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By: **Senator Frosh**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Criminal Procedure - Defendant with an Alcohol or Drug Dependency -**  
3                                   **Commitment Procedures**

4 FOR the purpose of removing a limitation that a certain commitment made by a court  
5 for treatment for a defendant with an alcohol or drug dependency applies only to  
6 certain defendants for whom no sentence of incarceration is currently in effect or  
7 detainer is currently lodged; requiring that the Department of Health and  
8 Mental Hygiene, on receiving an order to treat a defendant with an alcohol or  
9 drug dependency, order a certain report of pending cases, warrants, and  
10 detainers of the defendant; requiring the Department to forward a copy of the  
11 report to the court that committed the defendant, the defendant, and the  
12 defendant's last attorney of record; providing that a court may not order a  
13 defendant delivered to the Department for treatment until any detainer based  
14 on an untried indictment, information, warrant, or complaint is removed and  
15 any sentence of incarceration is no longer in effect; and generally relating to  
16 commitment procedures for defendants with an alcohol or drug dependency.

17 BY repealing  
18 Article - Health - General  
19 Section 8-507(a)  
20 Annotated Code of Maryland  
21 (2005 Replacement Volume and 2005 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Health - General  
24 Section 8-507 (b), (c), and (e)  
25 Annotated Code of Maryland  
26 (2005 Replacement Volume and 2005 Supplement)

27 BY adding to  
28 Article - Health - General  
29 Section 8-507(c)  
30 Annotated Code of Maryland

1 (2005 Replacement Volume and 2005 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Health - General

4 Section 8-507(d)

5 Annotated Code of Maryland

6 (2005 Replacement Volume and 2005 Supplement)

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

9 **Article - Health - General**

10 8-507.

11 [(a) This section applies only to a defendant for whom:

12 (1) No sentence of incarceration is currently in effect; and

13 (2) No detainer is currently lodged.]

14 [(b) (A) Subject to the limitations in this section, a court that finds in a  
15 criminal case that a defendant has an alcohol or drug dependency may commit the  
16 defendant as a condition of release, after conviction, or at any other time the  
17 defendant voluntarily agrees to participate in treatment, to the Department for  
18 treatment that the Department recommends, even if:

19 (1) The defendant did not timely file a motion for reconsideration under  
20 Maryland Rule 4-345; or

21 (2) The defendant timely filed a motion for reconsideration under  
22 Maryland Rule 4-345 which was denied by the court.

23 [(c) (B) Before a court commits a defendant to the Department under this  
24 section, the court shall:

25 (1) Offer the defendant the opportunity to receive treatment;

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

27 (i) To receive treatment; and

28 (ii) To have information reported back to the court;

29 (3) Order an evaluation of the defendant under § 8-505 or § 8-506 of this  
30 subtitle;

31 (4) Consider the report on the defendant's evaluation; and

1           (5)     Find that the treatment that the Department recommends to be  
2 appropriate and necessary.

3     (C)     IMMEDIATELY ON RECEIVING AN ORDER FOR TREATMENT UNDER THIS  
4 SECTION, THE DEPARTMENT SHALL ORDER A REPORT OF ALL PENDING CASES,  
5 WARRANTS, AND DETAINERS FOR THE DEFENDANT AND FORWARD A COPY OF THE  
6 REPORT TO THE COURT, THE DEFENDANT, AND THE DEFENDANT'S LAST ATTORNEY  
7 OF RECORD.

8     (d)     (1)     The Department shall provide the services required by this section.

9           (2)     A designee of the Department may carry out any of the Department's  
10 duties under this section if appropriate funding is provided.

11     (e)     (1)     A court may not order that the defendant be delivered for treatment  
12 until:

13           (I)     [the] THE Department gives the court notice that an  
14 appropriate treatment program is able to begin treatment of the defendant;

15           (II)    ANY DETAINER BASED ON AN UNTRIED INDICTMENT,  
16 INFORMATION, WARRANT, OR COMPLAINT FOR THE DEFENDANT HAS BEEN  
17 REMOVED; AND

18           (III)   ANY SENTENCE OF INCARCERATION FOR THE DEFENDANT IS  
19 NO LONGER IN EFFECT.

20           (2)     The Department shall facilitate the prompt treatment of a defendant.

21     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2006.