

HOUSE BILL 281

J1

71r1201

By: **Delegates Hubbard and Rosenberg**
Introduced and read first time: January 31, 2007
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 29, 2007

CHAPTER _____

1 AN ACT concerning

2 **Mental Health – Incarcerated Individuals with Mental Illness**

3 FOR the purpose of requiring the Mental Hygiene Administration to reimburse certain
4 mental health providers for certain services; requiring the Department of Public
5 Safety and Correctional Services to provide certain access to a certain amount of
6 medication to certain individuals under certain circumstances; establishing
7 certain immunity from civil liability for certain persons; ~~requiring the Governor~~
8 ~~to provide a certain appropriation in a certain fiscal year for hiring and training~~
9 ~~certain individuals for certain purposes~~; ~~requiring the Department of Human~~
10 ~~Resources and the Department of Public Safety and Correctional Services to~~
11 ~~submit a certain report to certain committees of the General Assembly on or~~
12 ~~before a certain date~~; requiring the Mental Hygiene Administration to develop
13 ~~an implementation plan to require each core service agency in the State to~~
14 ~~develop a certain forensic alternative services team~~ a certain plan to divert
15 certain individuals with a serious mental illness to certain types of services;
16 requiring the Mental Hygiene Administration to ~~develop an implementation~~
17 ~~plan requiring~~ work with each core service agency in the State to develop a
18 plan to enter into memoranda of understanding with local detention centers to
19 establish a certain data sharing initiative; requiring the Mental Hygiene
20 Administration to submit certain reports to certain committees of the General
21 Assembly and to a certain workgroup on or before a certain date; requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Department of Public Safety and Correctional Services, in collaboration with
 2 the Motor Vehicle Administration, to develop a plan to provide departing
 3 inmates with a certain identification card; expressing the intent of the General
 4 Assembly that the Mental Hygiene Administration expend no more than a
 5 certain amount of money in a certain year to implement the provisions of this
 6 Act; requiring the Department of Public Safety and Correctional Services to
 7 submit a certain report to certain committees of the General Assembly on or
 8 before a certain date; and generally relating to mental health treatment for
 9 incarcerated individuals.

10 BY adding to
 11 Article – Correctional Services
 12 Section 9–612
 13 Annotated Code of Maryland
 14 (1999 Volume and 2006 Supplement)

15 BY adding to
 16 Article – Health – General
 17 Section 10–814 ~~and 15–104.1~~
 18 Annotated Code of Maryland
 19 (2005 Replacement Volume and 2006 Supplement)

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

22 **Article – Correctional Services**

23 **9–612.**

24 ~~(A) ON THE RECOMMENDATION OF A HEALTH CARE PROVIDER, THE~~
 25 **THE DEPARTMENT SHALL PROVIDE AN INMATE WHO HAS BEEN SENTENCED TO**
 26 **A TERM OF INCARCERATION IN THE DIVISION OF CORRECTION AND WHO HAS**
 27 **BEEN DIAGNOSED WITH A MENTAL ILLNESS WITH ACCESS TO A 30–DAY SUPPLY**
 28 **OF MEDICATION FOR THE MENTAL ILLNESS ON THE RELEASE OF THE INMATE.**

29 ~~(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, PART PART OF THE~~
 30 **30–DAY SUPPLY OF MEDICATION PROVIDED UNDER SUBSECTION (A) OF THIS**
 31 **SECTION MAY BE PROVIDED BY PRESCRIPTION IF THE INMATE IS PROVIDED**
 32 **SUFFICIENT MEDICATION ON RELEASE THAT ENABLES THE INMATE TO REMAIN**
 33 **MEDICATION–COMPLIANT UNTIL ADDITIONAL MEDICATION BECOMES**
 34 **AVAILABLE FROM FILLING THE PRESCRIPTION.**

~~(C) THE DEPARTMENT SHALL ENSURE THAT AN INMATE WITH A MENTAL ILLNESS WHO RECEIVES MEDICATION UNDER SUBSECTION (A) OF THIS SECTION RECEIVES AN ACTUAL SUPPLY OF THE MEDICATION ON RELEASE.~~

(C) THIS SECTION SHALL APPLY ONLY IF A TREATING PHYSICIAN DETERMINES THAT:

(1) THE RELEASED INMATE’S POSSESSION OF MEDICATION IN THE QUANTITY PRESCRIBED IS IN THE BEST INTEREST OF THE INMATE; AND

(2) POSSESSION OF THE PRESCRIBED MEDICATION WILL NOT CONSTITUTE A DANGER TO THE RELEASED INMATE.

