

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 1347  
Judiciary

(Delegate Anderson)

Judicial Proceedings

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

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This bill specifies that, for the purpose of a commitment to the Department of Health and Mental Hygiene for treatment under § 8-507 of the Health General Article, a court may extend probation for one year. Such an extended probation must be under the supervision of the Division of Parole and Probation (DPP). A court may extend probation beyond the one-year period only if the defendant consents in writing and the further extension is only for a § 8-507 commitment. The bill also specifies that a court ordered alcohol or drug abuse evaluation of a criminal defendant pursuant to such a court referral may occur after sentencing or before or during a term of probation. A commitment under § 8-507 may also be made by a court during a term of probation.

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**Fiscal Summary**

**State Effect:** To the extent that there is treatment space available, the number of persons with extended probationary periods for treatment purposes may increase. However, the Alcohol and Drug Abuse Administration (ADAA) and DPP can handle the bill's requirements within existing resources since the number of treatment slots annually available to the courts for such referrals is not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Under the Health-General Article, § 8-507, a court is authorized to refer an individual to substance abuse treatment as an alternative to incarceration. A court that finds in a criminal case that a defendant has an alcohol or drug dependency may commit the defendant to a drug or alcohol treatment program. The commitment can be made as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to participate in treatment.

**Background:** As of January 1, 2009, there were 71,240 offenders under active supervision by DPP. Of those offenders, approximately 51,800 have special conditions of supervision requiring drug and/or alcohol treatment. The average length of stay for an offender on supervision with DPP is 26 months.

**State Fiscal Effect:** In fiscal 2008, there were 554 orders for § 8-507 referrals from the courts statewide. Of that number, 462 were actually placed with a treatment provider. This does not include all data on placements in Baltimore City. ADAA reports that there are currently 96 court commitments under § 8-507 on the inpatient treatment program waiting list. The average wait time until admission is 90 days. There is no waiting list for outpatient drug treatment programs; referred persons are generally admitted to programs within two weeks.

The average length of stay for an inpatient placement is 120 days at a cost of \$135 per day, totaling \$16,200 per treatment episode. Costs are borne by ADAA under contracts let annually with various drug and alcohol treatment providers. A commitment must be for at least 72 hours but not longer than one year. The § 8-507 referrals have a priority standing with providers, they are made to facilities operated by providers who also take other public and private referrals for the same treatment care. Under current law, a court may extend treatment in increments of six-month periods for good cause shown.

While this bill may make more convicted persons eligible for treatment referrals, the number of actual referrals made by a court in any given year is limited by available treatment slots. Accordingly, the number of annual court referrals under § 8-507 are not expected to increase significantly under the bill. Although DPP is concerned that the bill may lead to the need for additional resources, including additional agents, any such potential impact on the agency is not likely to be realized in the short term.

Recent reports by the Department of Legislative Services have found that a lack of residential treatment alternatives, in particular, has limited the use of § 8-507 commitments. While the addition of slots in 2008 appears to have had an impact on wait times for certain types of court-ordered residential treatment, it remains unclear if the total number of available slots is adequate. The Judiciary continues to have concerns

generally about how court-ordered treatment should be funded in the context of overall prevention and treatment funding.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 17, 2009  
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