER REGULATIONS OF THE ALCOHOL~~
 25 ~~AND DRUG ABUSE ADMINISTRATION ON THE INMATE~~, INCLUDING ANY
 26 RECOMMENDATIONS CONCERNING THE INMATE'S AMENABILITY FOR TREATMENT
 27 AND THE AVAILABILITY OF AN APPROPRIATE TREATMENT PROGRAM;

28 [(4)] (5) whether there is reasonable probability that the inmate, if
 29 released on parole, will remain at liberty without violating the law;

30 [(5)] (6) whether release of the inmate on parole is compatible with the
 31 welfare of society;

32 [(6)] (7) an updated victim impact statement or recommendation
 33 prepared under § 7-801 of this title;

34 [(7)] (8) any recommendation made by the sentencing judge at the time
 35 of sentencing;

1 [8] (9) any information that is presented to a commissioner at a
2 meeting with the victim; and

3 [9] (10) any testimony presented to the Commission by the victim or the
4 victim's designated representative under § 7-801 of this title.

5 **Article - Criminal Law**

6 5-609.

7 (a) Except as otherwise provided in this section, a person who violates a
8 provision of §§ 5-602 through 5-606 of this subtitle with respect to any of the
9 following controlled dangerous substances is guilty of a felony and on conviction is
10 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
11 both:

- 12 (1) phencyclidine;
- 13 (2) 1-(1-phenylcyclohexyl) piperidine;
- 14 (3) 1-phenylcyclohexylamine;
- 15 (4) 1-piperidinocyclohexanecarbonitrile;
- 16 (5) N-ethyl-1-phenylcyclohexylamine;
- 17 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 18 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 19 (8) lysergic acid diethylamide; or
- 20 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
21 (MDMA).

22 (b) (1) A person who is convicted under subsection (a) of this section or of
23 conspiracy to commit a crime included in subsection (a) of this section shall be
24 sentenced to imprisonment for not less than 10 years and is subject to a fine not
25 exceeding \$100,000 if the person previously has been convicted once:

- 26 (i) under subsection (a) of this section or § 5-608 of this subtitle;
- 27 (ii) of conspiracy to commit a crime included in subsection (a) of this
28 section or § 5-608 of this subtitle; or
- 29 (iii) of a crime under the laws of another state or the United States
30 that would be a crime included in subsection (a) of this section or § 5-608 of this
31 subtitle if committed in this State; or
- 32 (iv) of any combination of these crimes.

1 (2) The court may not suspend the mandatory minimum sentence to less
2 than 10 years.

3 (3) Except as provided in § 4-305 of the Correctional Services Article, the
4 person is not eligible for parole during the mandatory minimum sentence.

5 (4) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION IS
6 NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §
7 8-507 OF THE HEALTH - GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE
8 SENTENCE.

9 **Article - Criminal Procedure**

10 6-229.

11 (A) THIS SECTION DOES NOT APPLY TO A PERSON:

12 (1) CHARGED WITH A ~~VIOLENT~~ CRIME OF VIOLENCE AS DEFINED UNDER
13 ~~§ 7-101~~ § 14-101 OF THE ~~CORRECTIONAL SERVICES~~ CRIMINAL LAW ARTICLE OR WITH
14 A VIOLATION OF TITLE 3, SUBTITLE 6 OR SUBTITLE 8, OR § 3-203, § 3-204, § 5-612, §
15 5-613, § 5-614, § 5-621, § 5-622, OR § 5-628 OF THE CRIMINAL LAW ARTICLE; OR

16 (2) WHO HAS BEEN CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED
17 UNDER § 14-101 OF THE CRIMINAL LAW ARTICLE, WITHIN THE PREVIOUS 5 YEARS.

18 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

19 (1) A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL
20 TREATMENT SHALL BE CONSIDERED A NOLLE PROSEQUI UNDER THE MARYLAND
21 RULES; AND

22 (2) A STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
23 TREATMENT SHALL BE CONSIDERED A STET UNDER THE MARYLAND RULES,
24 INCLUDING PROVISIONS FOR RESCHEDULING A TRIAL.

25 (C) (1) THE STATE'S ATTORNEY, ON REQUEST OF THE DEFENDANT OR ON
26 THE STATE'S ATTORNEY'S OWN MOTION, MAY MAKE AN OFFER TO A DEFENDANT
27 THAT IF THE DEFENDANT QUALIFIES FOR DRUG OR ALCOHOL TREATMENT THE
28 STATE'S ATTORNEY SHALL DISMISS THE CHARGE BY ENTERING A NOLLE PROSEQUI
29 WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR MOVE THAT THE
30 COURT INDEFINITELY POSTPONE TRIAL OF THE CHARGE BY MARKING THE CHARGE
31 STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT ON THE
32 DOCKET.

33 (2) IN ORDER TO QUALIFY FOR A NOLLE PROSEQUI WITH THE
34 REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR A STET WITH THE
35 REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT, A DEFENDANT SHALL BE
36 EVALUATED FOR DRUG OR ALCOHOL ABUSE BY THE DEPARTMENT OF HEALTH AND
37 MENTAL HYGIENE, A DESIGNEE OF THE DEPARTMENT, OR A PRIVATE PROVIDER
38 UNDER REGULATIONS OF THE ALCOHOL AND DRUG ABUSE ADMINISTRATION AND

1 THE EVALUATION SHALL DETERMINE WHETHER THE DEFENDANT IS AMENABLE TO
2 TREATMENT AND, IF SO, RECOMMEND AN APPROPRIATE TREATMENT PROGRAM.

3 (3) THE DRUG OR ALCOHOL TREATMENT PROGRAM SHALL BE
4 APPROVED UNDER REGULATIONS OF THE ALCOHOL AND DRUG ABUSE
5 ADMINISTRATION.

6 (4) IF A DEFENDANT QUALIFIED UNDER THIS SECTION ACCEPTS AN
7 OFFER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION:

8 (I) THE DEFENDANT SHALL SIGN A ~~WAIVER OF ANY RIGHTS THE~~
9 ~~DEFENDANT MAY HAVE UNDER LAW PROHIBITING DISCLOSURE OF RECORDS OF~~
10 ~~TREATMENT, THEREBY ALLOWING CONSENT TO THE DISCLOSURE OF SUCH~~
11 ~~TREATMENT INFORMATION AS MAY BE NECESSARY TO ALLOW THE DISCLOSURE OF~~
12 ~~THE DISPOSITION OF NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR~~
13 ~~ALCOHOL TREATMENT OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL~~
14 ~~ABUSE TREATMENT TO CRIMINAL JUSTICE UNITS; AND~~

15 (II) ON SUCCESSFUL COMPLETION OF DRUG OR ALCOHOL
16 TREATMENT, THE STATE'S ATTORNEY SHALL DISMISS THE CHARGE BY ENTERING A
17 NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR
18 MOVE THAT THE COURT INDEFINITELY POSTPONE TRIAL OF THE CHARGE BY
19 MARKING THE CHARGE STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
20 ABUSE TREATMENT ON THE DOCKET.

21 (D) (1) (I) A DEFENDANT WHO HAS RECEIVED A DISPOSITION OF NOLLE
22 PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR STET
23 WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT MAY NOT
24 RECEIVE A DISPOSITION OF NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR
25 ALCOHOL TREATMENT OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
26 ABUSE TREATMENT FOR CHARGES AGAINST THE DEFENDANT ARISING FROM A
27 SEPARATE INCIDENT THAT ARE NOT RESOLVED IN THE SAME PROCEEDING.

28 (II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO PROHIBIT THE
29 STATE'S ATTORNEY OR THE COURT FROM ENTERING ANY OTHER APPROPRIATE
30 DISPOSITION IN A PROCEEDING, INCLUDING A DISPOSITION OF NOLLE PROSEQUI OR
31 STET IN ACCORDANCE WITH THE MARYLAND RULES, PROVIDED THAT THE
32 DISPOSITION IS NOT NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR
33 ALCOHOL TREATMENT OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
34 ABUSE TREATMENT.

35 (2) IN THE MANNER PROVIDED BY LAW, A CLERK OF THE COURT SHALL
36 TRANSMIT A DISPOSITION OF NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG
37 OR ALCOHOL TREATMENT OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
38 ABUSE TREATMENT FOR ENTRY INTO THE APPROPRIATE CRIMINAL RECORDS ~~AND~~
39 ~~MOTOR VEHICLE RECORDS~~ AS PROVIDED BY LAW.

40 (E) (1) IN ADDITION TO ANY OTHER FEES, FINES, OR COSTS, UNLESS THE
41 COURT MAKES A FINDING ON THE RECORD THAT A DEFENDANT IS UNABLE BY
42 REASON OF INDIGENCY TO PAY THE COSTS, A PERSON WHO RECEIVES A DISPOSITION

1 OF NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT
2 OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT SHALL
3 PAY TO THE COURT AN ADMINISTRATIVE FEE OF \$150.

4 (2) THE FEE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
5 SHALL BE PAID INTO THE MARYLAND SUBSTANCE ABUSE FUND UNDER § 8-6A-01 OF
6 THE HEALTH - GENERAL ARTICLE.

