

# SENATE BILL 791

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71r3077

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By: **Senator Middleton**

Introduced and read first time: February 15, 2007

Assigned to: Rules

Re-referred to: Finance, February 22, 2007

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

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**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.



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

BY adding to

Article – Correctional Services  
Section 9–612  
Annotated Code of Maryland  
(1999 Volume and 2006 Supplement)

BY adding to

Article – Health – General  
Section 10–814 ~~and 15–104.1~~  
Annotated Code of Maryland  
(2005 Replacement Volume and 2006 Supplement)

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

#### Article – Correctional Services

#### **9–612.**

~~(A) AT THE TIME OF RELEASE OF AN INMATE WITH MENTAL ILLNESS, THE DEPARTMENT SHALL PROVIDE THE INMATE WITH ACCESS TO A 30-DAY SUPPLY OF MEDICATION FOR THE MENTAL ILLNESS, IF DETERMINED APPROPRIATE BY THE PRESCRIBING PHYSICIAN.~~

~~(B) (1) AT LEAST 14 DAYS OF THE 30-DAY SUPPLY PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL CONSIST OF A SUPPLY OF THE MEDICATION.~~

~~(2) THE REMAINDER OF THE 30-DAY SUPPLY PROVIDED UNDER  
SUBSECTION (A) OF THIS SECTION SHALL BE PROVIDED EITHER BY  
PRESCRIPTION OR BY AN ACTUAL SUPPLY OF THE MEDICATION.~~

(A) THE DEPARTMENT SHALL PROVIDE AN INMATE WHO HAS BEEN  
SENTENCED TO A TERM OF INCARCERATION IN THE DIVISION OF CORRECTION  
AND WHO HAS BEEN DIAGNOSED WITH A MENTAL ILLNESS WITH ACCESS TO A  
30-DAY SUPPLY OF MEDICATION FOR THE MENTAL ILLNESS ON THE RELEASE  
OF THE INMATE.

(B) PART OF THE 30-DAY SUPPLY OF MEDICATION PROVIDED UNDER  
SUBSECTION (A) OF THIS SECTION MAY BE PROVIDED BY PRESCRIPTION IF THE  
INMATE IS PROVIDED SUFFICIENT MEDICATION ON RELEASE THAT ENABLES  
THE INMATE TO REMAIN MEDICATION-COMPLIANT WITH THE MEDICATION  
UNTIL ADDITIONAL MEDICATION BECOMES AVAILABLE FROM FILLING THE  
PRESCRIPTION.

(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 BE WITHOUT MEDICAL SUPERVISION FOR THE PERIOD  
DURING WHICH THE MEDICATION HAS BEEN ADMINISTERED.

**Article - Health - General****10-814.**

~~(A) THE ADMINISTRATION SHALL COMPENSATE CASE MANAGERS OR OTHER APPROPRIATE COMMUNITY MENTAL HEALTH PROVIDERS FOR CONDUCTING INITIAL ASSESSMENTS OF INMATES THAT WHO ARE:~~

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

~~(2) EXPECTED TO BE RELEASED WITHIN 3 MONTHS.~~

~~(B) THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL FOR FISCAL YEAR 2008 AND ANNUALLY THEREAFTER AT LEAST \$250,000 IN GENERAL FUND STATE SUPPORT TO COVER THE COST OF THE ASSESSMENTS REQUIRED UNDER THIS SECTION.~~

**~~15-104.1.~~**

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) (1) The Mental Hygiene Administration shall develop an implementation plan for the State for diverting to inpatient or outpatient mental health services individuals with serious mental illnesses who come in contact with the criminal justice system and who would be more appropriately served with mental health services than confinement in a correctional facility.~~

~~(2) The implementation plan required under this section shall, as feasible and appropriate, include:~~

~~(i) establishment of community mental health crisis response services; and~~

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

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

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

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

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

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

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

7 (a) The Mental Hygiene Administration shall work with each core service  
8 agency to develop a plan to enter into memoranda of understanding with local  
9 detention centers to establish a data sharing initiative that:

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

13 (2) implements electronic submission of information by the local  
14 detention center on each arrestee for each 24-hour period to the public mental health  
15 system's administrative services organization;

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

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

23 (i) share treatment information with the detention center  
24 health care provider; and

25 (ii) make necessary linkages to the community service provider  
26 network to ensure that treatment information is available to appropriate detention  
27 center staff.

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

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

2           (a)    The Department of Public Safety and Correctional Services, in  
3 collaboration with the Motor Vehicle Administration, shall develop a plan to provide  
4 departing inmates with an identification card that ~~includes the information required~~  
5 ~~under the federal REAL ID Act of 2005 and complies~~ includes the information required  
6 to comply with the Motor Vehicle Administration's requirements for the issuance of a  
7 State identification card.

8           (b)    On or before January 1, 2008, the Department of Public Safety and  
9 Correctional Services shall report, in accordance with § 2-1246 of the State  
10 Government Article, to the Senate Finance Committee and the House Health and  
11 Government Operations Committee on the plan developed under subsection (a) of this  
12 section.

13           SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the  
14 General Assembly that the Mental Hygiene Administration expend no more than  
15 \$150,000 in fiscal 2008 to implement the provisions of this Act.

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.