

HOUSE BILL 869

J1, O1, E2

71r1504

By: **Delegates Rosenberg and Hubbard**
Introduced and read first time: February 9, 2007
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Court-Ordered Drug and Alcohol Treatment – Aftercare Planning**

3 FOR the purpose of requiring certain individuals to prepare a certain aftercare plan
4 under certain circumstances; requiring the aftercare plan to be prepared in
5 collaboration with certain programs and agencies and with a certain individual;
6 providing for the information to be included in the aftercare plan; requiring the
7 Secretary of Health and Mental Hygiene to conduct a certain review of certain
8 aftercare plans; requiring the Secretary to designate an existing Department
9 employee to coordinate with certain programs and services; requiring an
10 individual or a certain representative of an individual, who does not consent to
11 a certain aftercare plan to sign a certain statement; requiring the staff of
12 certain facilities to provide certain assistance in applying for certain benefits;
13 requiring the Department of Health and Mental Hygiene, in collaboration with
14 certain State agencies, to develop a certain funding mechanism and to report to
15 certain committees of the General Assembly on or before a certain date; defining
16 a certain term; and generally relating to aftercare planning for individuals who
17 have received court-ordered drug and alcohol treatment.

18 BY repealing and reenacting, with amendments,
19 Article – Health – General
20 Section 8-507
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article - Health - General**

2 8-507.

3 (a) Subject to the limitations in this section, a court that finds in a criminal
4 case that a defendant has an alcohol or drug dependency may commit the defendant as
5 a condition of release, after conviction, or at any other time the defendant voluntarily
6 agrees to participate in treatment, to the Department for treatment that the
7 Department recommends, even if:

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

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

12 (b) Before a court commits a defendant to the Department under this section,
13 the court shall:

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

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

16 (i) To receive treatment; and

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

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

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

21 (5) Find that the treatment that the Department recommends to be
22 appropriate and necessary.

23 (c) Immediately on receiving an order for treatment under this section, the
24 Department shall order a report of all pending cases, warrants, and detainers for the
25 defendant and forward a copy of the report to the court, the defendant, and the
26 defendant's last attorney of record.

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

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

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

5 (i) The Department gives the court notice that an appropriate
6 treatment program is able to begin treatment of the defendant;

7 (ii) Any detainer based on an untried indictment, information,
8 warrant, or complaint for the defendant has been removed; and

9 (iii) Any sentence of incarceration for the defendant is no longer
10 in effect.

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

13 (f) For a defendant committed for treatment under this section, a court shall
14 order supervision of the defendant:

15 (1) By an appropriate pretrial release agency, if the defendant is
16 released pending trial;

17 (2) By the Division of Parole and Probation under appropriate
18 conditions in accordance with §§ 6-219 through 6-225 of the Criminal Procedure
19 Article and Maryland Rule 4-345, if the defendant is released on probation; or

20 (3) By the Department, if the defendant remains in the custody of a
21 local correctional facility.

22 (g) A court may order law enforcement officials, detention center staff,
23 Department of Public Safety and Correctional Services staff, or sheriff's department
24 staff within the appropriate local jurisdiction to transport a defendant to and from
25 treatment under this section.

26 (h) The Department shall promptly report to a court a defendant's
27 withdrawal of consent to treatment and have the defendant returned to the court
28 within 7 days for further proceedings.

29 (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.

1 (j) (1) A commitment under this section shall be for at least 72 hours and
2 not more than 1 year.

3 (2) On good cause shown by the Department, the court, or the State,
4 the court may extend the time period for providing the necessary treatment services in
5 increments of 6 months.

6 (3) Except during the first 72 hours after admission of a defendant to a
7 treatment program, the Department may terminate the treatment if the Department
8 determines that:

9 (i) Continued treatment is not in the best interest of the
10 defendant; or

11 (ii) The defendant is no longer amenable to treatment.