7 6-230.

8 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THIS
9 SUBSECTION SHALL APPLY IN ANY CASE WHERE THE COURT AGREES THAT, ON
10 SUCCESSFUL COMPLETION OF ANY TREATMENT ORDERED AS A CONDITION OF
11 PROBATION UNDER § 6-219 OF THIS SUBTITLE, THE COURT WILL ENTER AN ORDER
12 STRIKING THE ENTRY OF JUDGMENT AND DEFERRING FURTHER PROCEEDINGS IN
13 ACCORDANCE WITH § 6-220 OF THIS SUBTITLE.

14 (2) ON NOTIFICATION TO THE COURT BY THE DIVISION OF PAROLE AND
15 PROBATION THAT THE DEFENDANT HAS SUCCESSFULLY COMPLETED THE
16 TREATMENT AS ORDERED IN A PROCEEDING UNDER PARAGRAPH (1) OF THIS
17 SUBSECTION, THE COURT SHALL, EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS
18 SECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE TO THE
19 CONTRARY, ENTER AN ORDER STRIKING ENTRY OF JUDGMENT AND DEFERRING
20 FURTHER PROCEEDINGS IN ACCORDANCE WITH § 6-220 OF THIS SUBTITLE.

21 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IN ALL
22 OTHER CASES, ON THE SUCCESSFUL COMPLETION BY A DEFENDANT OF ANY
23 TREATMENT ORDERED AS A CONDITION OF PROBATION IMPOSED UNDER § 6-219 OF
24 THIS SUBTITLE, THE DIVISION OF PAROLE AND PROBATION SHALL NOTIFY THE
25 COURT THAT ISSUED THE ORDER AND THE OFFICE OF THE STATE'S ATTORNEY IN
26 THAT JURISDICTION.

27 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,
28 NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE TO THE CONTRARY,
29 UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION WITHIN 30 DAYS AFTER
30 RECEIPT OF THE NOTICE, THE COURT MAY ENTER AN ORDER STRIKING THE ENTRY
31 OF JUDGMENT AND DEFERRING FURTHER PROCEEDINGS IN ACCORDANCE WITH §
32 6-220 OF THIS SUBTITLE.

33 (3) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION, THE COURT
34 SHALL HOLD A HEARING AND MAY, UNLESS GOOD CAUSE IS FOUND TO THE
35 CONTRARY, ENTER THE ORDER.

36 (C) ANY PROBATION BEFORE JUDGMENT ENTERED IN ACCORDANCE WITH
37 THIS SECTION SHALL BE SUPERVISED BY THE DIVISION OF PAROLE AND PROBATION
38 FOR THE TERM AND UNDER THE CONDITIONS THAT THE COURT CONSIDERS
39 APPROPRIATE.

40 ~~(D)~~ NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, A COURT
41 MAY NOT STAY THE ENTERING OF JUDGMENT AND PLACE A DEFENDANT ON

1 ~~PROBATION FOR A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE IF~~
2 ~~WITHIN THE PRECEDING 10 YEARS THE DEFENDANT:~~

3 ~~(1) HAS BEEN CONVICTED UNDER § 21-902 OF THE TRANSPORTATION~~
4 ~~ARTICLE; OR~~

5 ~~(2) HAS BEEN PLACED ON PROBATION IN ACCORDANCE WITH THIS~~
6 ~~SECTION AFTER BEING CHARGED WITH A VIOLATION OF § 21-902 OF THE~~
7 ~~TRANSPORTATION ARTICLE.~~

8 ~~(D) UNDER THIS SECTION, A COURT MAY NOT STRIKE THE ENTRY OF~~
9 ~~JUDGMENT AND DEFER FURTHER PROCEEDINGS IN ACCORDANCE WITH § 6-220 OF~~
10 ~~THIS SUBTITLE OR STAY THE ENTERING OF A JUDGMENT AND PLACE A DEFENDANT~~
11 ~~ON PROBATION FOR A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE IF,~~
12 ~~WITHIN THE PRECEDING 5 YEARS, THE DEFENDANT:~~

13 ~~(1) HAS BEEN CONVICTED UNDER § 21-902 OF THE TRANSPORTATION~~
14 ~~ARTICLE; OR~~

15 ~~(2) HAS BEEN PLACED ON PROBATION IN ACCORDANCE WITH § 6-220 OF~~
16 ~~THIS SUBTITLE, AFTER BEING CHARGED WITH A VIOLATION OF § 21-902 OF THE~~
17 ~~TRANSPORTATION ARTICLE.~~

18 ~~6-231.~~

19 ~~BEFORE THE REVOCATION OF ANY PROBATION ORDERED UNDER THIS TITLE,~~
20 ~~AND IN ADDITION TO ANY OTHER FACTORS THE COURT CONSIDERS IN CONNECTION~~
21 ~~WITH THE DETERMINATION OF AN APPROPRIATE SENTENCE, THE COURT SHALL:~~

22 ~~(1) CONSIDER ANY EVALUATION OR RECOMMENDATION OF ANY~~
23 ~~HEALTH PROFESSIONAL LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE;~~

24 ~~(2) CONSIDER RELEVANT INFORMATION ABOUT THE DEFENDANT'S~~
25 ~~DRUG OR ALCOHOL ABUSE; AND~~

26 ~~(3) MAKE A FINDING ON THE RECORD AS TO THE DEFENDANT'S~~
27 ~~AMENABILITY TO TREATMENT AND THE INTEREST OF JUSTICE.~~

28 ~~10-105.~~

29 (a) A person who has been charged with the commission of a crime, including
30 a violation of the Transportation Article for which a term of imprisonment may be
31 imposed, may file a petition listing relevant facts for expungement of a police record,
32 court record, or other record maintained by the State or a political subdivision of the
33 State if:

34 (1) the person is acquitted;

35 (2) the charge is otherwise dismissed;

1 (3) a probation before judgment is entered, unless the person is charged
 2 with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or §
 3 3-211 of the Criminal Law Article;

4 (4) a nolle prosequi OR NOLLE PROSEQUI WITH THE REQUIREMENT OF
 5 DRUG OR ALCOHOL TREATMENT is entered;

6 (5) the court indefinitely postpones trial of a criminal charge by marking
 7 the criminal charge "stet" OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
 8 ABUSE TREATMENT on the docket;

9 (6) the case is compromised under § 3-207 of the Criminal Law Article;

10 (7) the charge was transferred to the juvenile court under § 4-202 of this
 11 article; or

12 (8) the person:

13 (i) is convicted of only one criminal act, and that act is not a crime
 14 of violence; and

15 (ii) is granted a full and unconditional pardon by the Governor.

16 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
 17 person shall file a petition in the court in which the proceeding began.

18 (2) If the proceeding began in one court and was transferred to another
 19 court, the person shall file the petition in the court to which the proceeding was
 20 transferred.

21 (3) (i) If the proceeding in a court of original jurisdiction was appealed
 22 to a court exercising appellate jurisdiction, the person shall file the petition in the
 23 appellate court.

24 (ii) The appellate court may remand the matter to the court of
 25 original jurisdiction.

26 (c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 27 A petition for expungement based on an acquittal, a nolle prosequi, or a dismissal may
 28 not be filed within 3 years after the disposition, unless the petitioner files with the
 29 petition a written general waiver and release of all the petitioner's tort claims arising
 30 from the charge.

31 (2) A petition for expungement based on a probation before judgment, ~~A~~
 32 ~~NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR A~~
 33 ~~STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT~~ may not
 34 be filed earlier than the later of:

1 (i) the date the petitioner was discharged from probation OR THE
 2 REQUIREMENTS OF OBTAINING DRUG OR ALCOHOL ABUSE TREATMENT WERE
 3 COMPLETED; or

4 (ii) 3 years after the probation was granted OR ~~THE NOLLE~~
 5 ~~PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR STET~~
 6 WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT WAS ENTERED
 7 ON THE DOCKET.

8 (3) A PETITION FOR EXPUNGEMENT BASED ON A NOLLE PROSEQUI WITH
 9 THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT MAY NOT BE FILED UNTIL
 10 THE COMPLETION OF THE REQUIRED TREATMENT.

11 ~~(3)~~ (4) A petition for expungement based on a full and unconditional
 12 pardon by the Governor may not be filed later than 10 years after the pardon was
 13 signed by the Governor.

14 ~~(4)~~ (5) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 15 SUBSECTION, A petition for expungement based on a stet or a compromise under §
 16 3-207 of the Criminal Law Article may not be filed within 3 years after the stet or
 17 compromise.

18 ~~(5)~~ (6) A court may grant a petition for expungement at any time on a
 19 showing of good cause.

20 (d) (1) The court shall have a copy of a petition for expungement served on
 21 the State's Attorney.

22 (2) Unless the State's Attorney files an objection to the petition for
 23 expungement within 30 days after the petition is served, the court shall pass an order
 24 requiring the expungement of all police records and court records about the charge.

25 (e) (1) If the State's Attorney files a timely objection to the petition, the
 26 court shall hold a hearing.

