

SENATE BILL 194

Unofficial Copy
E4

2004 Regular Session
4r0099
CF 4r0038

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**

Introduced and read first time: January 23, 2004
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: April 1, 2004

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
13 and alcohol abuse under certain circumstances; requiring certain evaluations be
14 conducted in a certain manner; authorizing a court to order certain evaluations
15 under certain circumstances; authorizing a court to order certain treatment that
16 the Department of Health and Mental Hygiene or its local designee considers
17 necessary under certain circumstances; requiring that a defendant ordered to
18 treatment be supervised in a certain manner; providing that certain evaluation
19 requirements and departmental regulations for local designees of the
20 Department under this Act are not applicable under certain circumstances;
21 authorizing a court to issue a warrant for the arrest of a certain individual
22 under certain circumstances; establishing the Maryland Substance Abuse Fund
23 to be used for evaluation and treatment of criminal defendants for certain drug

1 or alcohol abuse problems; establishing certain procedures relating to the Fund
2 and money received by the Fund; requiring counties to establish a local drug and
3 alcohol council; establishing the membership of the council; establishing certain
4 procedures; requiring local plans consisting of certain matters concerning drug
5 and alcohol treatment; providing for the staggering of the terms of certain
6 members of a local drug and alcohol council; providing that certain planning,
7 reporting, and reviewing for a local drug and alcohol abuse council under this
8 Act are not applicable under certain circumstances; requiring the Department to
9 provide to the Governor and the General Assembly a certain report by a certain
10 date; making this Act subject to a certain contingency; providing for the effective
11 dates of this Act; and generally relating to drug and alcohol treatment.

12 BY repealing and reenacting, with amendments,
13 Article - Correctional Services
14 Section 7-301(a) and 7-305
15 Annotated Code of Maryland
16 (1999 Volume and 2003 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Criminal Law
19 Section 5-609(a)
20 Annotated Code of Maryland
21 (2002 Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Criminal Law
24 Section 5-609(b)
25 Annotated Code of Maryland
26 (2002 Volume and 2003 Supplement)

27 BY adding to
28 Article - Criminal Procedure
29 Section 6-229, 6-230, and 6-231
30 Annotated Code of Maryland
31 (2001 Volume and 2003 Supplement)

32 BY repealing and reenacting, with amendments,
33 Article - Criminal Procedure
34 Section 10-105
35 Annotated Code of Maryland
36 (2001 Volume and 2003 Supplement)

37 BY repealing and reenacting, with amendments,
38 Article - Health - General
39 Section 8-505 through 8-507, inclusive

1 Annotated Code of Maryland
2 (2000 Replacement Volume and 2003 Supplement)

3 BY adding to
4 Article - Health - General
5 Section 8-6A-01 to be under the new subtitle "Subtitle 6A. Maryland Substance
6 Abuse Fund"; and 8-1001 to be under the new subtitle "Subtitle 10. Local
7 Drug and Alcohol Councils"
8 Annotated Code of Maryland
9 (2000 Replacement Volume and 2003 Supplement)

10 ~~BY repealing and reenacting, with amendments,~~
11 ~~Article - Transportation~~
12 ~~Section 16-117 and 16-117.1~~
13 ~~Annotated Code of Maryland~~
14 ~~(2002 Replacement Volume and 2003 Supplement)~~

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

17 **Article - Correctional Services**

18 7-301.

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

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

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

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

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

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

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

4 (III) HAS BEEN DETERMINED TO BE AMENABLE TO DRUG OR
 5 ALCOHOL TREATMENT.

6 7-305.

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

10 (1) the circumstances surrounding the crime;

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

12 (3) the progress of the inmate during confinement, including the
 13 academic progress of the inmate in the mandatory education program required under
 14 § 22-102 of the Education Article;

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

20 [(4)] (5) whether there is reasonable probability that the inmate, if
 21 released on parole, will remain at liberty without violating the law;

22 [(5)] (6) whether release of the inmate on parole is compatible with the
 23 welfare of society;

24 [(6)] (7) an updated victim impact statement or recommendation
 25 prepared under § 7-801 of this title;

26 [(7)] (8) any recommendation made by the sentencing judge at the time
 27 of sentencing;

28 [(8)] (9) any information that is presented to a commissioner at a
 29 meeting with the victim; and

30 [(9)] (10) any testimony presented to the Commission by the victim or the
 31 victim's designated representative under § 7-801 of this title.

