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By: Senators Kelley, Britt, and Teitelbaum

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Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 25, 2004

CHAPTER_____

1 AN ACT concerning

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Mental Hygiene Administration - Community-Based Services Fund - Scope

3 FOR the purpose of clarifying the purpose of the Community-Based Services Fund in

- 4 the Mental Hygiene Administration; requiring that certain Mental Hygiene
- 5 Administration property be sold <u>or leased</u> under certain circumstances;
- 6 requiring the funds from the sale <u>or lease</u> of certain property to be used in a
- 7 certain manner; repealing a certain method for calculating the funding for the
- 8 Fund; requiring the Mental Hygiene Administration to develop a plan to spend
- 9 certain funds in consultation with certain groups; providing for the application
- 10 of this Act; and generally relating to the Mental Hygiene Administration and the
- 11 Community-Based Services Fund.

12 BY repealing and reenacting, with amendments,

- 13 Article Health General
- 14 Section 10-208
- 15 Annotated Code of Maryland
- 16 (2000 Replacement Volume and 2003 Supplement)
- 17

Preamble

18 WHEREAS, The mission of the Mental Hygiene Administration is to create

19 and manage a coordinated, comprehensive, accessible, culturally sensitive, and age

20 appropriate system of publicly-funded services and supports for individuals who are

21 diagnosed with a psychiatric disorder; and

22 WHEREAS, One of the stated values of the Mental Hygiene Administration is 23 that, "services should be provided in the least restrictive, most normative, and most

24 appropriate setting"; and

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WHEREAS, The Supreme Court held in the 1999 Olmstead v. L.C. decision
that, "under Title II of the Americans With Disabilities Act, States are required to
provide community-based treatment for persons with mental disabilities in
community settings when the State's treatment professionals have determined that
such placement is appropriate, the affected persons do not oppose such treatment,
and the placement can be reasonably accommodated, taking into account the
resources available to the State"; and
WHEREAS, The Department of Health and Mental Hygiene's October 2003
Report to the Joint Chairmen on Maryland's Public Mental Health System on

9 Report to the Joint Chairmen on Maryland's Public Mental Health System on
10 Restructuring the System of Hospital Care concluded that the State may consolidate
11 its three existing regional psychiatric hospitals in central Maryland to two hospitals
12 while continuing to meet the needs of individuals diagnosed with a psychiatric
13 disorder; and

WHEREAS, To ensure that Maryland meets its obligation to provide treatment for persons with mental disabilities in community settings where appropriate, the savings associated with consolidation and closure need to be allocated to the Mental Hygiene Administration's Community-Based Services Fund to provide community services to individuals who are ready for discharge from a State psychiatric hospital, and to expand the access to community services to prevent the unnecessary use of costly hospital care and to promote independence and recovery; now, therefore,

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

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Article - Health - General

25 10-208.

26(a)(1)There is a continuing nonlapsing Mental Hygiene Community-Based27Services Fund.

28 (2) [Subject to the appropriation process, the] THE purpose of the

29 Mental Hygiene Community-Based Services Fund is to ensure that funds realized

30 from the SALE OR LEASE OF MENTAL HYGIENE ADMINISTRATION FACILITIES AS THE

31 RESULT OF downsizing, CONSOLIDATION, OR CLOSURE [of Mental Hygiene

32 Administration facilities] are used to provide community-based services.

In determining funding for the Mental Hygiene Community-Based
Services Fund, the cost of providing services to an individual in a mental hygiene

35 facility shall be calculated by:

36 (i) Dividing the mental hygiene facility's appropriation by the daily
37 average census reported in the mental hygiene facility's annual operating budget for
38 the last full year the individual was served in the mental hygiene facility prorated

39 over the number of months the individual is served in the community; and

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(ii) Subtracting the following:

