

HOUSE BILL 1035

E1, J3, E2

0lr2181

By: **Delegate King**

Introduced and read first time: February 15, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – First Degree Escape – Escape from Drug and Alcohol**
3 **Treatment Facilities**

4 FOR the purpose of prohibiting a defendant from knowingly escaping from the
5 Department of Health and Mental Hygiene after a certain commitment by a
6 court for treatment of alcohol or drug dependency; establishing that a person
7 who violates this Act is guilty of the felony of escape in the first degree; and
8 generally relating to escape from commitment to the Department of Health and
9 Mental Hygiene.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 9–404
13 Annotated Code of Maryland
14 (2002 Volume and 2009 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 8–507
18 Annotated Code of Maryland
19 (2009 Replacement Volume)

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

22 **Article – Criminal Law**

23 9–404.

24 (a) A person may not knowingly escape from a place of confinement.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) A person may not:

2 (1) escape from:

3 (i) a detention center for juveniles;

4 (ii) a facility for juveniles listed in § 9–226(b) of the Human
5 Services Article; or

6 (iii) a place identified in a juvenile community detention order;
7 and

8 (2) in the course of the escape commit an assault.

9 (C) **A PERSON MAY NOT KNOWINGLY ESCAPE FROM THE DEPARTMENT**
10 **OF HEALTH AND MENTAL HYGIENE AFTER A COMMITMENT BY A COURT IN**
11 **ACCORDANCE WITH § 8–507 OF THE HEALTH – GENERAL ARTICLE.**

12 [(c)] (D) A person who violates this section is guilty of the felony of escape
13 in the first degree and on conviction is subject to imprisonment not exceeding 10 years
14 or a fine not exceeding \$20,000 or both.

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 or during a term of probation that a defendant has an alcohol or drug dependency
19 may commit the defendant as a condition of release, after conviction, or at any other
20 time the defendant voluntarily agrees to participate in treatment, to the Department
21 for treatment that the Department recommends, even if:

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

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

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

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

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

30 (i) To receive treatment; and

- 1 (ii) To have information reported back to the court;
- 2 (3) Order an evaluation of the defendant under § 8–505 or § 8–506 of
3 this subtitle;
- 4 (4) Consider the report on the defendant’s evaluation; and
- 5 (5) Find that the treatment that the Department recommends to be
6 appropriate and necessary.
- 7 (c) Immediately on receiving an order for treatment under this section, the
8 Department shall order a report of all pending cases, warrants, and detainers for the
9 defendant and forward a copy of the report to the court, the defendant, and the
10 defendant’s last attorney of record.
- 11 (d) (1) The Department shall provide the services required by this section.
- 12 (2) A designee of the Department may carry out any of the
13 Department’s duties under this section if appropriate funding is provided.
- 14 (e) (1) A court may not order that the defendant be delivered for
15 treatment until:
- 16 (i) The Department gives the court notice that an appropriate
17 treatment program is able to begin treatment of the defendant;
- 18 (ii) Any detainer based on an untried indictment, information,
19 warrant, or complaint for the defendant has been removed; and
- 20 (iii) Any sentence of incarceration for the defendant is no longer
21 in effect.
- 22 (2) The Department shall facilitate the prompt treatment of a
23 defendant.
- 24 (f) For a defendant committed for treatment under this section, a court shall
25 order supervision of the defendant:
- 26 (1) By an appropriate pretrial release agency, if the defendant is
27 released pending trial;
- 28 (2) By the Division of Parole and Probation under appropriate
29 conditions in accordance with §§ 6–219 through 6–225 of the Criminal Procedure
30 Article and Maryland Rule 4–345, if the defendant is released on probation; or
- 31 (3) By the Department, if the defendant remains in the custody of a
32 local correctional facility.

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

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

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

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

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

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

19 (i) Continued treatment is not in the best interest of the
20 defendant; or

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

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

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

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

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

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

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

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2010.