Article - Criminal Law

2 5-609.

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

- 8 (1) phencyclidine;
- 9 (2) 1-(1-phenylcyclohexyl) piperidine;
- 10 (3) 1-phenylcyclohexylamine;
- 11 (4) 1-piperidinocyclohexanecarbonitrile;
- 12 (5) N-ethyl-1-phenylcyclohexylamine;
- 13 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 14 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 15 (8) lysergic acid diethylamide; or
- 16 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
17 (MDMA).

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

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

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

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

1 (4) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION IS
 2 NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §
 3 8-507 OF THE HEALTH - GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE
 4 SENTENCE.

5 **Article - Criminal Procedure**

6 6-229.

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

8 (1) ~~CHARGED WITH A VIOLENT CRIME OF VIOLENCE~~ AS DEFINED UNDER
 9 ~~§ 7-101~~ § 14-101 OF THE CORRECTIONAL SERVICES CRIMINAL LAW ARTICLE OR WITH
 10 A VIOLATION OF TITLE 3, SUBTITLE 6 OR SUBTITLE 8, OR § 3-203, § 3-204, § 5-612, §
 11 5-613, § 5-614, § 5-621, § 5-622, OR § 5-628 OF THE CRIMINAL LAW ARTICLE; OR

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

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

15 (1) A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL
 16 TREATMENT SHALL BE CONSIDERED A NOLLE PROSEQUI UNDER THE MARYLAND
 17 RULES; AND

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

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

29 (2) IN ORDER TO QUALIFY FOR A NOLLE PROSEQUI WITH THE
 30 REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR A STET WITH THE
 31 REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT, A DEFENDANT SHALL BE
 32 EVALUATED FOR DRUG OR ALCOHOL ABUSE BY THE DEPARTMENT OF HEALTH AND
 33 MENTAL HYGIENE, A DESIGNEE OF THE DEPARTMENT, OR A PRIVATE PROVIDER
 34 UNDER REGULATIONS OF THE ALCOHOL AND DRUG ABUSE ADMINISTRATION AND
 35 THE EVALUATION SHALL DETERMINE WHETHER THE DEFENDANT IS AMENABLE TO
 36 TREATMENT AND, IF SO, RECOMMEND AN APPROPRIATE TREATMENT PROGRAM.

37 (3) THE DRUG OR ALCOHOL TREATMENT PROGRAM SHALL BE
 38 APPROVED UNDER REGULATIONS OF THE ALCOHOL AND DRUG ABUSE
 39 ADMINISTRATION.

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

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

10 (II) ON SUCCESSFUL COMPLETION OF DRUG OR ALCOHOL
11 TREATMENT, THE STATE'S ATTORNEY SHALL DISMISS THE CHARGE BY ENTERING A
12 NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR
13 MOVE THAT THE COURT INDEFINITELY POSTPONE TRIAL OF THE CHARGE BY
14 MARKING THE CHARGE STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
15 ABUSE TREATMENT ON THE DOCKET.

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

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

30 (2) IN THE MANNER PROVIDED BY LAW, A CLERK OF THE COURT SHALL
31 TRANSMIT A DISPOSITION OF NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG
32 OR ALCOHOL TREATMENT OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
33 ABUSE TREATMENT FOR ENTRY INTO THE APPROPRIATE CRIMINAL RECORDS ~~AND~~
34 ~~MOTOR VEHICLE RECORDS~~ AS PROVIDED BY LAW.

35 (E) (1) IN ADDITION TO ANY OTHER FEES, FINES, OR COSTS, UNLESS THE
36 COURT MAKES A FINDING ON THE RECORD THAT A DEFENDANT IS UNABLE BY
37 REASON OF INDIGENCY TO PAY THE COSTS, A PERSON WHO RECEIVES A DISPOSITION
38 OF NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT
39 OR STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT SHALL
40 PAY TO THE COURT AN ADMINISTRATIVE FEE OF \$150.

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

4 6-230.