27 (2) If the court at the hearing finds that the person is entitled to
 28 expungement, the court shall order the expungement of all police records and court
 29 records about the charge.

30 (3) If the court finds that the person is not entitled to expungement, the
 31 court shall deny the petition.

32 (4) The person is not entitled to expungement if:

33 (i) the petition is based on the entry of probation before judgment,
 34 a nolle prosequi, or a stet, INCLUDING A NOLLE PROSEQUI WITH THE REQUIREMENT
 35 OF DRUG OR ALCOHOL TREATMENT OR A STET WITH THE REQUIREMENT OF DRUG
 36 OR ALCOHOL ABUSE TREATMENT, or the grant of a pardon by the Governor; and

37 (ii) the person:

1 1. since the full and unconditional pardon or entry, has been
2 convicted of a crime other than a minor traffic violation; or

3 2. is a defendant in a pending criminal proceeding.

4 (f) Unless an order is stayed pending an appeal, within 60 days after entry of
5 the order, every custodian of the police records and court records that are subject to
6 the order of expungement shall advise in writing the court and the person who is
7 seeking expungement of compliance with the order.

8 (g) (1) The State's Attorney is a party to the proceeding.

9 (2) A party aggrieved by the decision of the court is entitled to appellate
10 review as provided in the Courts Article.

11 **Article - Health - General**

12 8-505.

13 (a) (1) Before or during a criminal trial or ~~prior to~~ BEFORE sentencing, the
14 court may order the Department, ~~THROUGH ITS LOCAL DESIGNEE~~, to evaluate a
15 defendant to determine whether, by reason of drug or alcohol abuse, the defendant is
16 in need of and may benefit from treatment if:

17 (i) It appears to the court that the defendant has an alcohol or drug
18 abuse problem; or

19 (ii) The defendant alleges an alcohol or drug dependency.

20 (2) ~~The A~~ court shall set and may change the conditions under which ~~the~~
21 AN examination is to be conducted UNDER THIS SECTION.

22 (3) ~~AN EVALUATION UNDER THIS SECTION SHALL BE CONDUCTED BY~~
23 ~~THE LOCAL DESIGNEE OF THE DEPARTMENT~~ THE DEPARTMENT SHALL ENSURE
24 THAT EACH EVALUATION UNDER THIS SECTION IS CONDUCTED IN ACCORDANCE
25 WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

26 (b) Except in a capital case, on consideration of the nature of the charge, the
27 court:

28 (1) May require or permit an examination to be conducted on an
29 outpatient basis; and

30 (2) If an outpatient examination is authorized, shall set bail for the
31 defendant or authorize the release of the defendant on personal recognizance.

32 (c) (1) If a defendant is to be held in custody for examination under this
33 section:

1 (i) The defendant may be confined in a detention facility until the
 2 {Department} ~~LOCAL DESIGNEE OF THE DEPARTMENT~~ is able to conduct the
 3 examination; or

4 (ii) The court may order confinement of the defendant in a medical
 5 wing or other isolated and secure unit of a detention facility, if the court finds it
 6 appropriate for the health or safety of the defendant.

7 (2) (i) If the court finds that, because of the apparent severity of the
 8 alcohol or drug dependency or other medical or psychiatric complications, a defendant
 9 in custody would be endangered by confinement in a jail, the court may order the
 10 Department, ~~THROUGH ITS LOCAL DESIGNEE~~, to either:

11 1. Place the defendant, pending examination, in [a] AN
 12 APPROPRIATE health care facility [that the Department designates as appropriate];
 13 or

14 2. [Have local health department staff, or other qualified
 15 personnel who the Department finds appropriate, immediately] IMMEDIATELY
 16 conduct an evaluation of the defendant.

17 (ii) Unless the Department ~~OR ITS LOCAL DESIGNEE~~ retains a
 18 defendant, the defendant shall be promptly returned to the court after an
 19 examination.

20 {(iii) A defendant who is detained for an examination under this
 21 section may question at any time the legality of the detention by a petition for a writ
 22 of habeas corpus.}

23 (d) (1) If a court orders an evaluation under this section, the evaluator shall:

24 (i) Conduct an evaluation of the defendant; and

25 (ii) Submit a complete report of the evaluation within 7 days to the:

26 1. Court;

27 2. ~~Administration~~ DEPARTMENT; and

28 3. Defendant or the defendant's attorney.

29 (2) On good cause shown, ~~the~~ A court may extend the time for an
 30 evaluation UNDER THIS SECTION.

31 (3) WHENEVER AN EVALUATOR RECOMMENDS TREATMENT, THE
 32 EVALUATOR'S REPORT SHALL:

33 (1) NAME A SPECIFIC PROGRAM ABLE TO PROVIDE THE
 34 RECOMMENDED TREATMENT; AND

1 (II) GIVE AN ACTUAL OR ESTIMATED DATE WHEN THE PROGRAM
2 CAN BEGIN TREATMENT OF THE DEFENDANT.

3 (E) (1) THE DEPARTMENT SHALL PROVIDE THE SERVICES REQUIRED BY
4 THIS SECTION.

5 (2) A DESIGNEE OF THE DEPARTMENT MAY CARRY OUT ANY OF ITS
6 DUTIES UNDER THIS SECTION IF APPROPRIATE FUNDING IS PROVIDED.

7 (F) EVALUATIONS PERFORMED IN FACILITIES OPERATED BY THE
8 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL BE
9 CONDUCTED BY THE ADMINISTRATION.

10 8-506.

11 (a) (†) A court may {commit a defendant to the Department} ~~ORDER A~~
12 ~~DEFENDANT TO BE EVALUATED ON AN INPATIENT BASIS FOR FOR INPATIENT~~
13 ~~EVALUATION AS TO DRUG OR ALCOHOL ABUSE~~ if:

14 (i) (1) The court finds it is not clinically appropriate for the
15 defendant to be evaluated in a detention facility or an appropriate outpatient facility;
16 [or] AND

17 (ii) (2) After an INITIAL evaluation [in a detention facility or an
18 outpatient facility] ~~CONDUCTED BY A LOCAL DESIGNEE OF THE DEPARTMENT IN~~
19 ~~ACCORDANCE WITH DEPARTMENT REGULATIONS~~, the {Department} ~~INITIAL~~
20 ~~EVALUATION;~~

21 (I) recommends a comprehensive inpatient evaluation of the
22 defendant; ~~AND~~

23 (II) CERTIFIES THAT AN APPROPRIATE FACILITY IS EITHER
24 CURRENTLY, OR WITHIN A REASONABLE TIME WILL BE ABLE TO, CONDUCT THE
25 EVALUATION;

26 (III) PROVIDES TO THE COURT A DATE BY WHICH THE EVALUATION
27 CAN BE CONDUCTED; AND

28 (IV) GIVES THE COURT PROMPT NOTICE WHEN AN EVALUATION
29 CAN BE CONDUCTED.

30 (III) ~~THE DEPARTMENT OR A LOCAL DESIGNEE OF THE~~
31 ~~DEPARTMENT CERTIFIES TO THE COURT THAT AN APPROPRIATE FACILITY IS EITHER~~
32 ~~CURRENTLY, OR WITHIN A REASONABLE TIME WILL BE, AVAILABLE TO CONDUCT~~
33 ~~THE EVALUATION.~~

34 (2) (†) [~~Before a court commits a defendant to the Department for~~
35 ~~evaluation, the court shall consult with the Administration.] A DEFENDANT~~
36 ~~ORDERED FOR EVALUATION UNDER THIS SECTION REMAINS IN THE LEGAL CUSTODY~~

~~1 OF THE COURT OR THE APPROPRIATE PRETRIAL RELEASE AGENCY OR
2 CORRECTIONAL FACILITY.~~

~~3 (II) A DEFENDANT WHO HAS NOT BEEN RELEASED PRIOR TO TRIAL
4 UNDER MARYLAND RULE 4-216 SHALL BE EVALUATED IN A SECURE FACILITY.~~

~~5 (3) IF AN APPROPRIATE EVALUATION FACILITY IS NOT AVAILABLE
6 UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION:~~

~~7 (I) THE COURT MAY NOT REQUIRE THE DEPARTMENT OR A LOCAL
8 DESIGNEE OF THE DEPARTMENT TO TAKE CUSTODY OF THE DEFENDANT;~~

~~9 (II) A DEFENDANT SHALL BE HELD IN CUSTODY OR RELEASED
10 ACCORDING TO LAW AS ORDERED BY THE COURT; AND~~

~~11 (III) THE DEPARTMENT OR A LOCAL DESIGNEE OF THE
12 DEPARTMENT SHALL PRESENT TO THE COURT A DATE BY WHICH THE EVALUATION
13 CAN BE CONDUCTED AND SHALL PROMPTLY NOTIFY THE COURT WHEN AN
14 APPROPRIATE EVALUATION FACILITY BECOMES AVAILABLE.~~

~~15 (b) The Department, ANOTHER FACILITY APPROVED BY THE DEPARTMENT,
16 OR A LOCAL DESIGNEE OF THE DEPARTMENT, shall provide the services required by
17 this section.~~