(D) THE DEPARTMENT, AN EMPLOYEE OF THE DEPARTMENT, OR AN AGENT OF THE DEPARTMENT, INCLUDING A PHYSICIAN OR CORPORATE ENTITY PROVIDING MEDICAL SERVICES TO INMATES ON BEHALF OF THE DEPARTMENT, MAY NOT BE HELD LIABLE UNDER THIS SECTION FOR ISSUING MEDICATION OR A PRESCRIPTION FOR MEDICATION TO AN INMATE ON THE INMATE’S RELEASE NOTWITHSTANDING THAT THE RELEASED INMATE:

(1) IS NO LONGER UNDER THE CARE OR SUPERVISION OF THE PRESCRIBING PHYSICIAN; AND

(2) MAY NOT BE UNDER ANY MEDICAL SUPERVISION FOR THE PERIOD DURING WHICH THE MEDICATION HAS BEEN ADMINISTERED.

Article - Health - General

10-814.

~~THE ADMINISTRATION SHALL REIMBURSE COMPENSATE~~ THE ADMINISTRATION SHALL COMPENSATE CASE MANAGERS OR OTHER APPROPRIATE COMMUNITY MENTAL HEALTH PROVIDERS FOR CONDUCTING INITIAL ASSESSMENTS ~~WITH PRISONERS WITH A SERIOUS MENTAL ILLNESS WHO ARE WITHIN 3 MONTHS OF RELEASE~~ OF INMATES WHO ARE:

1 (1) IDENTIFIED BY THE DEPARTMENT OF PUBLIC SAFETY AND
2 CORRECTIONAL SERVICES AS HAVING A SERIOUS MENTAL ILLNESS; AND

3 (2) EXPECTED TO BE WITHIN 3 MONTHS OF RELEASE.

4 ~~15-104.1.~~

5 ~~(A) THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR FISCAL~~
6 ~~YEAR 2009 AT LEAST \$250,000 IN GENERAL FUND STATE SUPPORT FOR HIRING~~
7 ~~AND TRAINING PROGRAM BENEFITS COORDINATORS WITHIN THE DEPARTMENT~~
8 ~~OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR THE PRISON SYSTEM~~
9 ~~AND CASEWORKERS WITHIN THE DEPARTMENT OF HUMAN RESOURCES TO~~
10 ~~PROCESS APPLICATIONS FOR PROGRAM BENEFITS FOR INDIVIDUALS WITH A~~
11 ~~SERIOUS MENTAL ILLNESS WHO ARE EXPECTED TO BE RELEASED WITHIN 3~~
12 ~~MONTHS.~~

13 ~~(B) ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT OF HUMAN~~
14 ~~RESOURCES AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~
15 ~~SERVICES SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE~~
16 ~~GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE~~
17 ~~HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON THE EFFECT~~
18 ~~OF THE INCREASED STAFF PROVIDED UNDER SUBSECTION (A) OF THIS SECTION~~
19 ~~ON;~~

20 ~~(1) THE NUMBER OF APPLICATIONS FOR PROGRAM BENEFITS~~
21 ~~COMPLETED PRIOR TO THE RELEASE OF INMATES WITH A SERIOUS MENTAL~~
22 ~~ILLNESS AND RATES OF APPROVAL FOR THESE APPLICATIONS;~~

23 ~~(2) CHANGES IN RECIDIVISM RATES FOR INMATES WITH A~~
24 ~~SERIOUS MENTAL ILLNESS AS A RESULT OF IMPROVED ACCESS TO MEDICAL~~
25 ~~ASSISTANCE BENEFITS; AND~~

26 ~~(3) RECOMMENDATIONS TO EXPAND BENEFITS COORDINATION~~
27 ~~SUPPORT FOR INMATES IN PRISONS AND JAILS.~~

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

1 ~~(a) The Mental Hygiene Administration shall develop an implementation~~
2 ~~plan requiring each core service agency in the State to develop a forensic alternative~~
3 ~~services team:~~

4 ~~(1) that is staffed by mental health professionals to serve each district~~
5 ~~court, jail, and booking facility in the jurisdiction of the core service agency;~~