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

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

17 (B) (1) IN ALL OTHER CASES, ON THE SUCCESSFUL COMPLETION BY A
18 DEFENDANT OF ANY TREATMENT ORDERED AS A CONDITION OF PROBATION
19 IMPOSED UNDER § 6-219 OF THIS SUBTITLE, THE DIVISION OF PAROLE AND
20 PROBATION SHALL NOTIFY THE COURT THAT ISSUED THE ORDER AND THE OFFICE
21 OF THE STATE'S ATTORNEY IN THAT JURISDICTION.

22 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE TO
23 THE CONTRARY, UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION WITHIN 30
24 DAYS AFTER RECEIPT OF THE NOTICE, THE COURT MAY ENTER AN ORDER STRIKING
25 THE ENTRY OF JUDGMENT AND DEFERRING FURTHER PROCEEDINGS IN
26 ACCORDANCE WITH § 6-220 OF THIS SUBTITLE.

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

30 (C) ANY PROBATION BEFORE JUDGMENT ENTERED IN ACCORDANCE WITH
31 THIS SECTION SHALL BE SUPERVISED BY THE DIVISION OF PAROLE AND PROBATION
32 FOR THE TERM AND UNDER THE CONDITIONS THAT THE COURT CONSIDERS
33 APPROPRIATE.

34 (D) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, A COURT
35 MAY NOT STAY THE ENTERING OF JUDGMENT AND PLACE A DEFENDANT ON
36 PROBATION FOR A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE IF
37 WITHIN THE PRECEDING 10 YEARS THE DEFENDANT:

38 (1) HAS BEEN CONVICTED UNDER § 21-902 OF THE TRANSPORTATION
39 ARTICLE; OR

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

4 6-231.

5 BEFORE THE REVOCATION OF ANY PROBATION ORDERED UNDER THIS TITLE,
6 AND IN ADDITION TO ANY OTHER FACTORS THE COURT CONSIDERS IN CONNECTION
7 WITH THE DETERMINATION OF AN APPROPRIATE SENTENCE, THE COURT SHALL:

8 (1) CONSIDER ANY EVALUATION OR RECOMMENDATION OF ANY
9 HEALTH PROFESSIONAL LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE;

10 (2) CONSIDER RELEVANT INFORMATION ABOUT THE DEFENDANT'S
11 DRUG OR ALCOHOL ABUSE; AND

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

14 10-105.

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

20 (1) the person is acquitted;

21 (2) the charge is otherwise dismissed;

22 (3) a probation before judgment is entered, unless the person is charged
23 with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or §
24 3-211 of the Criminal Law Article;

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

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

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

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

33 (8) the person:

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

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

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

4 (2) If the proceeding began in one court and was transferred to another
5 court, the person shall file the petition in the court to which the proceeding was
6 transferred.

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

10 (ii) The appellate court may remand the matter to the court of
11 original jurisdiction.

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

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

21 (i) the date the petitioner was discharged from probation ~~OR THE~~
22 ~~REQUIREMENTS OF OBTAINING DRUG OR ALCOHOL ABUSE TREATMENT WERE~~
23 ~~COMPLETED~~; or

24 (ii) 3 years after the probation was granted ~~OR THE NOLLE~~
25 ~~PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR STET~~
26 ~~WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT WAS ENTERED~~
27 ~~ON THE DOCKET.~~

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

31 ~~(3)~~ (4) A petition for expungement based on a full and unconditional
32 pardon by the Governor may not be filed later than 10 years after the pardon was
33 signed by the Governor.

34 ~~(4)~~ (5) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
35 SUBSECTION, A petition for expungement based on a stet or a compromise under §
36 3-207 of the Criminal Law Article may not be filed within 3 years after the stet or
37 compromise.

1 defendant to determine whether, by reason of drug or alcohol abuse, the defendant is
2 in need of and may benefit from treatment if:

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

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

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

8 (3) ~~AN EVALUATION UNDER THIS SECTION SHALL BE CONDUCTED BY~~
9 ~~THE LOCAL DESIGNEE OF THE DEPARTMENT~~ THE DEPARTMENT SHALL ENSURE
10 THAT EACH EVALUATION UNDER THIS SECTION IS CONDUCTED IN ACCORDANCE
11 WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 1. Court;

11 2. ~~Administration~~ DEPARTMENT; and

12 3. Defendant or the defendant's attorney.