~~18 (c) The Department OR A LOCAL DESIGNEE OF THE DEPARTMENT shall have
19 the obligation to [engage in reasonable efforts to] facilitate the PROMPT admission of
20 a defendant to an appropriate evaluation facility.~~

~~21 (d) [Unless the court allows the defendant to provide the defendant's own
22 transportation, on commitment or release of a defendant under this subtitle, the]
23 THE court shall [order]:~~

~~24 (1) ORDER transportation OF THE DEFENDANT TO AN EVALUATION by
25 law enforcement officials, detention center staff, DIVISION OF CORRECTION STAFF, or
26 sheriff's department staff within the local jurisdiction; AND~~

~~27 (2) PROVIDE FOR THE RETURN OF THE DEFENDANT TO A DESIGNATED
28 LOCATION ON COMPLETION OF THE EVALUATION.~~

~~29 (e) (1) A [commitment] COURT ORDER FOR AN EVALUATION under this
30 section shall not [be] REQUIRE AN EVALUATION for more than 7 days unless the
31 medical condition of a defendant warrants an extension of a maximum of 14 days.~~

~~32 (2) Except during the first 72 hours after [commitment] ADMISSION,
33 the Director or a designee of the Director, INCLUDING A LOCAL DESIGNEE OF THE
34 DEPARTMENT, may terminate the [commitment] EVALUATION if the Director or the
35 designee determines that continued [commitment] EVALUATION:~~

~~36 (i) Is not in the best interest of an individual; or~~

1 (ii) Does not serve any useful purpose.

2 (f) (1) Before an individual is released from [commitment] AN
3 EVALUATION FACILITY under this section, the Director or a designee of the Director,
4 INCLUDING A LOCAL DESIGNEE OF THE DEPARTMENT, shall give the judge [that]
5 WHO ordered the [commitment] EVALUATION AND ANY CORRECTIONAL AGENCY TO
6 WHOM THE INDIVIDUAL IS COMMITTED notice of the proposed date and time of
7 release.

8 (2) ON COMPLETION OF THE EVALUATION, THE EVALUATION FACILITY
9 SHALL NOTIFY THE COURT AND THE DEFENDANT SHALL BE RETURNED IN
10 ACCORDANCE WITH THE PROVISIONS OF THE EVALUATION ORDER.

11 (g) In the event an individual [committed] ORDERED TO BE EVALUATED
12 under this section leaves an evaluation facility without authorization, the
13 responsibility of the Department OR A LOCAL DESIGNEE OF THE DEPARTMENT is
14 limited to notification of the court that [committed the individual] ISSUED THE
15 ORDER as soon as it is reasonably possible.

16 (b) (1) The Department shall provide the services required by this section.

17 (2) A DESIGNEE OF THE DEPARTMENT MAY CARRY OUT ANY OF THE
18 DEPARTMENT'S DUTIES UNDER THIS SECTION IF APPROPRIATE FUNDING IS
19 PROVIDED.

20 (c) The Department shall [have the obligation to engage in reasonable efforts
21 to] facilitate the [admission] PROMPT EVALUATION of a defendant [to an
22 appropriate evaluation facility] UNDER THIS SECTION AND ENSURE THAT EACH
23 EVALUATION IS CONDUCTED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
24 DEPARTMENT.

25 (d) [Unless the court allows the defendant to provide the defendant's own
26 transportation, on commitment or release of a defendant under this subtitle, the] A
27 court [shall] MAY order [transportation by] law enforcement officials, detention
28 center staff, DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES STAFF,
29 or sheriff's department staff within the APPROPRIATE local jurisdiction TO
30 TRANSPORT THE DEFENDANT TO AND FROM AN EVALUATION FACILITY.

31 (e) (1) A commitment under this section [shall] MAY not [be] REQUIRE
32 EVALUATION for more than 7 days unless the medical condition of a defendant
33 warrants an extension of a maximum of 14 days.

34 (2) Except during the first 72 hours after [commitment] ADMISSION OF
35 A DEFENDANT TO AN EVALUATION FACILITY, the [Director or a designee of the
36 Director] DEPARTMENT may terminate the [commitment] EVALUATION if the
37 [Director or the designee] DEPARTMENT determines that continued [commitment]
38 EVALUATION:

39 (i) Is not in the best interest of [an individual] THE DEFENDANT;
40 or

1 (ii) Does not serve any useful purpose.

2 (3) WHENEVER AN EVALUATION RECOMMENDS TREATMENT, THE
3 EVALUATOR'S REPORT SHALL:

4 (I) NAME A SPECIFIC PROGRAM ABLE TO PROVIDE THE
5 RECOMMENDED TREATMENT; AND

6 (II) GIVE AN ACTUAL OR ESTIMATED DATE WHEN THE PROGRAM
7 CAN BEGIN TREATMENT OF THE DEFENDANT.

8 (f) (1) ON COMPLETION OF AN EVALUATION UNDER THIS SECTION, THE
9 DEPARTMENT SHALL NOTIFY THE COURT.

10 (2) Before [an individual] A DEFENDANT is released from
11 [commitment] AN EVALUATION FACILITY under this section, the [Director or a
12 designee of the Director] DEPARTMENT shall give the [judge] COURT that ordered
13 the [commitment] EVALUATION AND THE CORRECTIONAL FACILITY, IF ANY, TO
14 WHOSE CUSTODY THE DEFENDANT IS TO BE RELEASED notice of the proposed date
15 and time of release AND HAVE THE DEFENDANT RETURNED TO THE COURT AS
16 PROVIDED IN THE EVALUATION ORDER.

17 (g) (1) [In the event an individual committed under this section] IF A
18 DEFENDANT leaves an evaluation facility without authorization, the responsibility of
19 the Department is limited to notification of the court that [committed the individual]
20 ORDERED THE DEFENDANT'S EVALUATION, as soon as it is reasonably possible.

21 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSTITUTE PROBABLE
22 CAUSE FOR A COURT TO ISSUE A WARRANT FOR THE ARREST OF A DEFENDANT.

23 ~~8-507.~~

24 (a) ~~If a court finds in a criminal case that a defendant has an alcohol or drug~~
25 ~~dependency, AS PROVIDED IN THIS SECTION the court may [commit] ORDER the~~
26 ~~defendant as a condition of release, after conviction, or at any other time the~~
27 ~~defendant voluntarily agrees to treatment [to the Department for] TO PARTICIPATE~~
28 ~~IN inpatient, residential, or outpatient treatment APPROVED BY THE DEPARTMENT~~
29 ~~OR A LOCAL DESIGNEE OF THE DEPARTMENT.~~

30 (b) ~~Before a court may [commit a defendant to the Department for] ORDER~~
31 ~~treatment UNDER THIS SECTION, the court shall:~~

32 (1) ~~Offer the defendant the opportunity to receive treatment; [and]~~

33 (2) ~~Obtain the written consent of the defendant:~~

34 (i) ~~To receive treatment; and~~

35 (ii) ~~For the reporting of information back to the court; [and]~~

1 (3) ~~[Consult with] ORDER AN EVALUATION OF THE DEFENDANT IN~~
2 ~~ACCORDANCE WITH REGULATIONS ADOPTED BY the Administration; AND~~

3 (4) ~~CONSIDER THE REPORT ON THE DEFENDANT'S EVALUATION.~~

4 (e) (1) ~~[The] IF THE COURT ORDERS AN EVALUATION OF A DEFENDANT~~
5 ~~FOR AN ALCOHOL OR DRUG DEPENDENCY, THE Department OR A LOCAL DESIGNEE~~
6 ~~OF THE DEPARTMENT shall [provide the services required by this section];~~

7 (1) ~~ENSURE THAT THE EVALUATION IS CONDUCTED IN~~
8 ~~ACCORDANCE WITH REGULATIONS ADOPTED BY THE ADMINISTRATION; AND~~

9 (II) ~~REVIEW THE EVALUATION AFTER COMPLETION.~~

10 (2) ~~IF THE EVALUATION REPORT RECOMMENDS TREATMENT, THE~~
11 ~~REPORT SHALL:~~

12 (I) ~~IDENTIFY SPECIFIC PROGRAMS CAPABLE OF PROVIDING THE~~
13 ~~TREATMENT AS RECOMMENDED; AND~~

14 (II) ~~IDENTIFY AN ACTUAL OR ESTIMATED DATE WHEN A FACILITY~~
15 ~~CAN ADMIT THE DEFENDANT.~~

16 (D) (1) ~~IF THE COURT AND THE DEPARTMENT OR A LOCAL DESIGNEE OF~~
17 ~~THE DEPARTMENT CONSIDER TREATMENT TO BE APPROPRIATE AND NECESSARY,~~
18 ~~THE COURT MAY ORDER THE DEFENDANT TO PARTICIPATE IN THE TREATMENT~~
19 ~~RECOMMENDED BY THE DEPARTMENT OR A LOCAL DESIGNEE OF THE DEPARTMENT.~~

