

CHAPTER 595

(House Bill 281)

AN ACT concerning

Mental Health – Incarcerated Individuals with Mental Illness

FOR the purpose of requiring the Mental Hygiene Administration to reimburse certain mental health providers for certain services; requiring the Department of Public Safety and Correctional Services to provide certain access to a certain amount of medication to certain individuals under certain circumstances; establishing certain immunity from civil liability for certain persons; requiring the Governor to provide a certain appropriation in a certain fiscal year for hiring and training certain individuals for certain purposes; requiring the Department of Human Resources and 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; requiring the Mental Hygiene Administration to develop an implementation plan to require each core service agency in the State to develop a certain forensic alternative services team a certain plan to divert certain individuals with a serious mental illness to certain types of services; requiring the Mental Hygiene Administration to develop an implementation plan requiring work with each core service agency in the State to develop a plan to enter into memoranda of understanding with local detention centers to establish a certain data sharing initiative; requiring the Mental Hygiene 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) ~~ON THE RECOMMENDATION OF A HEALTH CARE PROVIDER, THE~~
~~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) ~~SUBJECT TO SUBSECTION (C) OF THIS SECTION, PART~~ 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 UNTIL ADDITIONAL MEDICATION BECOMES
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 WITHOUT MEDICAL SUPERVISION FOR THE PERIOD DURING WHICH THE MEDICATION HAS BEEN ADMINISTERED.

Article – Health – General

10-814.

THE ADMINISTRATION SHALL ~~REIMBURSE~~ ~~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) IDENTIFIED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AS HAVING A SERIOUS MENTAL ILLNESS; AND

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

~~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 WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FOR THE PRISON SYSTEM AND CASEWORKERS WITHIN THE DEPARTMENT OF HUMAN RESOURCES TO PROCESS APPLICATIONS FOR PROGRAM BENEFITS FOR INDIVIDUALS WITH A SERIOUS 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 SERIOUS MENTAL ILLNESS AND RATES OF APPROVAL FOR THESE APPLICATIONS;~~

~~(2) CHANGES IN RECIDIVISM RATES FOR INMATES WITH A SERIOUS 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) The Mental Hygiene Administration shall develop an implementation plan requiring each core service agency in the State to develop a forensic alternative services team:~~

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

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

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

(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.

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

SECTION 3. AND BE IT FURTHER ENACTED, That:

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

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

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

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

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

~~(i) interview the enrollee;~~

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

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

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

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

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

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

SECTION 4. AND BE IT FURTHER ENACTED, That:

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

(b) On or before January 1, 2008, 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 ~~implementation of the~~ plan developed under subsection (a) of this section.

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

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

Approved by the Governor, May 17, 2007.