

SENATE BILL 761

E4, J1
HB 1099/09 – JUD & HGO

0lr3113
CF HB 1335

By: **Senators Pugh, Forehand, and Kramer**
Introduced and read first time: February 10, 2010
Assigned to: Judicial Proceedings and Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 26, 2010

CHAPTER _____

1 AN ACT concerning

2 **Mental Health – Local Correctional Facilities – Incarcerated Individuals with**
3 **Mental Illness**

4 FOR the purpose of requiring the managing official of a local correctional facility to
5 provide access to a certain amount of medication to certain individuals under
6 certain circumstances; providing that part of a certain supply of medication may
7 be provided by prescription under certain circumstances; establishing immunity
8 from civil liability for certain persons; creating a certain exception; and
9 generally relating to mental health treatment for incarcerated individuals.

10 ~~BY adding to~~
11 ~~Article – Correctional Services~~
12 ~~Section 11–206~~
13 ~~Annotated Code of Maryland~~
14 ~~(2008 Replacement Volume and 2009 Supplement)~~

15 BY repealing and reenacting, with amendments,
16 Article – Correctional Services
17 Section 9–612
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2009 Supplement)

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

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.



Article – Correctional Services

~~11-206.~~

~~(A) THIS SECTION DOES NOT APPLY TO PRETRIAL INMATES.~~

~~(B) THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY SHALL PROVIDE AN INMATE WHO HAS BEEN INCARCERATED IN A LOCAL CORRECTIONAL FACILITY FOR AT LEAST 60 DAYS AND WHO HAS BEEN DIAGNOSED WITH A MENTAL ILLNESS WITH ACCESS TO A 30-DAY SUPPLY OF MEDICATION FOR THE MENTAL ILLNESS ON THE RELEASE OF THE INMATE.~~

~~(C) PART OF THE 30-DAY SUPPLY OF MEDICATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY BE PROVIDED BY PRESCRIPTION IF THE INMATE IS PROVIDED SUFFICIENT MEDICATION ON RELEASE THAT ENABLES THE INMATE TO REMAIN MEDICATION-COMPLIANT UNTIL ADDITIONAL MEDICATION BECOMES AVAILABLE FROM FILLING THE PRESCRIPTION.~~

~~(D) THIS SECTION SHALL APPLY ONLY IF A TREATING PHYSICIAN DETERMINES THAT:~~

~~(1) THE RELEASED INMATE'S POSSESSION OF MEDICATION IN THE QUANTITY PRESCRIBED IS IN THE BEST INTEREST OF THE INMATE; AND~~

~~(2) POSSESSION OF THE PRESCRIBED MEDICATION WILL NOT CONSTITUTE A DANGER TO THE RELEASED INMATE.~~

~~(E) A LOCAL CORRECTIONAL FACILITY, AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY, OR AN AGENT OF A LOCAL CORRECTIONAL FACILITY, INCLUDING A PHYSICIAN OR CORPORATE ENTITY PROVIDING MEDICAL SERVICES TO INMATES ON BEHALF OF THE LOCAL CORRECTIONAL FACILITY, MAY NOT BE HELD LIABLE UNDER THIS SECTION FOR ISSUING MEDICATION OR A PRESCRIPTION FOR MEDICATION TO AN INMATE ON THE INMATE'S RELEASE, NOTWITHSTANDING THAT THE RELEASED INMATE:~~

~~(1) IS NO LONGER UNDER THE CARE OR SUPERVISION OF THE PRESCRIBING PHYSICIAN; AND~~

~~(2) MAY BE WITHOUT MEDICAL SUPERVISION FOR THE PERIOD DURING WHICH THE MEDICATION HAS BEEN PROVIDED OR PRESCRIBED.~~

9-612.

(a) The Department OR THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY shall provide an inmate who has been sentenced to a term

1 of incarceration in the Division of Correction OR A TERM OF AT LEAST 60 DAYS IN A
2 LOCAL CORRECTIONAL FACILITY and who has been diagnosed with a mental illness
3 with access to a 30-day supply of medication for the mental illness on the release of
4 the inmate.

5 (b) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO PRETRIAL
6 INMATES.

7 (C) Part of the 30-day supply of medication provided under subsection (a) of
8 this section may be provided by prescription if the inmate is provided sufficient
9 medication on release that enables the inmate to remain medication-compliant until
10 additional medication becomes available from filling the prescription.

11 [(c)] (D) This section shall apply only if a treating physician determines
12 that:

13 (1) the released inmate's possession of medication in the quantity
14 prescribed is in the best interest of the inmate; and

15 (2) possession of the prescribed medication will not constitute a
16 danger to the released inmate.

17 [(d)] (E) The Department, an employee of the Department, A LOCAL
18 CORRECTIONAL FACILITY, AN EMPLOYEE OF A LOCAL CORRECTIONAL FACILITY,
19 or an agent of the Department OR LOCAL CORRECTIONAL FACILITY, including a
20 physician or corporate entity providing medical services to inmates on behalf of the
21 Department OR LOCAL CORRECTIONAL FACILITY, may not be held liable under this
22 section for issuing medication or a prescription for medication to an inmate on the
23 inmate's release notwithstanding that the released inmate:

24 (1) is no longer under the care or supervision of the prescribing
25 physician; and

26 (2) may be without medical supervision for the period during which
27 the medication has been administered.

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