20 (2) ~~A COURT MAY NOT ORDER THAT THE DEFENDANT BE DELIVERED~~
21 ~~FOR TREATMENT:~~

22 (I) ~~UNLESS THE DEPARTMENT OR A LOCAL DESIGNEE OF THE~~
23 ~~DEPARTMENT RECOMMENDS TREATMENT; AND~~

24 (II) ~~UNTIL THE DEPARTMENT OR A LOCAL DESIGNEE OF THE~~
25 ~~DEPARTMENT NOTIFIES THE COURT THAT AN APPROPRIATE TREATMENT PROGRAM~~
26 ~~IS AVAILABLE TO ADMIT THE DEFENDANT.~~

27 {(d)} (E) ~~The Department OR A LOCAL DESIGNEE OF THE DEPARTMENT shall~~
28 ~~[engage in reasonable efforts to] facilitate the PROMPT admission of a defendant to~~
29 ~~the appropriate treatment facility.~~

30 {(e)} (f) ~~[Unless the court allows the defendant to provide the defendant's~~
31 ~~own transportation, on commitment or release of a defendant under this subtitle, the]~~
32 ~~THE court [shall] MAY order transportation OF THE DEFENDANT TO A TREATMENT~~
33 ~~FACILITY by law enforcement officials, detention center staff, DIVISION OF~~
34 ~~CORRECTION STAFF, or sheriff's department staff within the local jurisdiction.~~

35 (G) ~~A COURT MAY ORDER A DEFENDANT TO PARTICIPATE IN TREATMENT~~
36 ~~UNDER THIS SECTION ONLY:~~

1 (1) ~~AS A CONDITION OF PRETRIAL RELEASE OR PROBATION OR A~~
 2 ~~SUSPENDED SENTENCE UNDER §§ 6-219 THROUGH 6-225 OF THE CRIMINAL~~
 3 ~~PROCEDURE ARTICLE; AND~~

4 (2) ~~IF THERE IS NO CURRENT COMMITMENT FOR INCARCERATION IN~~
 5 ~~EFFECT.~~

6 ~~(H)~~ (1) ~~IF A COURT ORDERS A DEFENDANT TO UNDERGO TREATMENT~~
 7 ~~UNDER THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT TO BE~~
 8 ~~SUPERVISED.~~

9 (1) ~~IF THE DEFENDANT IS RELEASED PRETRIAL, BY THE~~
 10 ~~APPROPRIATE PRETRIAL RELEASE AGENCY OR LOCAL CORRECTIONAL FACILITY~~
 11 ~~UNDER APPROPRIATE CONDITIONS IN ACCORDANCE WITH MARYLAND RULE 4-216;~~
 12 ~~OR~~

13 (H) ~~IF THE COURT RELEASES THE DEFENDANT ON PROBATION, BY~~
 14 ~~THE DIVISION OF PAROLE AND PROBATION UNDER APPROPRIATE CONDITIONS IN~~
 15 ~~ACCORDANCE WITH §§ 6-219 THROUGH 6-225 OF THE CRIMINAL PROCEDURE ARTICLE~~
 16 ~~AND MARYLAND RULE 4-346.~~

17 (2) ~~A DEFENDANT ORDERED TO TREATMENT UNDER THIS SECTION MAY~~
 18 ~~NOT BE CONSIDERED TO BE IN THE CUSTODY OF THE DEPARTMENT.~~

19 ~~{(f)}~~ (1) (1) ~~A defendant's withdrawal of consent to treatment shall~~
 20 ~~CONSTITUTE A VIOLATION OF CONDITIONS OF RELEASE AND SHALL be promptly~~
 21 ~~reported to the court.~~

22 (2) ~~The defendant shall be returned to the court [within 7 days] ON~~
 23 ~~ISSUANCE OF A WARRANT for further proceedings.~~

24 ~~{(g)}~~ ~~A defendant who is committed for treatment under this section may~~
 25 ~~question at any time the legality of the commitment by a petition for a writ of habeas~~
 26 ~~corpus.]~~

27 ~~{(h)}~~ (1) (1) ~~[A commitment] AN ORDER FOR TREATMENT under this section~~
 28 ~~shall be for at least 72 hours and not more than 1 year.~~

29 (2) ~~On good cause shown by the Administration OR A LOCAL DESIGNEE~~
 30 ~~OF THE DEPARTMENT, the court may extend the time period for providing the~~
 31 ~~necessary treatment services in increments of 6 months.~~

32 (3) ~~Except during the first 72 hours after [commitment] ADMISSION OF~~
 33 ~~A DEFENDANT ORDERED FOR TREATMENT UNDER THIS SECTION, the Director or a~~
 34 ~~designee of the Director, INCLUDING A LOCAL DESIGNEE OF THE DEPARTMENT, may~~
 35 ~~terminate the [commitment] TREATMENT if the Director or the designee determines~~
 36 ~~that:~~

37 (i) ~~Continued [commitment] TREATMENT is not in the best~~
 38 ~~interest of the individual; or~~

1 (ii) The individual is no longer amenable to treatment.

2 ~~[(i)] (K) When an individual is to be released from a [commitment]~~
 3 ~~TREATMENT FACILITY under this section, the Director or the Director's designee;~~
 4 ~~INCLUDING A LOCAL DESIGNEE OF THE DEPARTMENT, shall [consult with] NOTIFY~~
 5 ~~the court [to determine if the individual is to be returned to the court].~~

6 ~~[(j)] (L) In the event an individual [committed] ORDERED TO A TREATMENT~~
 7 ~~FACILITY under this section leaves a treatment facility without authorization, the~~
 8 ~~responsibility of the Department OR A LOCAL DESIGNEE OF THE DEPARTMENT is~~
 9 ~~limited to the notification of the court that [committed the individual] ORDERED THE~~
 10 ~~TREATMENT as soon as it is reasonably possible.~~

11 ~~[(k)] (M) Nothing in this section imposes any obligation on the Administration~~
 12 ~~OR A LOCAL DESIGNEE OF THE DEPARTMENT:~~

13 (1) To treat any defendant who knowingly and willfully declines to
 14 consent to further treatment; or

15 (2) In reporting to the court under this section, to include an assessment
 16 of a defendant's dangerousness to one's self, to another individual, or to the property
 17 of another individual by virtue of a drug or alcohol problem.

18 ~~[(l)] (N) Any time served by a criminal defendant held for INPATIENT~~
 19 ~~evaluation or [committed] ORDERED for INPATIENT treatment shall be credited~~
 20 ~~against [the] ANY sentence imposed by the court.~~

21 8-507.

22 (A) THIS SECTION APPLIES ONLY TO A DEFENDANT FOR WHOM:

23 (1) NO SENTENCE OF INCARCERATION IS CURRENTLY IN EFFECT; AND

24 (2) NO DETAINER IS CURRENTLY LODGED.

25 ~~[(a)] (B) [If] SUBJECT TO THE LIMITATIONS IN THIS SECTION, a court THAT~~
 26 ~~finds in a criminal case that a defendant has an alcohol or drug dependency [, the~~
 27 ~~court] may commit the defendant as a condition of release, after conviction, or at any~~
 28 ~~other time the defendant voluntarily agrees to [treatment] PARTICIPATE IN~~
 29 ~~TREATMENT, to the Department for [inpatient, residential, or outpatient] treatment~~
 30 ~~THAT THE DEPARTMENT RECOMMENDS, EVEN IF:~~

31 (1) THE DEFENDANT DID NOT TIMELY FILE A MOTION FOR
 32 RECONSIDERATION UNDER MARYLAND RULE 4-345; OR

33 (2) THE DEFENDANT TIMELY FILED A MOTION FOR RECONSIDERATION
 34 UNDER MARYLAND RULE 4-345 WHICH WAS DENIED BY THE COURT.

35 ~~[(b)] (C) Before a court [may commit] COMMITS a defendant to the~~
 36 ~~Department [for treatment] UNDER THIS SECTION, the court shall:~~