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

15 (3) WHENEVER AN EVALUATOR RECOMMENDS TREATMENT, THE
 16 EVALUATOR'S REPORT SHALL:

17 (I) NAME A SPECIFIC PROGRAM ABLE TO PROVIDE THE
 18 RECOMMENDED TREATMENT; AND

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

21 (E) (1) THE DEPARTMENT SHALL PROVIDE THE SERVICES REQUIRED BY
 22 THIS SECTION.

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

25 (F) EVALUATIONS PERFORMED IN FACILITIES OPERATED BY THE
 26 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL BE
 27 CONDUCTED BY THE ADMINISTRATION.

28 8-506.

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

32 ~~(+)~~ (1) The court finds it is not clinically appropriate for the
 33 defendant to be evaluated in a detention facility or an appropriate outpatient facility;
 34 [or] AND

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

5 (I) recommends a comprehensive inpatient evaluation of the
6 defendant; ~~AND~~

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

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

12 (IV) GIVES THE COURT PROMPT NOTICE WHEN AN EVALUATION
13 CAN BE CONDUCTED.

14 (III) ~~THE DEPARTMENT OR A LOCAL DESIGNEE OF THE~~
15 ~~DEPARTMENT CERTIFIES TO THE COURT THAT AN APPROPRIATE FACILITY IS EITHER~~
16 ~~CURRENTLY, OR WITHIN A REASONABLE TIME WILL BE, AVAILABLE TO CONDUCT~~
17 ~~THE EVALUATION.~~

18 (2) (1) ~~[Before a court commits a defendant to the Department for~~
19 ~~evaluation, the court shall consult with the Administration.] A DEFENDANT~~
20 ~~ORDERED FOR EVALUATION UNDER THIS SECTION REMAINS IN THE LEGAL CUSTODY~~
21 ~~OF THE COURT OR THE APPROPRIATE PRETRIAL RELEASE AGENCY OR~~
22 ~~CORRECTIONAL FACILITY.~~

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

25 (3) ~~IF AN APPROPRIATE EVALUATION FACILITY IS NOT AVAILABLE~~
26 ~~UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION.~~

27 (1) ~~THE COURT MAY NOT REQUIRE THE DEPARTMENT OR A LOCAL~~
28 ~~DESIGNEE OF THE DEPARTMENT TO TAKE CUSTODY OF THE DEFENDANT;~~

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

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

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

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

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

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

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

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

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

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

20 (ii) ~~Does not serve any useful purpose.~~

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

27 (2) ~~ON COMPLETION OF THE EVALUATION, THE EVALUATION FACILITY~~
 28 ~~SHALL NOTIFY THE COURT AND THE DEFENDANT SHALL BE RETURNED IN~~
 29 ~~ACCORDANCE WITH THE PROVISIONS OF THE EVALUATION ORDER.~~

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

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

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

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

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

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

15 (2) Except during the first 72 hours after [commitment] ADMISSION OF
16 A DEFENDANT TO AN EVALUATION FACILITY, the [Director or a designee of the
17 Director] DEPARTMENT may terminate the [commitment] EVALUATION if the
18 [Director or the designee] DEPARTMENT determines that continued [commitment]
19 EVALUATION:

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

22 (ii) Does not serve any useful purpose.

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

25 (I) NAME A SPECIFIC PROGRAM ABLE TO PROVIDE THE
26 RECOMMENDED TREATMENT; AND

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

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

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

38 (g) (1) [In the event an individual committed under this section] IF A
39 DEFENDANT leaves an evaluation facility without authorization, the responsibility of

1 the Department is limited to notification of the court that [committed the individual]
2 ORDERED THE DEFENDANT'S EVALUATION, as soon as it is reasonably possible.

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

5 ~~8-507.~~

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

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

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

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

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

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

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

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

21 ~~(c) (1) [The] IF THE COURT ORDERS AN EVALUATION OF A DEFENDANT~~
22 ~~FOR AN ALCOHOL OR DRUG DEPENDENCY, THE Department OR A LOCAL DESIGNEE~~
23 ~~OF THE DEPARTMENT shall [provide the services required by this section]:~~

24 ~~(I) ENSURE THAT THE EVALUATION IS CONDUCTED IN~~
25 ~~ACCORDANCE WITH REGULATIONS ADOPTED BY THE ADMINISTRATION; AND~~