12 (K) (1) **IN THIS SUBSECTION, "AFTERCARE SERVICES" MEANS**
13 **SERVICES:**

14 (I) **FOR INDIVIDUALS WHO NO LONGER RECEIVE**
15 **TREATMENT FOR ALCOHOL OR DRUG DEPENDENCY UNDER THIS SECTION; AND**

16 (II) **THAT ENHANCE THE OPPORTUNITY TO MAINTAIN AN**
17 **INDIVIDUAL WHO HAS BEEN TREATED FOR ALCOHOL OR DRUG DEPENDENCY IN**
18 **THE COMMUNITY AND TO ASSIST IN THE PREVENTION OF HOMELESSNESS.**

19 (2) **"AFTERCARE SERVICES" INCLUDE:**

20 (I) **MEDICAL CARE;**

21 (II) **PSYCHIATRIC CARE;**

22 (III) **DRUG OR ALCOHOL COUNSELING OR TREATMENT;**

23 (IV) **VOCATIONAL AND SOCIAL REHABILITATION;**

24 (V) **SUPPORTIVE HOUSING; AND**

25 (VI) **CASE MANAGEMENT SERVICES.**

1 **(3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, BEFORE**
2 **AN INDIVIDUAL IS RELEASED FROM TREATMENT, THE ADMINISTRATIVE HEAD**
3 **OF THE FACILITY PROVIDING TREATMENT OR A DESIGNEE OF THE**
4 **ADMINISTRATIVE HEAD SHALL PREPARE A WRITTEN AFTERCARE PLAN FOR THE**
5 **INDIVIDUAL.**

6 **(4) THE AFTERCARE PLAN SHALL BE PREPARED:**

7 **(I) IN COLLABORATION WITH COMMUNITY PROGRAMS AND**
8 **GOVERNMENT AGENCIES THAT ARE TO PROVIDE AFTERCARE SERVICES TO THE**
9 **INDIVIDUAL AFTER RELEASE; AND**

10 **(II) IN CONSULATION WITH THE INDIVIDUAL.**

11 **(5) THE AFTERCARE PLAN SHALL INCLUDE:**

12 **(I) DIAGNOSES, INCLUDING EXISTING PSYCHIATRIC,**
13 **SOMATIC, AND DENTAL DIAGNOSES;**

14 **(II) TREATMENT INITIATED;**

15 **(III) MEDICATIONS PRESCRIBED, THEIR DOSAGE**
16 **SCHEDULES, THE AMOUNT OF EACH MEDICATION GIVEN TO THE INDIVIDUAL ON**
17 **RELEASE, AND THE INFORMATION NECESSARY TO HELP THE INDIVIDUAL TO**
18 **OBTAIN THE PRESCRIBED MEDICATION IN THE COMMUNITY IN ACCORDANCE**
19 **WITH THE AFTERCARE PLAN;**

20 **(IV) DATE OF RELEASE;**

21 **(V) LOCATION OF COMMUNITY PLACEMENT, IF**
22 **APPLICABLE;**

23 **(VI) PLAN FOR CONTINUING TREATMENT; AND**

24 **(VII) LIST OF REFERRALS INDICATED, INCLUDING:**

25 **1. PUBLIC SOCIAL SERVICES;**

26 **2. LEGAL AID;**

1 **3. EDUCATIONAL SERVICES;**

2 **4. VOCATIONAL SERVICES; AND**

3 **5. MEDICAL TREATMENT OTHER THAN DRUG OR**
4 **ALCOHOL TREATMENT SERVICES.**

5 **(6) THE SECRETARY SHALL PERIODICALLY REVIEW SELECTED**
6 **AFTERCARE PLANS AND MAKE A DETERMINATION IF THE SERVICES INCLUDED**
7 **IN THE AFTERCARE PLANS ARE MEETING THE NEEDS OF THE PARTICULAR**
8 **INDIVIDUALS.**

9 **(7) THE SECRETARY SHALL DESIGNATE AN EXISTING EMPLOYEE**
10 **IN THE DEPARTMENT WHOSE PRIMARY FUNCTION IS TO HELP COORDINATE**
11 **WITH THE DEPARTMENT'S PROGRAMS AND SERVICES AIMED AT THE**
12 **PREVENTION OF HOMELESSNESS TO INDIVIDUALS WITH A DRUG OR ALCOHOL**
13 **DEPENDENCY.**