- 1 (1) Offer the defendant the opportunity to receive treatment; [and]
- 2 (2) Obtain the written consent of the defendant:
- 3 (i) To receive treatment; and
- 4 (ii) [For the reporting of] TO HAVE information REPORTED back to
5 the court; [and]
- 6 (3) [Consult with the Administration] ORDER AN EVALUATION OF THE
7 DEFENDANT UNDER § 8-505 OR § 8-506 OF THIS SUBTITLE;
- 8 (4) CONSIDER THE REPORT ON THE DEFENDANT'S EVALUATION; AND
- 9 (5) FIND THAT THE TREATMENT THAT THE DEPARTMENT RECOMMENDS
10 TO BE APPROPRIATE AND NECESSARY.
- 11 [(c)] (D) (1) The Department shall provide the services required by this
12 section.
- 13 (2) A DESIGNEE OF THE DEPARTMENT MAY CARRY OUT ANY OF THE
14 DEPARTMENT'S DUTIES UNDER THIS SECTION IF APPROPRIATE FUNDING IS
15 PROVIDED.
- 16 (E) (1) A COURT MAY NOT ORDER THAT THE DEFENDANT BE DELIVERED
17 FOR TREATMENT UNTIL THE DEPARTMENT GIVES THE COURT NOTICE THAT AN
18 APPROPRIATE TREATMENT PROGRAM IS ABLE TO BEGIN TREATMENT OF THE
19 DEFENDANT.
- 20 [(d)] (2) The Department shall [engage in reasonable efforts to] facilitate the
21 [admission] PROMPT TREATMENT of a defendant [to the appropriate treatment
22 facility].
- 23 (F) FOR A DEFENDANT COMMITTED FOR TREATMENT UNDER THIS SECTION, A
24 COURT SHALL ORDER SUPERVISION OF THE DEFENDANT:
- 25 (1) BY AN APPROPRIATE PRETRIAL RELEASE AGENCY, IF THE
26 DEFENDANT IS RELEASED PENDING TRIAL;
- 27 (2) BY THE DIVISION OF PAROLE AND PROBATION UNDER APPROPRIATE
28 CONDITIONS IN ACCORDANCE WITH §§ 6-219 THROUGH 6-225 OF THE CRIMINAL
29 PROCEDURE ARTICLE AND MARYLAND RULE 4-345, IF THE DEFENDANT IS RELEASED
30 ON PROBATION; OR
- 31 (3) BY THE DEPARTMENT, IF THE DEFENDANT REMAINS IN THE
32 CUSTODY OF A LOCAL CORRECTIONAL FACILITY.
- 33 [(e)] (G) [Unless the court allows the defendant to provide the defendant's
34 own transportation, on commitment or release of a defendant under this subtitle, the]
35 A court [shall] MAY order [transportation by] law enforcement officials, detention
36 center staff, DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES STAFF,

1 or sheriff's department staff within the APPROPRIATE local jurisdiction TO
2 TRANSPORT A DEFENDANT TO AND FROM TREATMENT UNDER THIS SECTION.

3 [(f)] (H) [(1) A] THE DEPARTMENT SHALL PROMPTLY REPORT TO A COURT A
4 defendant's withdrawal of consent to treatment [shall be promptly reported to the
5 court.

6 (2) The defendant shall be] AND HAVE THE DEFENDANT returned to the
7 court within 7 days for further proceedings.

8 [(g)] (I) A defendant who is committed for treatment under this section may
9 question at any time the legality of the commitment by a petition for a writ of habeas
10 corpus.

11 [(h)] (J) (1) A commitment under this section shall be for at least 72 hours
12 and not more than 1 year.

13 (2) On good cause shown by [the Administration] THE DEPARTMENT,
14 THE COURT, OR THE STATE, the court may extend the time period for providing the
15 necessary treatment services in increments of 6 months.

16 (3) Except during the first 72 hours after [commitment, the Director or a
17 designee of the Director] ADMISSION OF A DEFENDANT TO A TREATMENT PROGRAM,
18 THE DEPARTMENT may terminate the [commitment] TREATMENT if the [Director or
19 the designee] DEPARTMENT determines that:

20 (i) Continued [commitment] TREATMENT is not in the best
21 interest of the [individual] DEFENDANT; or

22 (ii) The [individual] DEFENDANT is no longer amenable to
23 treatment.

24 [(i)] (K) When [an individual] A DEFENDANT is to be released from [a
25 commitment] TREATMENT under this section, the [Director or the Director's
26 designee] DEPARTMENT shall [consult with] NOTIFY the court [to determine if the
27 individual is to be returned to the court] THAT ORDERED THE TREATMENT.

28 [(j)] (L) (1) [In the event an individual committed under this section] IF A
29 DEFENDANT leaves [a] treatment [facility] without authorization, the responsibility
30 of the Department is limited to the notification of the court that [committed the
31 individual] ORDERED THE DEFENDANT'S TREATMENT as soon as it is reasonably
32 possible.

33 (2) NOTICE UNDER THIS SUBSECTION SHALL CONSTITUTE PROBABLE
34 CAUSE FOR A COURT TO ISSUE A WARRANT FOR THE ARREST OF A DEFENDANT.

35 [(k)] (M) Nothing in this section imposes any obligation on the
36 [Administration] DEPARTMENT;

1 (1) To treat any defendant who knowingly and willfully declines to
 2 consent to further treatment; or

3 (2) In reporting to the court under this section, to include an assessment
 4 of a defendant's dangerousness to one's self, to another individual, or to the property
 5 of another individual by virtue of a drug or alcohol problem.

6 [(I)] [(N)] [Any time served by a criminal] TIME DURING WHICH A defendant IS
 7 held UNDER THIS SECTION for INPATIENT evaluation or [committed for] INPATIENT
 8 OR RESIDENTIAL treatment shall be credited against [the] ANY sentence imposed by
 9 the court THAT ORDERED THE EVALUATION OR TREATMENT.

10 [(O)] THIS SECTION MAY NOT BE CONSTRUED TO LIMIT A COURT'S AUTHORITY
 11 TO ORDER DRUG TREATMENT IN LIEU OF INCARCERATION UNDER TITLE 5 OF THE
 12 CRIMINAL LAW ARTICLE.

13 SUBTITLE 6A. MARYLAND SUBSTANCE ABUSE FUND.

14 8-6A-01.

15 (A) IN THIS SECTION, "FUND" MEANS THE MARYLAND SUBSTANCE ABUSE
 16 FUND.

17 (B) (1) THERE IS A MARYLAND SUBSTANCE ABUSE FUND.

18 (2) THE FUND IS A SPECIAL NONLAPSING FUND THAT IS NOT SUBJECT
 19 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

20 (3) THE FUND CONSISTS OF THE FEE REQUIRED UNDER § 6-229 OF THE
 21 CRIMINAL PROCEDURE ARTICLE, MONEYS APPROPRIATED IN THE STATE BUDGET TO
 22 THE FUND, ALL EARNINGS FROM INVESTMENT OF MONEYS IN THE FUND, AND
 23 OTHER MONEYS ACCEPTED FOR THE BENEFIT OF THE FUND FROM A
 24 GOVERNMENTAL OR PRIVATE SOURCE.

25 (4) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY.

26 (5) THE STATE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27 (6) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
 28 MANNER AS OTHER STATE FUNDS.

29 (7) THE COMPTROLLER SHALL PAY OUT MONEY FROM THE FUND AS
 30 DIRECTED BY THE ADMINISTRATION OR AS APPROVED IN THE STATE BUDGET.

31 (8) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE
 32 AUDITS UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

33 (9) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

34 (I) THE GENERAL FUND OF THE STATE; OR

1 (II) ANY OTHER SPECIAL FUND OF THE STATE.

2 (C) THE FUND SHALL BE USED BY THE ADMINISTRATION FOR THE
3 FOLLOWING PURPOSES IN ORDER OF PRIORITY:

4 (1) PLANNING EXPENSES AND RELATED COSTS INCURRED BY LOCAL
5 DRUG AND ALCOHOL COUNCILS ESTABLISHED UNDER SUBTITLE 10 OF THIS TITLE;

6 (2) PLANNING EXPENSES AND RELATED COSTS INCURRED BY ANY
7 STATE UNIT DESIGNATED TO COORDINATE PLANNING BY LOCAL DRUG AND
8 ALCOHOL COUNCILS AND REVIEW GRANT REQUESTS FROM LOCAL GOVERNMENTS;
9 AND

10 (3) SUBSTANCE ABUSE EVALUATION AND TREATMENT SERVICES,
11 INCLUDING SERVICES PROVIDED THROUGH A DRUG TREATMENT COURT.

12 (D) (1) ADMINISTRATIVE EXPENDITURES UNDER THIS SECTION MAY BE
13 MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

14 (2) THE ADMINISTRATION SHALL ADMINISTER THE FUND IN
15 ACCORDANCE WITH THIS SECTION AND ALL OTHER APPLICABLE LAW.

16 (3) DISBURSEMENTS FROM THE FUND SHALL SUPPLEMENT AND MAY
17 NOT SUBSTITUTE FOR ANY OTHER FUNDS APPROPRIATED IN THE STATE BUDGET
18 FOR SUBSTANCE ABUSE EVALUATION AND TREATMENT SERVICES.

19 **~~Article – Transportation~~**

20 ~~16-117.~~

21 ~~(a) The Administration shall keep a record of:~~

22 ~~(1) Each driver's license application that it receives;~~

23 ~~(2) Each driver's license that it issues; and~~

24 ~~(3) Each licensee whose license to drive the Administration has~~
25 ~~suspended or revoked, and the reasons for the action.~~

26 ~~(b) (1) The Administration shall file each accident report and abstract of~~
27 ~~court disposition records that it receives under the laws of this State.~~

28 ~~(2) The Administration shall keep convenient records or make suitable~~
29 ~~notations showing the convictions or traffic accidents in which each licensee has been~~
30 ~~involved and every probation before judgment disposition of any violation of the~~
31 ~~Maryland Vehicle Law. A record or notation of a probation before judgment~~
32 ~~disposition, A CHARGE DISMISSED BY THE STATE'S ATTORNEY ENTERING A NOLLE~~
33 ~~PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR~~
34 ~~POSTPONED INDEFINITELY BY THE COURT MARKING THE CHARGE STET WITH THE~~
35 ~~REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT ON THE DOCKET, or a first~~

1 offense of driving with an alcohol concentration of 0.08 or more under § 16-205.1 of
2 this title, shall be segregated by the Administration and shall be available only to the
3 Administration, the courts, criminal justice agencies, and the defendant or the
4 defendant's attorney. However, a record or notation of a probation before judgment, A
5 CHARGE DISMISSED BY NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR
6 ALCOHOL TREATMENT OR POSTPONED INDEFINITELY BY THE COURT MARKING THE
7 CHARGE STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT
8 ON THE DOCKET, or a first offense of driving with an alcohol concentration of 0.08 or
9 more under § 16-205.1 of this title, may not be received or considered by the courts
10 until a plea of guilty or nolo contendere is made by the defendant or a finding of guilty
11 is made by the court.

