

# HOUSE BILL 1347

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By: **Delegate Anderson**

Introduced and read first time: February 19, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Drug or Alcohol Abuse – Court-Ordered Evaluation**  
3 **and Treatment of Defendant**

4 FOR the purpose of authorizing a circuit court or the District Court to extend  
5 probation for a certain defendant for a certain period of time for the purpose of a  
6 commitment to the Department of Health and Mental Hygiene for drug or  
7 alcohol abuse treatment; requiring the Division of Parole and Probation to  
8 supervise the extended probation period of a defendant while committed to the  
9 Department; authorizing the court to further extend the probation period only  
10 under certain circumstances; altering the circumstances under which a court  
11 may order the Department to evaluate a defendant to determine if the  
12 defendant may benefit from treatment for drug or alcohol abuse or dependency;  
13 making conforming changes; and generally relating to court-ordered evaluation  
14 and treatment of a defendant for drug or alcohol abuse.

15 BY repealing and reenacting, without amendments,  
16 Article – Criminal Procedure  
17 Section 6–222(a)  
18 Annotated Code of Maryland  
19 (2008 Replacement Volume)

20 BY adding to  
21 Article – Criminal Procedure  
22 Section 6–222(d) and (e)  
23 Annotated Code of Maryland  
24 (2008 Replacement Volume)

25 BY repealing and reenacting, with amendments,  
26 Article – Health – General  
27 Section 8–505(a) and 8–507(a)  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2005 Replacement Volume and 2008 Supplement)

2 BY repealing and reenacting, without amendments,  
3 Article – Health – General  
4 Section 8–507(b) and (f)  
5 Annotated Code of Maryland  
6 (2005 Replacement Volume and 2008 Supplement)

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

9 **Article – Criminal Procedure**

10 6–222.

11 (a) A circuit court or the District Court may:

12 (1) impose a sentence for a specified time and provide that a lesser  
13 time be served in confinement;

14 (2) suspend the remainder of the sentence; and

15 (3) (i) order probation for a time longer than the sentence but,  
16 subject to subsections (b) and (c) of this section, not longer than:

17 1. 5 years if the probation is ordered by a circuit court;  
18 or

19 2. 3 years if the probation is ordered by the District  
20 Court; or

21 (ii) if a defendant convicted of sexual abuse of a minor under §  
22 3–602 of the Criminal Law Article or a crime involving a minor under § 3–303,  
23 § 3–304, § 3–305, § 3–306, or § 3–307 of the Criminal Law Article, consents in writing,  
24 order probation for a time longer than the sentence that was imposed on the  
25 defendant, but not longer than:

26 1. 10 years if the probation is ordered by a circuit court;  
27 or

28 2. 6 years if the probation is ordered by the District  
29 Court.

30 **(D) (1) FOR THE PURPOSE OF A COMMITMENT TO THE DEPARTMENT**  
31 **OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8–507 OF THE**  
32 **HEALTH – GENERAL ARTICLE, THE COURT MAY EXTEND THE PROBATION FOR 1**

1 YEAR BEYOND THE TIME ALLOWED UNDER SUBSECTION (A)(3)(I) OF THIS  
2 SECTION.

3 (2) AN EXTENSION OF PROBATION UNDER THIS SUBSECTION  
4 SHALL BE SUPERVISED BY THE DIVISION OF PAROLE AND PROBATION.

5 (E) THE COURT MAY EXTEND THE PROBATION BEYOND THE TIME  
6 ALLOWED UNDER SUBSECTION (D) OF THIS SECTION ONLY IF:

7 (1) THE DEFENDANT CONSENTS IN WRITING; AND

8 (2) THE EXTENSION IS ONLY FOR A COMMITMENT TO THE  
9 DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER  
10 § 8-507 OF THE HEALTH - GENERAL ARTICLE.

11 **Article - Health - General**

12 8-505.

13 (a) (1) Before or during a criminal trial [or], before **OR AFTER** sentencing,  
14 **OR BEFORE OR DURING A TERM OF PROBATION**, the court may order the  
15 Department to evaluate a defendant to determine whether, by reason of drug or  
16 alcohol abuse, the defendant is in need of and may benefit from treatment if:

17 (i) It appears to the court that the defendant has an alcohol or  
18 drug abuse problem; or

19 (ii) The defendant alleges an alcohol or drug dependency.

20 (2) A court shall set and may change the conditions under which an  
21 examination is to be conducted under this section.

22 (3) The Department shall ensure that each evaluation under this  
23 section is conducted in accordance with regulations adopted by the Department.

24 8-507.

25 (a) Subject to the limitations in this section, a court that finds in a criminal  
26 case **OR DURING A TERM OF PROBATION** that a defendant has an alcohol or drug  
27 dependency may commit the defendant as a condition of release, after conviction, or at  
28 any other time the defendant voluntarily agrees to participate in treatment, to the  
29 Department for treatment that the Department recommends, even if:

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

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

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

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

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

7           (i) To receive treatment; and

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

9           (3) Order an evaluation of the defendant under § 8–505 or § 8–506 of  
10 this subtitle;

11           (4) Consider the report on the defendant’s evaluation; and

12           (5) Find that the treatment that the Department recommends to be  
13 appropriate and necessary.

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

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

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

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

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2009.