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

27 ~~(2) IF THE EVALUATION REPORT RECOMMENDS TREATMENT, THE~~
28 ~~REPORT SHALL:~~

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

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

33 ~~(D) (1) IF THE COURT AND THE DEPARTMENT OR A LOCAL DESIGNEE OF~~
34 ~~THE DEPARTMENT CONSIDER TREATMENT TO BE APPROPRIATE AND NECESSARY,~~

1 ~~THE COURT MAY ORDER THE DEFENDANT TO PARTICIPATE IN THE TREATMENT~~
 2 ~~RECOMMENDED BY THE DEPARTMENT OR A LOCAL DESIGNEE OF THE DEPARTMENT.~~

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

5 (F) ~~UNLESS THE DEPARTMENT OR A LOCAL DESIGNEE OF THE~~
 6 ~~DEPARTMENT RECOMMENDS TREATMENT; AND~~

7 (H) ~~UNTIL THE DEPARTMENT OR A LOCAL DESIGNEE OF THE~~
 8 ~~DEPARTMENT NOTIFIES THE COURT THAT AN APPROPRIATE TREATMENT PROGRAM~~
 9 ~~IS AVAILABLE TO ADMIT THE DEFENDANT.~~

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

13 ~~[(e)] (F) [Unless the court allows the defendant to provide the defendant's~~
 14 ~~own transportation, on commitment or release of a defendant under this subtitle, the]~~
 15 ~~THE court [shall] MAY order transportation OF THE DEFENDANT TO A TREATMENT~~
 16 ~~FACILITY by law enforcement officials, detention center staff, DIVISION OF~~
 17 ~~CORRECTION STAFF, or sheriff's department staff within the local jurisdiction.~~

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

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

23 (2) ~~IF THERE IS NO CURRENT COMMITMENT FOR INCARCERATION IN~~
 24 ~~EFFECT.~~

25 (H) (1) ~~IF A COURT ORDERS A DEFENDANT TO UNDERGO TREATMENT~~
 26 ~~UNDER THIS SECTION, THE COURT SHALL ORDER THE DEFENDANT TO BE~~
 27 ~~SUPERVISED:~~

28 (I) ~~IF THE DEFENDANT IS RELEASED PRETRIAL, BY THE~~
 29 ~~APPROPRIATE PRETRIAL RELEASE AGENCY OR LOCAL CORRECTIONAL FACILITY~~
 30 ~~UNDER APPROPRIATE CONDITIONS IN ACCORDANCE WITH MARYLAND RULE 4-216;~~
 31 ~~OR~~

32 (II) ~~IF THE COURT RELEASES THE DEFENDANT ON PROBATION, BY~~
 33 ~~THE DIVISION OF PAROLE AND PROBATION UNDER APPROPRIATE CONDITIONS IN~~
 34 ~~ACCORDANCE WITH §§ 6-219 THROUGH 6-225 OF THE CRIMINAL PROCEDURE ARTICLE~~
 35 ~~AND MARYLAND RULE 4-346.~~

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

1 ~~[(f)]~~ ~~(I)~~ ~~(1)~~ A defendant's withdrawal of consent to treatment shall
2 CONSTITUTE A VIOLATION OF CONDITIONS OF RELEASE AND SHALL be promptly
3 reported to the court.

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~[(4)] (N) Any time served by a criminal defendant held for INPATIENT~~
2 ~~evaluation or [committed] ORDERED for INPATIENT treatment shall be credited~~
3 ~~against [the] ANY sentence imposed by the court.~~

4 8-507.

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

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

7 (2) NO DETAINER IS CURRENTLY LODGED.

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

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

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

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

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

21 (2) Obtain the written consent of the defendant:

22 (i) To receive treatment; and

23 (ii) [For the reporting of] TO HAVE information REPORTED back to
24 the court; [and]

25 (3) [Consult with the Administration] ORDER AN EVALUATION OF THE
26 DEFENDANT UNDER § 8-505 OR § 8-506 OF THIS SUBTITLE;

27 (4) CONSIDER THE REPORT ON THE DEFENDANT'S EVALUATION; AND

28 (5) FIND THAT THE TREATMENT THAT THE DEPARTMENT RECOMMENDS
29 TO BE APPROPRIATE AND NECESSARY.