6 ~~(2) that is able to divert arrested individuals with a serious mental~~
7 ~~illness or trauma related disorder from incarceration by arranging needed community~~
8 ~~services, including outpatient or inpatient services prior to bail review hearings or~~
9 ~~within 30 days of incarceration; and~~

10 ~~(3) that may advocate before the court for release to the community~~
11 ~~with a plan agreed to by the defendant that may include ongoing treatment, housing,~~
12 ~~and monitoring if the charges made against the individual are not dismissed.~~

13 (a) (1) The Mental Hygiene Administration shall develop a plan for the
14 State to divert individuals with serious mental illnesses who come in contact with the
15 criminal justice system to inpatient or outpatient mental health services if such
16 services are more appropriate than confinement of the individual in a correctional
17 facility.

18 (2) If determined to be feasible and appropriate, the plan required
19 under this section shall include:

20 (i) coordination with and expansion of community mental
21 health crisis response services; and

22 (ii) the expansion of the Forensic Alternative Services Team or
23 the Maryland Community Criminal Justice Treatment Program, with due
24 consideration given to the unique needs and existing programs operating in local
25 jurisdictions.

26 (b) On or before January 1, 2008, the Mental Hygiene Administration shall
27 report, in accordance with § 2-1246 of the State Government Article, to the Senate
28 Finance Committee, the House Health and Government Operations Committee, and
29 the Transformation Grant workgroup on the implementation plan developed under
30 subsection (a) of this section.

31 SECTION 3. AND BE IT FURTHER ENACTED, That:

1 (a) The Mental Hygiene Administration shall ~~develop an implementation~~
2 ~~plan requiring each core service agency in the State~~ work with each core service
3 agency to develop a plan to enter into memoranda of understanding with local
4 detention centers to establish a data sharing initiative that:

5 (1) promotes the continuity of treatment for individuals with a serious
6 mental illness who have received services in the public mental health system and who
7 become involved in the criminal justice system;

8 (2) ~~requires the local detention center to electronically submit~~
9 implements electronic submission by the local detention center of information on each
10 arrestee for each 24-hour period to the public mental health system's administrative
11 services organization;

12 (3) requires the administrative services organization to cross reference
13 the information received from the detention center in order to identify residents within
14 the jurisdiction who are public mental health system enrollees with a serious mental
15 illness and provide the names of the enrollees to the core service agency for the
16 jurisdiction; and

17 (4) ~~requires a core service agency representative on receipt of the~~
18 ~~names of the enrollees, to:~~

19 (i) ~~interview the enrollee;~~

20 (ii) ~~obtain written consent from the enrollee to release~~
21 ~~treatment information to the detention center health care provider; and~~

22 (iii) ~~make necessary linkages within the detention center and~~
23 ~~the community service provider network to ensure that treatment information is~~
24 ~~available to mental health staff in the detention center and to staff responsible for~~
25 ~~discharge planning.~~

26 (4) provides a mechanism for a core service agency, with the arrestee's
27 consent, to:

28 (i) share treatment information with the detention center
29 health care provider; and

1 (ii) make necessary linkages to the community service provider
2 network to ensure that treatment information is available to appropriate detention
3 center staff.

4 (b) On or before January 1, 2008, the Mental Hygiene Administration shall
5 report, in accordance with § 2-1246 of the State Government Article, to the Senate
6 Finance Committee, the House Health and Government Operations Committee, and
7 the Transformation Grant workgroup on the implementation plan developed under
8 subsection (a) of this section.

9 SECTION 4. AND BE IT FURTHER ENACTED, That:

10 (a) The Department of Public Safety and Correctional Services, in
11 collaboration with the Motor Vehicle Administration, shall develop a plan to provide
12 departing inmates with an identification card that includes the information required
13 ~~under the federal REAL ID Act of 2005 and complies to comply~~ with the Motor Vehicle
14 Administration’s requirements for the issuance of a State identification card.

15 (b) On or before January 1, 2008, the Department of Public Safety and
16 Correctional Services shall report, in accordance with § 2-1246 of the State
17 Government Article, to the Senate Finance Committee and the House Health and
18 Government Operations Committee on the implementation ~~of the~~ plan developed
19 under subsection (a) of this section.

20 SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the
21 General Assembly that the Mental Hygiene Administration expend no more than
22 \$150,000 in fiscal 2008 to implement the provisions of this Act.

23 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect June 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.