12 (3) These records or notations shall be made so that they are readily
13 available for consideration by the Administration of any license renewal application
14 and at any other suitable time.

15 (4) Accident reports and abstracts of court convictions pertaining to
16 driving an emergency vehicle, if received by a person who was driving an emergency
17 vehicle pursuant to the provisions of § 21-106 of this article, shall be segregated by
18 the Administration and shall be available only to the Administration.

19 (5) Except as provided in this section, an employee of the Administration
20 may not disclose any records or information regarding probation before judgment, or
21 a first offense of driving with an alcohol concentration of 0.08 or more under §
22 16-205.1 of this title.

23 (e) If a charge of a Maryland Vehicle Law violation against any individual is
24 dismissed by a court of competent jurisdiction, a record of the charge and dismissal
25 may not be included in the individual's driving record.

26 ~~16-117.1.~~

27 (a) In this section, "criminal offense" does not include any violation of the
28 Maryland Vehicle Law.

29 (b) Except as provided in subsection (c) of this section and in Subtitle 8 of this
30 title, if a licensee applies for the expungement of the licensee's public driving record,
31 the Administration shall expunge the record if, at the time of application:

32 (1) The licensee does not have charges pending for allegedly committing
33 a moving violation or a criminal offense involving a motor vehicle; and

34 (2) (i) The licensee has not been convicted of a moving violation or a
35 criminal offense involving a motor vehicle for the preceding 3 years, and the licensee's
36 license never has been suspended or revoked;

37 (ii) The licensee has not been convicted of a moving violation or a
38 criminal offense involving a motor vehicle for the preceding 5 years, and the licensee's
39 record shows not more than one suspension and no revocations; or

1 (iii) Within the preceding 10 years:

2 1. The licensee has not been convicted of [nor], been granted
3 probation before judgment ~~FOR, OR HAD A CHARGE DISMISSED BY NOLLE PROSEQUI~~
4 ~~WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR POSTPONED~~
5 ~~INDEFINITELY BY THE COURT MARKING THE CHARGE STET WITH THE~~
6 ~~REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT~~ for a violation of § 20-102
7 or § 21-902 of this article;

8 2. The licensee's driving record shows no convictions from
9 another jurisdiction of a moving violation identical or substantially similar to §
10 20-102 or § 21-902 of this article; and

11 3. The licensee has not been convicted of any other moving
12 violation or criminal offense involving a motor vehicle, regardless of the number of
13 suspensions or revocations.

14 (e) The Administration may refuse to expunge a driving record if it determines
15 that the individual requesting the expungement has not driven a motor vehicle on the
16 highways during the particular conviction-free period on which the request is based.

17 (d) The Administration shall expunge from its driver record data base the
18 driving record of an individual or a probation before judgment disposition of an
19 individual:

20 (1) Who has not been convicted of a moving violation or criminal offense
21 involving a motor vehicle for the preceding 3 years;

22 (2) Who has not been convicted of, [or] been granted probation before
23 judgment for, ~~OR HAD A CHARGE DISMISSED BY NOLLE PROSEQUI WITH THE~~
24 ~~REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR POSTPONED INDEFINITELY~~
25 ~~BY THE COURT MARKING THE CHARGE STET WITH THE REQUIREMENT OF DRUG OR~~
26 ~~ALCOHOL ABUSE TREATMENT ON THE DOCKET FOR:~~

27 (i) A violation of § 20-102 of this article;

28 (ii) A violation of § 21-902 of this article; or

29 (iii) A moving violation identical or substantially similar to § 20-102
30 or § 21-902 of this article; and

31 (3) Whose license or privilege to drive never has been suspended or
32 revoked.

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

1 **Article - Health - General**

2 SUBTITLE 10. LOCAL DRUG AND ALCOHOL ABUSE COUNCILS.

3 8-1001.

4 (A) EACH COUNTY SHALL HAVE A LOCAL DRUG AND ALCOHOL ABUSE
5 COUNCIL.6 (B) ~~THE GOVERNOR OR THE GOVERNOR'S DESIGNEE MAY DESIGNATE ANY~~
7 ~~AGENCY OR ORGANIZATION IN EXISTENCE ON JULY 1, 2004, AS THE LOCAL DRUG AND~~
8 ~~ALCOHOL ABUSE COUNCIL FOR THAT COUNTY ON APPLICATION FROM A COUNTY,~~
9 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE MAY DESIGNATE A COUNTY
10 CRIMINAL JUSTICE COORDINATING COUNCIL, SUBSTANCE ABUSE ADVISORY
11 COUNCIL, OR OTHER AGENCY OR ORGANIZATION AS THE LOCAL DRUG AND ALCOHOL
12 ABUSE COUNCIL FOR THAT COUNTY.13 (C) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A LOCAL
14 DRUG AND ALCOHOL ABUSE COUNCIL SHALL CONSIST OF ~~NOT MORE THAN 17 OF~~
15 THE FOLLOWING INDIVIDUALS:16 (1) THE HEALTH OFFICER OF THE LOCAL HEALTH DEPARTMENT, OR
17 THE HEALTH OFFICER'S DESIGNEE;18 (2) THE DIRECTOR OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES,
19 OR THE DIRECTOR'S DESIGNEE;20 (3) THE REGIONAL DIRECTOR OF THE DEPARTMENT OF JUVENILE
21 SERVICES, OR THE DIRECTOR'S DESIGNEE;22 (4) THE REGIONAL DIRECTOR OF THE DIVISION OF PAROLE AND
23 PROBATION, OR THE DIRECTOR'S DESIGNEE;24 (5) THE STATE'S ATTORNEY FOR THE COUNTY, OR THE STATE'S
25 ATTORNEY'S DESIGNEE;26 (6) THE DISTRICT PUBLIC DEFENDER FOR THE DISTRICT IN WHICH THE
27 COUNTY IS LOCATED, OR THE DISTRICT PUBLIC DEFENDER'S DESIGNEE;28 ~~(5)~~ (7) THE CHIEF OF THE COUNTY POLICE DEPARTMENT, IF THE
29 COUNTY HAS A POLICE FORCE, OR THE SHERIFF, IF THE COUNTY DOES NOT HAVE A
30 POLICE FORCE, OR THAT INDIVIDUAL'S DESIGNEE;31 ~~(6)~~ (8) THE PRESIDENT OF THE LOCAL BOARD OF EDUCATION, OR THE
32 PRESIDENT'S DESIGNEE;33 ~~(7)~~ (9) A REPRESENTATIVE OF THE COUNTY EXECUTIVE, THE MAYOR
34 OF BALTIMORE CITY, OR THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IN
35 COUNTIES WITH NO COUNTY EXECUTIVE, AS APPROPRIATE;

1 ~~(8)~~ (10) FOR CHARTER COUNTIES AND IN BALTIMORE CITY, A
2 REPRESENTATIVE OF THE COUNTY COUNCIL OR THE CITY COUNCIL IN BALTIMORE
3 CITY, APPOINTED BY THE CHAIRPERSON OR PRESIDENT OF THE COUNTY COUNCIL
4 OR CITY COUNCIL;

5 ~~(9)~~ (11) THE COUNTY ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT
6 FOR THE COUNTY, OR THE JUDGE'S DESIGNEE;

7 ~~(10)~~ (12) THE ADMINISTRATIVE JUDGE OF THE DISTRICT COURT FOR
8 THAT DISTRICT, OR THE JUDGE'S DESIGNEE; AND

9 ~~(11)~~ (13) THE FOLLOWING INDIVIDUALS APPOINTED BY THE COUNTY
10 EXECUTIVE, THE MAYOR OF BALTIMORE CITY, OR THE COUNTY COMMISSIONERS OR
11 COUNTY COUNCIL IN COUNTIES WITH NO COUNTY EXECUTIVE, AS APPROPRIATE:

12 (I) AT LEAST ONE RECIPIENT OF ADDICTIONS TREATMENT
13 SERVICES;

14 ~~(II) AT LEAST ONE SUBSTANCE ABUSE TREATMENT PROVIDER~~ TWO
15 SUBSTANCE ABUSE PROVIDERS, AT LEAST ONE OF WHOM HAS EXPERIENCE WITH
16 SERVICES TO INDIVIDUALS WITH CO-OCCURRING SUBSTANCE ABUSE AND MENTAL
17 HEALTH DISORDERS;

18 (III) AT LEAST ONE SUBSTANCE ABUSE PREVENTION PROVIDER;

19 (IV) AT LEAST ONE INDIVIDUAL WHO IS KNOWLEDGEABLE AND
20 ACTIVE ON SUBSTANCE ABUSE ISSUES THAT AFFECT THE COUNTY;

21 (V) THE SUPERINTENDENT, WARDEN, OR DIRECTOR OF THE LOCAL
22 CORRECTIONAL FACILITY LOCATED IN THE COUNTY OR IN BALTIMORE CITY THE
23 WARDEN OF THE BALTIMORE CITY DETENTION CENTER; AND

24 (VI) AT LEAST ONE OTHER INDIVIDUAL WHO IS KNOWLEDGEABLE
25 ABOUT TREATMENT OF SUBSTANCE ABUSE IN THE COUNTY, INCLUDING MEMBERS
26 OF CIVIC ORGANIZATIONS, THE CHAMBER OF COMMERCE, HEALTH CARE
27 PROFESSIONAL ORGANIZATIONS, OR THE CLERGY.