30 [(c)] (D) (1) The Department shall provide the services required by this
31 section.

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

1 (E) (1) A COURT MAY NOT ORDER THAT THE DEFENDANT BE DELIVERED
2 FOR TREATMENT UNTIL THE DEPARTMENT GIVES THE COURT NOTICE THAT AN
3 APPROPRIATE TREATMENT PROGRAM IS ABLE TO BEGIN TREATMENT OF THE
4 DEFENDANT.

5 [(d)] (2) The Department shall [engage in reasonable efforts to] facilitate the
6 [admission] PROMPT TREATMENT of a defendant [to the appropriate treatment
7 facility].

8 (F) FOR A DEFENDANT COMMITTED FOR TREATMENT UNDER THIS SECTION, A
9 COURT SHALL ORDER SUPERVISION OF THE DEFENDANT:

10 (1) BY AN APPROPRIATE PRETRIAL RELEASE AGENCY, IF THE
11 DEFENDANT IS RELEASED PENDING TRIAL;

12 (2) BY THE DIVISION OF PAROLE AND PROBATION UNDER APPROPRIATE
13 CONDITIONS IN ACCORDANCE WITH §§ 6-219 THROUGH 6-225 OF THE CRIMINAL
14 PROCEDURE ARTICLE AND MARYLAND RULE 4-345, IF THE DEFENDANT IS RELEASED
15 ON PROBATION; OR

16 (3) BY THE DEPARTMENT, IF THE DEFENDANT REMAINS IN THE
17 CUSTODY OF A LOCAL CORRECTIONAL FACILITY.

18 [(e)] (G) [Unless the court allows the defendant to provide the defendant's
19 own transportation, on commitment or release of a defendant under this subtitle, the]
20 A court [shall] MAY order [transportation by] law enforcement officials, detention
21 center staff, DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES STAFF,
22 or sheriff's department staff within the APPROPRIATE local jurisdiction TO
23 TRANSPORT A DEFENDANT TO AND FROM TREATMENT UNDER THIS SECTION.

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

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

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

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

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

37 (3) Except during the first 72 hours after [commitment, the Director or a
38 designee of the Director] ADMISSION OF A DEFENDANT TO A TREATMENT PROGRAM,

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

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

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

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

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

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

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

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

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

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

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

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

23 (2) PLANNING EXPENSES AND RELATED COSTS INCURRED BY ANY
24 STATE UNIT DESIGNATED TO COORDINATE PLANNING BY LOCAL DRUG AND
25 ALCOHOL COUNCILS AND REVIEW GRANT REQUESTS FROM LOCAL GOVERNMENTS;
26 AND

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

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

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

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

Article—Transportation

1

2 ~~16-117.~~

3 (a) The Administration shall keep a record of:

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

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

6 (3) Each licensee whose license to drive the Administration has
7 suspended or revoked, and the reasons for the action.8 (b) (1) The Administration shall file each accident report and abstract of
9 court disposition records that it receives under the laws of this State.

10 (2) The Administration shall keep convenient records or make suitable
11 notations showing the convictions or traffic accidents in which each licensee has been
12 involved and every probation before judgment disposition of any violation of the
13 Maryland Vehicle Law. A record or notation of a probation before judgment
14 disposition, ~~A CHARGE DISMISSED BY THE STATE'S ATTORNEY ENTERING A NOLLE~~
15 ~~PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR~~
16 ~~POSTPONED INDEFINITELY BY THE COURT MARKING THE CHARGE STET WITH THE~~
17 ~~REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT ON THE DOCKET, or a first~~
18 offense of driving with an alcohol concentration of 0.08 or more under § 16-205.1 of
19 this title, shall be segregated by the Administration and shall be available only to the
20 Administration, the courts, criminal justice agencies, and the defendant or the
21 defendant's attorney. However, a record or notation of a probation before judgment, ~~A~~
22 ~~CHARGE DISMISSED BY NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR~~
23 ~~ALCOHOL TREATMENT OR POSTPONED INDEFINITELY BY THE COURT MARKING THE~~
24 ~~CHARGE STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL ABUSE TREATMENT~~
25 ~~ON THE DOCKET, or a first offense of driving with an alcohol concentration of 0.08 or~~
26 ~~more under § 16-205.1 of this title, may not be received or considered by the courts~~
27 ~~until a plea of guilty or nolo contendere is made by the defendant or a finding of guilty~~
28 ~~is made by the court.~~

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

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

36 (5) Except as provided in this section, an employee of the Administration
37 may not disclose any records or information regarding probation before judgment, or
38 a first offense of driving with an alcohol concentration of 0.08 or more under §
39 16-205.1 of this title.

