

SENATE BILL 781

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9lr2495

By: **Senator Haines**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Alcohol and Drug Treatment – Commitment of Defendant – Crime of Violence**

3 FOR the purpose of prohibiting a defendant who is sentenced for a conviction of a
4 crime of violence from being committed by a court to alcohol or drug treatment
5 unless the defendant is eligible for parole under a certain provision of law; and
6 generally relating to the commitment of defendants to alcohol or drug
7 treatment.

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 8–507
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2008 Supplement)

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

15 **Article – Health – General**

16 8–507.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (i) A defendant who is committed for treatment under this section may
20 question at any time the legality of the commitment by a petition for a writ of habeas
21 corpus.

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

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

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

30 (i) Continued treatment is not in the best interest of the
31 defendant; or

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

33 (k) When a defendant is to be released from treatment under this section, the
34 Department shall notify the court that ordered the treatment.

1 (1) (1) If a defendant leaves treatment without authorization, the
 2 responsibility of the Department is limited to the notification of the court that ordered
 3 the defendant's treatment as soon as it is reasonably possible.

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

6 (m) Nothing in this section imposes any obligation on the Department:

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

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

12 (n) Time during which a defendant is held under this section for inpatient
 13 evaluation or inpatient or residential treatment shall be credited against any sentence
 14 imposed by the court that ordered the evaluation or treatment.

15 (o) This section may not be construed to limit a court's authority to order
 16 drug treatment in lieu of incarceration under Title 5 of the Criminal Law Article.

17 **(P) A DEFENDANT SENTENCED FOR A CONVICTION OF A CRIME OF**
 18 **VIOLENCE UNDER § 14-101 OF THE CRIMINAL LAW ARTICLE IS NOT ELIGIBLE**
 19 **FOR COMMITMENT UNDER THIS SECTION UNTIL THE DEFENDANT IS ELIGIBLE**
 20 **FOR PAROLE UNDER § 7-301(C) OF THE CORRECTIONAL SERVICES ARTICLE.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.