

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,

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:

Article – Health – General

16 8-507.

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.

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;

(2) By the Division of Parole and Probation under appropriate conditions in accordance with §§ 6-219 through 6-225 of the Criminal Procedure 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.

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.

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.

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 (l) (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.