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

4 ~~16-117.1.~~

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

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

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

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

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

18 (iii) Within the preceding 10 years:

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

25 2. The licensee's driving record shows no convictions from
 26 another jurisdiction of a moving violation identical or substantially similar to §
 27 20-102 or § 21-902 of this article; and

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

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

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

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

3 (2) Who has not been convicted of, [or] been granted probation before
4 judgment for, OR HAD A CHARGE DISMISSED BY NOLLE PROSEQUI WITH THE
5 REQUIREMENT OF DRUG OR ALCOHOL TREATMENT OR POSTPONED INDEFINITELY
6 BY THE COURT MARKING THE CHARGE STET WITH THE REQUIREMENT OF DRUG OR
7 ALCOHOL ABUSE TREATMENT ON THE DOCKET FOR:

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

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

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

12 (3) Whose license or privilege to drive never has been suspended or
13 revoked.

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

16 **Article - Health - General**

17 **SUBTITLE 10. LOCAL DRUG AND ALCOHOL ABUSE COUNCILS.**

18 8-1001.

19 (A) EACH COUNTY SHALL HAVE A LOCAL DRUG AND ALCOHOL ABUSE
20 COUNCIL.

21 (B) ~~THE GOVERNOR OR THE GOVERNOR'S DESIGNEE MAY DESIGNATE ANY~~
22 ~~AGENCY OR ORGANIZATION IN EXISTENCE ON JULY 1, 2004, AS THE LOCAL DRUG AND~~
23 ~~ALCOHOL ABUSE COUNCIL FOR THAT COUNTY ON APPLICATION FROM A COUNTY.~~
24 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE MAY DESIGNATE A COUNTY
25 CRIMINAL JUSTICE COORDINATING COUNCIL, SUBSTANCE ABUSE ADVISORY
26 COUNCIL, OR OTHER AGENCY OR ORGANIZATION AS THE LOCAL DRUG AND ALCOHOL
27 ABUSE COUNCIL FOR THAT COUNTY.

28 (C) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A LOCAL
29 DRUG AND ALCOHOL ABUSE COUNCIL SHALL CONSIST OF NOT MORE THAN 17 OF
30 THE FOLLOWING INDIVIDUALS:

31 (1) THE HEALTH OFFICER OF THE LOCAL HEALTH DEPARTMENT, OR
32 THE HEALTH OFFICER'S DESIGNEE;

33 (2) THE DIRECTOR OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES,
34 OR THE DIRECTOR'S DESIGNEE;

1 (3) THE REGIONAL DIRECTOR OF THE DEPARTMENT OF JUVENILE
2 SERVICES, OR THE DIRECTOR'S DESIGNEE;

3 (4) THE REGIONAL DIRECTOR OF THE DIVISION OF PAROLE AND
4 PROBATION, OR THE DIRECTOR'S DESIGNEE;

5 (5) THE STATE'S ATTORNEY FOR THE COUNTY, OR THE STATE'S
6 ATTORNEY'S DESIGNEE;

7 (6) THE DISTRICT PUBLIC DEFENDER FOR THE DISTRICT IN WHICH THE
8 COUNTY IS LOCATED, OR THE DISTRICT PUBLIC DEFENDER'S DESIGNEE;

9 ~~(5)~~ (7) THE CHIEF OF THE COUNTY POLICE DEPARTMENT, IF THE
10 COUNTY HAS A POLICE FORCE, OR THE SHERIFF, IF THE COUNTY DOES NOT HAVE A
11 POLICE FORCE, OR THAT INDIVIDUAL'S DESIGNEE;

12 ~~(6)~~ (8) THE PRESIDENT OF THE LOCAL BOARD OF EDUCATION, OR THE
13 PRESIDENT'S DESIGNEE;

