

HOUSE BILL 810

E4, J2

3lr2104

By: **Delegates Simmons, Rosenberg, and McMillan**

Introduced and read first time: February 6, 2013

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Health Professionals – Duty to Report Risk of Serious Harm –**
3 **Firearm Safety**

4 FOR the purpose of requiring that, notwithstanding any other law to the contrary,
5 certain mental health professionals under certain circumstances report to the
6 Director of Mental Hygiene in a certain manner certain information about an
7 individual that the mental health professional is currently treating; requiring
8 the Director of Mental Hygiene to report certain information to the Secretary of
9 State Police under certain circumstances; providing that certain information
10 reported under certain circumstances shall be limited to names and certain
11 other information; providing that certain information reported under certain
12 circumstances may be used only to make certain determinations about
13 applications and permits for firearms and handguns; requiring the Secretary of
14 State Police to report to certain local law enforcement agencies if certain
15 information includes any threats of violence; requiring certain local law
16 enforcement agencies to take certain actions under certain circumstances;
17 providing for the construction of this Act; providing that a certain decision of a
18 mental health professional may not be the basis for any civil or criminal liability
19 under certain circumstances; defining a certain term; and generally relating to
20 reports by mental health professionals of the risk of serious harm by patients
21 and firearm safety.

22 BY adding to
23 Article – Courts and Judicial Proceedings
24 Section 5–642
25 Annotated Code of Maryland
26 (2006 Replacement Volume and 2012 Supplement)

27 BY adding to
28 Article – Health Occupations
29 Section 1–220

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2012 Supplement)

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

5 **Article – Courts and Judicial Proceedings**

6 **5–642.**

7 (A) IN THIS SECTION, “MENTAL HEALTH PROFESSIONAL” HAS THE
8 MEANING STATED IN § 1–220 OF THE HEALTH OCCUPATIONS ARTICLE.

9 (B) THE DECISION OF A MENTAL HEALTH PROFESSIONAL TO REPORT
10 OR NOT TO REPORT INFORMATION TO THE DIRECTOR OF MENTAL HYGIENE IN
11 ACCORDANCE WITH § 1–220 OF THE HEALTH OCCUPATIONS ARTICLE, WHEN
12 MADE REASONABLY AND IN GOOD FAITH, MAY NOT BE THE BASIS FOR ANY CIVIL
13 OR CRIMINAL LIABILITY OF THE MENTAL HEALTH PROFESSIONAL.

14 **Article – Health Occupations**

15 **1–220.**

16 (A) IN THIS SECTION, “MENTAL HEALTH PROFESSIONAL” MEANS A
17 PHYSICIAN, PSYCHOLOGIST, REGISTERED NURSE, OR LICENSED CLINICAL
18 SOCIAL WORKER PROVIDING MENTAL HEALTH TREATMENT.

19 (B) (1) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY,
20 WHEN A MENTAL HEALTH PROFESSIONAL CURRENTLY PROVIDING TREATMENT
21 TO AN INDIVIDUAL DETERMINES, IN THE EXERCISE OF REASONABLE
22 PROFESSIONAL JUDGMENT, THAT THE INDIVIDUAL IS LIKELY TO ENGAGE IN
23 CONDUCT THAT WOULD RESULT IN SERIOUS HARM TO THE INDIVIDUAL OR
24 OTHERS, THE MENTAL HEALTH PROFESSIONAL SHALL REPORT THAT
25 DETERMINATION, AS SOON AS PRACTICABLE, TO THE DIRECTOR OF MENTAL
26 HYGIENE.

27 (2) IF THE DIRECTOR OF MENTAL HYGIENE AGREES THAT THE
28 INDIVIDUAL IS LIKELY TO ENGAGE IN CONDUCT THAT WOULD RESULT IN
29 SERIOUS HARM TO THE INDIVIDUAL OR OTHERS, THE DIRECTOR OF MENTAL
30 HYGIENE SHALL PROMPTLY NOTIFY THE SECRETARY OF STATE POLICE.

31 (C) INFORMATION PROVIDED TO THE SECRETARY OF STATE POLICE
32 UNDER SUBSECTION (B)(2) OF THIS SECTION:

1 **(1) SHALL BE LIMITED TO NAMES AND OTHER NONCLINICAL**
2 **IDENTIFYING INFORMATION; AND**

3 **(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, MAY BE USED**
4 **ONLY TO DETERMINE IF:**

5 **(I) A FIREARM APPLICATION SUBMITTED BY THE**
6 **INDIVIDUAL TO THE SECRETARY OF STATE POLICE UNDER TITLE 5, SUBTITLE 2**
7 **OF THE PUBLIC SAFETY ARTICLE SHALL BE DISAPPROVED;**

8 **(II) A HANDGUN PERMIT SUBMITTED BY THE INDIVIDUAL**
9 **TO THE SECRETARY OF STATE POLICE UNDER TITLE 5, SUBTITLE 3 OF THE**
10 **PUBLIC SAFETY ARTICLE SHALL BE ISSUED; OR**

11 **(III) THE INDIVIDUAL IS NO LONGER PERMITTED UNDER**
12 **STATE OR FEDERAL LAW TO POSSESS A REGULATED FIREARM.**

13 **(D) (1) IF INFORMATION PROVIDED TO THE SECRETARY OF STATE**
14 **POLICE UNDER SUBSECTION (B)(2) OF THIS SECTION INCLUDES ANY THREATS**
15 **OF VIOLENCE, THE SECRETARY OF STATE POLICE SHALL REPORT THE THREATS**
16 **TO THE LOCAL LAW ENFORCEMENT AGENCIES IN THE JURISDICTIONS LIKELY**
17 **TO BE MOST DIRECTLY IMPACTED BY THE THREATS.**

18 **(2) A LOCAL LAW ENFORCEMENT AGENCY RECEIVING A REPORT**
19 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROMPTLY INVESTIGATE**
20 **THE INFORMATION REPORTED.**

21 **(3) IF THE INFORMATION IS SUBSTANTIATED, THE LOCAL LAW**
22 **ENFORCEMENT AGENCY SHALL:**

23 **(I) TAKE APPROPRIATE ACTION TO RESPOND TO ANY**
24 **IMMINENT THREAT; AND**

25 **(II) SUBMIT A COPY OF THE INVESTIGATIVE REPORT TO THE**
26 **SECRETARY OF STATE POLICE FOR PURPOSES OF CONDUCTING**
27 **INVESTIGATIONS RELATED TO FIREARM APPLICATIONS AND HANDGUN**
28 **PERMITS.**

29 **(E) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A MENTAL**
30 **HEALTH PROFESSIONAL TO TAKE ANY ACTION THAT, IN THE EXERCISE OF**
31 **REASONABLE PROFESSIONAL JUDGMENT, WOULD ENDANGER THE MENTAL**
32 **HEALTH PROFESSIONAL OR INCREASE THE DANGER TO A POTENTIAL VICTIM OR**
33 **VICTIMS.**

1 **(F) THE DECISION OF A MENTAL HEALTH PROFESSIONAL TO REPORT**
2 **OR NOT TO REPORT INFORMATION, IN ACCORDANCE WITH THIS SECTION, WHEN**
3 **MADE REASONABLY AND IN GOOD FAITH, MAY NOT BE THE BASIS FOR ANY CIVIL**
4 **OR CRIMINAL LIABILITY OF THE MENTAL HEALTH PROFESSIONAL.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2013.