

HOUSE BILL 1347

E2

9lr3053

By: **Delegate Anderson**

Introduced and read first time: February 19, 2009

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, March 2, 2009

Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2009

CHAPTER _____

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

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 (2008 Replacement Volume)

2 BY repealing and reenacting, with amendments,
3 Article – Health – General
4 Section 8–505(a) and 8–507(a)
5 Annotated Code of Maryland
6 (2005 Replacement Volume and 2008 Supplement)

7 BY repealing and reenacting, without amendments,
8 Article – Health – General
9 Section 8–507(b) and (f)
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2008 Supplement)

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

14 **Article – Criminal Procedure**

15 6–222.

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

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

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

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

22 1. 5 years if the probation is ordered by a circuit court;

23 or

24 2. 3 years if the probation is ordered by the District
25 Court; or

26 (ii) if a defendant convicted of sexual abuse of a minor under §
27 3–602 of the Criminal Law Article or a crime involving a minor under § 3–303,
28 § 3–304, § 3–305, § 3–306, or § 3–307 of the Criminal Law Article, consents in writing,
29 order probation for a time longer than the sentence that was imposed on the
30 defendant, but not longer than:

31 1. 10 years if the probation is ordered by a circuit court;

32 or

33 2. 6 years if the probation is ordered by the District
34 Court.

1 (D) (1) FOR THE PURPOSE OF A COMMITMENT TO THE DEPARTMENT
2 OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8-507 OF THE
3 HEALTH – GENERAL ARTICLE, THE COURT MAY EXTEND THE PROBATION FOR 1
4 YEAR BEYOND THE TIME ALLOWED UNDER SUBSECTION (A)(3)(I) OF THIS
5 SECTION.

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

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

10 (1) THE DEFENDANT CONSENTS IN WRITING; AND

11 (2) THE EXTENSION IS ONLY FOR A COMMITMENT TO THE
12 DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER
13 § 8-507 OF THE HEALTH – GENERAL ARTICLE.

14 Article – Health – General

15 8-505.

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

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

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

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

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

27 8-507.

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

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

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

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

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

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

9 (i) To receive treatment; and

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

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

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

14 (5) Find that the treatment that the Department recommends to be
15 appropriate and necessary.

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

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

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

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

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