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1 1. The average annual itemized expenses associated with 2 institutional services and administrative overhead costs that are demonstrated to be 3 directly attributable to serving individuals remaining in the mental hygiene facility;
4 2. The cost for new admissions certified in accordance with 5 the provisions of Subtitle 6 of this title; and
6 3. The cost for court-ordered commitments.]
7 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF ANY MENTAL 8 HYGIENE ADMINISTRATION FACILITY IS DOWNSIZED, CONSOLIDATED, OR CLOSED, 9 ALL STATE PROPERTY ASSOCIATED WITH THE FACILITY THAT IS NOT TRANSFERRED 10 TO ANOTHER GOVERNMENTAL ENTITY SHALL BE SOLD <u>OR LEASED</u> AT FAIR MARKET 11 VALUE, AND THE NET PROCEEDS OF THE SALE <u>OR LEASE</u> SHALL BE DEPOSITED INTO 12 THE MENTAL HYGIENE COMMUNITY-BASED SERVICES FUND.
 [(b)] (C) (1) If a facility operated by the Mental Hygiene Administration is downsized, CONSOLIDATED, OR CLOSED such that the net resident population declines OR IF A FACILITY IS CLOSED OR CONSOLIDATED AND BED CAPACITY LEVELS REMAINED UNCHANGED:
17 [(1)] (I) State general funds may be appropriated as necessary, in 18 advance, to assist in the downsizing; and
19[(2)](II)Any funds in the Mental Hygiene Community-Based Services20 Fund:
21[(i)]1.May not supplant resources for existing community22 services; and
23 [(ii)] 2. Shall be used to {meet the needs} INCREASE THE 24 AVAILABILITY of:
 [1.] A. [Individuals leaving facilities to enter community-based services] COMMUNITY MENTAL HEALTH SERVICES DESIGNED TO PROMOTE RECOVERY AND COMMUNITY INTEGRATION, INCLUDING DEVELOPMENT OF THE MARYLAND MENTAL HEALTH CRISIS RESPONSE SYSTEM ESTABLISHED UNDER SUBTITLE 14 OF THIS TITLE; and
 [2.] B. [Individuals who are identified but not yet provided with community-based services] AFFORDABLE HOUSING AND EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH MENTAL ILLNESS; AND
 33 (III) ANY FUNDS REMAINING AFTER MEETING THE NEEDS OF 34 INDIVIDUALS IDENTIFIED IN SUBPARAGRAPH (II)2 OF THIS PARAGRAPH SHALL BE 35 USED TO INCREASE THE AVAILABILITY OF:
361.AFFORDABLE HOUSING AND EMPLOYMENT37OPPORTUNITIES FOR INDIVIDUALS WITH MENTAL ILLNESS; AND

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12.COMMUNITY MENTAL HEALTH SERVICES DESIGNED TO2PROMOTE RECOVERY AND COMMUNITY INTEGRATION, INCLUDING DEVELOPMENT3OF THE MARYLAND MENTAL HEALTH CRISIS RESPONSE SYSTEM ESTABLISHED4UNDER SUBTITLE 14 OF THIS TITLE.

5 (2) FUNDS IN THE MENTAL HYGIENE COMMUNITY-BASED SERVICES
6 FUND SHALL BE SPENT IN ACCORDANCE WITH A PLAN DEVELOPED BY THE MENTAL
7 HYGIENE ADMINISTRATION IN CONSULTATION WITH CONSUMERS, FAMILY
8 MEMBERS, PROVIDERS, AND MENTAL HEALTH ADVOCATES.

9 [(c) The Secretary shall adopt regulations for the management and use of the 10 money in the Mental Hygiene Community-Based Services Fund.]

(d) On or before January 1 of each year, the Secretary shall prepare a report to
 be submitted to the General Assembly and the Department of Legislative Services on
 the Mental Hygiene Community-Based Services Fund.

(e) Any unspent portions of the Mental Hygiene Community-Based Services
Fund and any interest earned on money in the Waiting List Equity Fund may not be
transferred or revert to the General Fund of the State but shall remain in the Mental
Hygiene Community-Based Services Fund to be used for the purposes specified in
this section.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be

20 construed to apply only prospectively and may not be applied or interpreted to have

21 any effect on or application to any closure, consolidation, or downsizing of any Mental

22 Hygiene Administration facility before the effective date of this Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take 24 effect July 1, 2004.

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