14 ~~(7)~~ (9) A REPRESENTATIVE OF THE COUNTY EXECUTIVE, THE MAYOR
15 OF BALTIMORE CITY, OR THE COUNTY COMMISSIONERS OR COUNTY COUNCIL IN
16 COUNTIES WITH NO COUNTY EXECUTIVE, AS APPROPRIATE;

17 ~~(8)~~ (10) FOR CHARTER COUNTIES AND IN BALTIMORE CITY, A
18 REPRESENTATIVE OF THE COUNTY COUNCIL OR THE CITY COUNCIL IN BALTIMORE
19 CITY, APPOINTED BY THE CHAIRPERSON OR PRESIDENT OF THE COUNTY COUNCIL
20 OR CITY COUNCIL;

21 ~~(9)~~ (11) THE COUNTY ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT
22 FOR THE COUNTY, OR THE JUDGE'S DESIGNEE;

23 ~~(10)~~ (12) THE ADMINISTRATIVE JUDGE OF THE DISTRICT COURT FOR
24 THAT DISTRICT, OR THE JUDGE'S DESIGNEE; AND

25 ~~(11)~~ (13) THE FOLLOWING INDIVIDUALS APPOINTED BY THE COUNTY
26 EXECUTIVE, THE MAYOR OF BALTIMORE CITY, OR THE COUNTY COMMISSIONERS OR
27 COUNTY COUNCIL IN COUNTIES WITH NO COUNTY EXECUTIVE, AS APPROPRIATE:

28 (I) AT LEAST ONE RECIPIENT OF ADDICTIONS TREATMENT
29 SERVICES;

30 (II) ~~AT LEAST ONE SUBSTANCE ABUSE TREATMENT PROVIDER~~ TWO
31 SUBSTANCE ABUSE PROVIDERS, AT LEAST ONE OF WHOM HAS EXPERIENCE WITH
32 SERVICES TO INDIVIDUALS WITH CO-OCCURRING SUBSTANCE ABUSE AND MENTAL
33 HEALTH DISORDERS;

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

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

1 (V) THE SUPERINTENDENT, WARDEN, OR DIRECTOR OF THE LOCAL
2 CORRECTIONAL FACILITY LOCATED IN THE COUNTY OR IN BALTIMORE CITY THE
3 WARDEN OF THE BALTIMORE CITY DETENTION CENTER; AND

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

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

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

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

14 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
15 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
16 AND QUALIFIES.

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

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

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

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

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

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

31 (F) A LOCAL PLAN SHALL:

32 (1) INCLUDE THE PLANS, STRATEGIES, AND PRIORITIES OF THE COUNTY
33 FOR MEETING THE IDENTIFIED NEEDS OF THE GENERAL PUBLIC AND THE CRIMINAL
34 JUSTICE SYSTEM FOR ALCOHOL AND DRUG ABUSE EVALUATION, PREVENTION, AND
35 TREATMENT SERVICES;

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

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

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

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

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

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

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

27 ~~(I) THE LOCAL DRUG AND ALCOHOL ABUSE COUNCIL MAY SUBMIT~~
 28 ~~RECOMMENDATIONS TO THE COUNTY OR THE ADMINISTRATION REGARDING~~
 29 ~~LEGISLATION OR PROGRAMS THAT MAY BE APPROPRIATE TO THE IMPROVEMENT OF~~
 30 ~~ALCOHOL AND DRUG ABUSE EVALUATION, PREVENTION, AND TREATMENT~~
 31 ~~SERVICES.~~

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

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

39 (J) THE PLANNING, REPORTING, AND REVIEWING REQUIREMENTS FOR A
 40 LOCAL DRUG AND ALCOHOL ABUSE COUNCIL UNDER THIS SECTION DO NOT APPLY

1 UNLESS APPROPRIATE STATE FUNDING FOR FULFILLING THE REQUIREMENTS HAS
2 BEEN PROVIDED.

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

- 7 (1) One member in 2005;
- 8 (2) One member in 2006;
- 9 (3) One member in 2007; and
- 10 (4) The remaining members in 2008.

11 SECTION 4. AND BE IT FURTHER ENACTED, That the Department of
12 Health and Mental Hygiene shall provide to the Governor and, in accordance with §
13 2-1246 of the State Government Article, the General Assembly, a report on the
14 implementation and status of this Act, including any costs or savings to the State as
15 a result of the implementation of this Act, on or before December 31, 2005.

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

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

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