14 **(8) (I) IF AN INDIVIDUAL DOES NOT CONSENT TO AN**
15 **AFTERCARE PLAN, A STATEMENT TO THIS EFFECT SIGNED BY THE INDIVIDUAL**
16 **OR A PARENT, GUARDIAN, OR OTHER REPRESENTATIVE OF THE INDIVIDUAL**
17 **SHALL BE PLACED IN THE INDIVIDUAL'S RECORD.**

18 **(II) WITH THE CONSENT OF THE INDIVIDUAL, AND BEFORE**
19 **AN INDIVIDUAL WHO HAD BEEN ORDERED TO RECEIVE TREATMENT IS**
20 **RELEASED FROM A FACILITY, THE STAFF OF THE FACILITY SHALL ASSIST THE**
21 **INDIVIDUAL OR THE PARENT, GUARDIAN, OR OTHER REPRESENTATIVE OF THE**
22 **INDIVIDUAL IN APPLYING FOR THE FEDERAL AND STATE BENEFITS FOR WHICH**
23 **THE INDIVIDUAL MAY BE ELIGIBLE.**

24 **(III) 1. THE STAFF OF THE FACILITY SHALL BEGIN**
25 **ASSISTING THE INDIVIDUAL OR THE PARENT, GUARDIAN, OR OTHER**
26 **REPRESENTATIVE OF THE INDIVIDUAL IN THE APPLICATION PROCESS FOR**
27 **BENEFITS FOR THE INDIVIDUAL AS EARLY AS POSSIBLE AFTER THE INDIVIDUAL**
28 **IS ACCEPTED INTO TREATMENT IN THE FACILITY.**

29 **2. ON ACCEPTANCE INTO TREATMENT, THE**
30 **FACILITY SHALL PROVIDE TO EACH INDIVIDUAL, OR THE PARENT, GUARDIAN,**

1 **OR OTHER REPRESENTATIVE OF THE INDIVIDUAL, WRITTEN INFORMATION**
2 **REGARDING FEDERAL AND STATE BENEFITS AND APPLICATION PROCESSES.**

3 ~~[(k)]~~ **(L)** When a defendant is to be released from treatment under this
4 section, the Department shall notify the court that ordered the treatment.

5 ~~[(l)]~~ **(M)** (1) If a defendant leaves treatment without authorization, the
6 responsibility of the Department is limited to the notification of the court that ordered
7 the defendant's treatment as soon as it is reasonably possible.

8 (2) Notice under this subsection shall constitute probable cause for a
9 court to issue a warrant for the arrest of a defendant.

10 ~~[(m)]~~ **(N)** Nothing in this section imposes any obligation on the Department:

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

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

16 ~~[(n)]~~ **(O)** Time during which a defendant is held under this section for
17 inpatient evaluation or inpatient or residential treatment shall be credited against any
18 sentence imposed by the court that ordered the evaluation or treatment.

19 ~~[(o)]~~ **(P)** This section may not be construed to limit a court's authority to
20 order drug treatment in lieu of incarceration under Title 5 of the Criminal Law
21 Article.

22 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

23 (a) the Department of Health and Mental Hygiene, in consultation with the
24 Department of Human Resources, the Department of Housing and Community
25 Development, the Department of Labor, Licensing, and Regulation, and any other
26 State agency that provides services in an aftercare plan, shall develop a funding
27 mechanism to provide the services identified in an aftercare plan to an individual
28 released from drug or alcohol treatment; and

29 (b) on or before October 1, 2008, the Department of Health and Mental
30 Hygiene shall report, in accordance with § 2-1246 of the State Government Article, to
31 the Senate Budget and Taxation Committee, the Senate Judicial Proceedings

1 Committee, the House Appropriations Committee, the House Health and Government
2 Operations Committee, and the House Judiciary Committee, on the funding
3 mechanism developed under subsection (a) of this section.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2007.