28 (D) (1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (C)(11) OF
29 THIS SECTION IS 4 YEARS.

30 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY
31 THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON JULY 1, 2004.

32 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
33 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

34 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
35 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
36 AND QUALIFIES.

1 (E) THE LOCAL DRUG AND ALCOHOL ABUSE COUNCIL SHALL:

2 (1) DETERMINE ITS OWN GOVERNING STRUCTURE, INCLUDING ISSUES
3 RELATING TO APPOINTMENT OF A MEMBER TO SERVE AS CHAIRMAN;

4 (2) DEVELOP AND SUBMIT A PLAN TO THE ADMINISTRATION AS
5 REQUIRED IN THIS SECTION;

6 (3) SUBMIT A SUMMARY REPORT TO THE GOVERNOR OR THE
7 GOVERNOR'S DESIGNEE ON OR BEFORE DECEMBER 1, 2004, ON ITS MEMBERSHIP,
8 ORGANIZATION, RULES, PROGRESS IN DEVELOPING A PLAN, AND COMPLIANCE WITH
9 THIS SECTION; AND

10 (4) (I) ON JULY 1, 2005, AND EVERY 2 YEARS THEREAFTER, SUBMIT A
11 LOCAL PLAN AS DESCRIBED IN SUBSECTION ~~(E)~~ (F) OF THIS SECTION TO THE
12 GOVERNOR, OR THE GOVERNOR'S DESIGNEE; AND

13 (II) REPORT EVERY 6 MONTHS TO THE ADMINISTRATION ON ITS
14 PROGRESS IN IMPLEMENTING THE PLAN.

15 (F) A LOCAL PLAN SHALL:

16 (1) INCLUDE THE PLANS, STRATEGIES, AND PRIORITIES OF THE COUNTY
17 FOR MEETING THE IDENTIFIED NEEDS OF THE GENERAL PUBLIC AND THE CRIMINAL
18 JUSTICE SYSTEM FOR ALCOHOL AND DRUG ABUSE EVALUATION, PREVENTION, AND
19 TREATMENT SERVICES;

20 (2) INCLUDE A SURVEY OF ALL FEDERAL, STATE, LOCAL, AND PRIVATE
21 FUNDS USED IN THE COUNTY FOR ALCOHOL AND DRUG ABUSE EVALUATION,
22 PREVENTION, AND TREATMENT; AND

23 (3) BE IN A FORMAT AS PRESCRIBED BY THE ADMINISTRATION.

24 (G) A COUNTY OR UNIT OF A COUNTY APPLYING FOR FUNDS FROM A STATE
25 UNIT FOR ANY ALCOHOL OR DRUG ABUSE EVALUATION, PREVENTION, OR
26 TREATMENT SERVICES WITHIN THAT COUNTY SHALL SUBMIT THAT APPLICATION TO
27 THE LOCAL DRUG AND ALCOHOL ABUSE COUNCIL FOR ITS CONSIDERATION.

28 ~~(G)~~ (H) (1) ~~AFTER REVIEW OF AN APPLICATION OR GRANT PROPOSAL,~~ THE
29 LOCAL DRUG AND ALCOHOL ABUSE COUNCIL MAY RECOMMEND TO ANY FEDERAL OR
30 STATE UNIT OR PRIVATE FOUNDATION THAT AN APPLICATION FOR ANY FUNDS FOR
31 DRUG OR ALCOHOL ABUSE EVALUATION, PREVENTION, OR TREATMENT SERVICES IN
32 THE COUNTY BE APPROVED.

33 (2) (I) ~~IN CONDUCTING A REVIEW UNDER PARAGRAPH (1) OF THIS~~
34 ~~SUBSECTION,~~ A LOCAL DRUG AND ALCOHOL ABUSE COUNCIL SHALL CONSIDER
35 WHETHER THE GRANT APPLICATION IS CONSISTENT WITH THE LOCAL PLAN AND
36 THE STRATEGIES AND PRIORITIES SET OUT IN THE LOCAL PLAN.

1 (II) A RECOMMENDATION BY A LOCAL DRUG AND ALCOHOL ABUSE
 2 COUNCIL MAY INCLUDE ANY ADDITIONAL INFORMATION THE COUNCIL CONSIDERS
 3 USEFUL TO THE GOVERNMENTAL UNIT OR PRIVATE FOUNDATION IN ITS
 4 CONSIDERATION OF THE APPLICATION.

5 ~~(H) A STATE UNIT MAY NOT APPROVE AN APPLICATION FROM A COUNTY OR
 6 UNIT OF A COUNTY FOR FUNDS FOR ANY ALCOHOL OR DRUG ABUSE EVALUATION,
 7 PREVENTION, OR TREATMENT SERVICES WITHIN THAT COUNTY UNLESS THE
 8 APPLICATION HAS BEEN SUBMITTED FOR REVIEW TO THE LOCAL DRUG AND
 9 ALCOHOL ABUSE COUNCIL.~~

10 ~~(I) THE LOCAL DRUG AND ALCOHOL ABUSE COUNCIL MAY SUBMIT
 11 RECOMMENDATIONS TO THE COUNTY OR THE ADMINISTRATION REGARDING
 12 LEGISLATION OR PROGRAMS THAT MAY BE APPROPRIATE TO THE IMPROVEMENT OF
 13 ALCOHOL AND DRUG ABUSE EVALUATION, PREVENTION, AND TREATMENT
 14 SERVICES.~~

15 ~~(J) (1) THE ADMINISTRATION MAY PROVIDE A EACH LOCAL DRUG AND
 16 ALCOHOL ABUSE COUNCIL WITH ANY NECESSARY TECHNICAL ASSISTANCE AND ANY
 17 FUNDS THAT MAY BE AVAILABLE FOR OPERATION OF THE COUNCIL.~~

18 (2) THE ADMINISTRATION SHALL PROVIDE ANY FUNDS AVAILABLE
 19 FROM THE MARYLAND SUBSTANCE ABUSE FUND OR OTHER SOURCES FOR
 20 OPERATION OF A LOCAL COUNCIL ON SUBMISSION OF A REQUEST FOR FUNDS AND
 21 APPROVAL OF A BUDGET IN ACCORDANCE WITH ADMINISTRATION REGULATIONS.

22 (J) THE PLANNING, REPORTING, AND REVIEWING REQUIREMENTS FOR A
 23 LOCAL DRUG AND ALCOHOL ABUSE COUNCIL UNDER THIS SECTION DO NOT APPLY
 24 UNLESS APPROPRIATE STATE FUNDING FOR FULFILLING THE REQUIREMENTS HAS
 25 BEEN PROVIDED.

26 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
 27 members of a local Drug and Alcohol Abuse Council appointed under § 8-1001(c)(11)
 28 of the Health - General Article of the Annotated Code of Maryland shall expire as
 29 follows:

- 30 (1) One member in 2005;
- 31 (2) One member in 2006;
- 32 (3) One member in 2007; and
- 33 (4) The remaining members in 2008.

34 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of
 35 Health and Mental Hygiene shall provide to the Governor and, in accordance with §
 36 2-1246 of the State Government Article, the General Assembly, a report on the
 37 implementation and status of this Act, including any costs or savings to the State as
 38 a result of the implementation of this Act, on or before December 31, 2005.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, unless an appropriation
2 of at least \$3,000,000 is dedicated in the fiscal year 2005 State budget as enacted by
3 the General Assembly to specifically carry out the provisions of this Act, this Act, with
4 no further action required by the General Assembly, shall be null and void and of no
5 force and effect.

6 SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That, subject to the
7 provisions of Section 5 of this Act, Section 2 of this Act shall take effect July 1, 2004.

8 SECTION ~~5~~ 7. AND BE IT FURTHER ENACTED, That, subject to the
9 provisions of Section 5 of this Act and except as provided in Section ~~4~~ 6 of this Act, this
10 Act shall take effect October 1, 2004.