

## **CHAPTER 720**

**(House Bill 1347)**

AN ACT concerning

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

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

BY repealing and reenacting, without amendments,

Article – Criminal Procedure  
Section 6–222(a)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY adding to

Article – Criminal Procedure  
Section 6–222(d) and (e)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 8–505(a) and 8–507(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General  
Section 8–507(b) and (f)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Criminal Procedure**

6–222.

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

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

(2) suspend the remainder of the sentence; and

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

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

or

2. 3 years if the probation is ordered by the District

Court; or

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

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

or

2. 6 years if the probation is ordered by the District

Court.

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

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

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

**(1) THE DEFENDANT CONSENTS IN WRITING; AND**

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

**Article – Health – General**

8-505.

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

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

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

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

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

8-507.

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

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

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

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

- (1) Offer the defendant the opportunity to receive treatment;
  - (2) Obtain the written consent of the defendant:
    - (i) To receive treatment; and
    - (ii) To have information reported back to the court;
  - (3) Order an evaluation of the defendant under § 8–505 or § 8–506 of this subtitle;
  - (4) Consider the report on the defendant’s evaluation; and
  - (5) Find that the treatment that the Department recommends to be appropriate and necessary.
- (f) For a defendant committed for treatment under this section, a court shall order supervision of the defendant:
- (1) By an appropriate pretrial release agency, if the defendant is 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
  - (3) By the Department, if the defendant remains in the custody of a local correctional facility.

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

**Approved by the Governor, May 19, 2009.**