

SENATE BILL 382

J1, D1, E4

3lr2096

By: **Senators Brochin and Raskin**

Introduced and read first time: January 25, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Health – Emergency Evaluations – Surrender of Firearms**

3 FOR the purpose of requiring that a petition for emergency evaluation of a certain
4 individual include, under certain circumstances, a statement of whether the
5 individual has possession of or access to firearms; authorizing a court, under
6 certain circumstances, to order an emergency evaluatee to surrender certain
7 firearms to a certain peace officer; requiring a peace officer, under certain
8 circumstances, to take certain firearms; and generally relating to the emergency
9 evaluation of an individual for mental health reasons.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 10–622 and 10–623
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2012 Supplement)

15 BY adding to
16 Article – Health – General
17 Section 10–623.1
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2012 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Health – General
22 Section 10–624
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 10–622.

3 (a) A petition for emergency evaluation of an individual may be made under
4 this section only if the petitioner has reason to believe that the individual:

5 (1) Has a mental disorder; and

6 (2) The individual presents a danger to the life or safety of the
7 individual or of others.8 (b) (1) The petition for emergency evaluation of an individual may be
9 made by:10 (i) A physician, psychologist, clinical social worker, licensed
11 clinical professional counselor, clinical nurse specialist in psychiatric and mental
12 health nursing, psychiatric nurse practitioner, licensed clinical marriage and family
13 therapist, or health officer or designee of a health officer who has examined the
14 individual;15 (ii) A peace officer who personally has observed the individual
16 or the individual's behavior; or

17 (iii) Any other interested person.

18 (2) An individual who makes a petition for emergency evaluation
19 under paragraph (1)(i) or (ii) of this subsection may base the petition on:

20 (i) The examination or observation; or

21 (ii) Other information obtained that is pertinent to the factors
22 giving rise to the petition.

23 (c) (1) A petition under this section shall:

24 (i) Be signed and verified by the petitioner;

25 (ii) State the petitioner's:

26 1. Name;

27 2. Address; and

28 3. Home and work telephone numbers;

29 (iii) State the emergency evaluatee's:

- 1 1. Name; and
- 2 2. Description;
- 3 (iv) State the following information, if available:
- 4 1. The address of the emergency evaluatee; and
- 5 2. The name and address of the spouse or a child,
- 6 parent, or other relative of the emergency evaluatee or any other individual who is
- 7 interested in the emergency evaluatee;
- 8 (v) If the individual who makes the petition for emergency
- 9 evaluation is an individual authorized to do so under subsection (b)(1)(i) of this
- 10 section, contain the license number of the individual;
- 11 (vi) Contain a description of the behavior and statements of the
- 12 emergency evaluatee or any other information that led the petitioner to believe that the
- 13 emergency evaluatee has a mental disorder and that the individual presents a danger to
- 14 the life or safety of the individual or of others; [and]
- 15 **(VII) IF KNOWN BY THE INDIVIDUAL MAKING THE PETITION,**
- 16 **STATE WHETHER THE EMERGENCY EVALUEE HAS POSSESSION OF OR ACCESS TO**
- 17 **ANY FIREARMS; AND**
- 18 [(vii)] **(VIII)** Contain any other facts that support the need for an
- 19 emergency evaluation.
- 20 (2) The petition form shall contain a notice that the petitioner:
- 21 (i) May be required to appear before a court; and
- 22 (ii) Makes the statements under penalties of perjury.
- 23 (d) (1) A petitioner who is a physician, psychologist, clinical social worker,
- 24 licensed clinical professional counselor, clinical nurse specialist in psychiatric and
- 25 mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and
- 26 family therapist, health officer, or designee of a health officer shall give the petition to
- 27 a peace officer.
- 28 (2) The peace officer shall explain to the petitioner:
- 29 (i) The serious nature of the petition; and
- 30 (ii) The meaning and content of the petition.

1 10-623.

2 (a) If the petitioner under Part IV of this subtitle is not a physician,
3 psychologist, clinical social worker, licensed clinical professional counselor, clinical
4 nurse specialist in psychiatric and mental health nursing, psychiatric nurse
5 practitioner, licensed clinical marriage and family therapist, health officer or designee
6 of a health officer, or peace officer, the petitioner shall present the petition to the court
7 for immediate review.

8 (b) After review of the petition, the court shall endorse the petition if the
9 court finds probable cause to believe that the emergency evaluatee has shown the
10 symptoms of a mental disorder and that the individual presents a danger to the life or
11 safety of the individual or of others.

12 (c) If the court does not find probable cause, the court shall indicate that fact
13 on the petition, and no further action may be taken under the petition.

14 **(D) IF A COURT ENDORSES A PETITION UNDER SUBSECTION (B) OF THIS**
15 **SECTION AND THE PETITION STATES THAT THE EMERGENCY EVALUEE HAS**
16 **POSSESSION OF OR ACCESS TO FIREARMS, THE COURT MAY ORDER THE**
17 **EMERGENCY EVALUEE TO SURRENDER THE FIREARMS TO THE PEACE OFFICER**
18 **WHO TAKES THE EMERGENCY EVALUEE TO AN EMERGENCY FACILITY UNDER §**
19 **10-624 OF THIS SECTION.**

20 **10-623.1.**

21 **THE PEACE OFFICER WHO TAKES AN EMERGENCY EVALUEE TO AN**
22 **EMERGENCY FACILITY UNDER § 10-624 OF THIS SUBTITLE SHALL TAKE THE**
23 **FIREARMS THAT THE EMERGENCY EVALUEE HAS POSSESSION OF OR ACCESS TO**
24 **IF:**

25 **(1) THE PETITION STATES THAT THE EMERGENCY EVALUEE HAS**
26 **POSSESSION OF OR ACCESS TO FIREARMS; AND**

27 **(2) (I) A COURT ORDERS THE SURRENDER OF THE FIREARMS**
28 **UNDER § 10-623(D) OF THIS SUBTITLE; OR**

29 **(II) THE PETITION WAS MADE BY A PHYSICIAN,**
30 **PSYCHOLOGIST, CLINICAL SOCIAL WORKER, LICENSED CLINICAL**
31 **PROFESSIONAL COUNSELOR, CLINICAL NURSE SPECIALIST IN PSYCHIATRIC AND**
32 **MENTAL HEALTH NURSING, PSYCHIATRIC NURSE PRACTITIONER, LICENSED**
33 **CLINICAL MARRIAGE AND FAMILY THERAPIST, HEALTH OFFICER OR DESIGNEE**
34 **OF A HEALTH OFFICER, OR PEACE OFFICER.**

1 10-624.

2 (a) (1) A peace officer shall take an emergency evaluatee to the nearest
3 emergency facility if the peace officer has a petition under Part IV of this subtitle that:

4 (i) Has been endorsed by a court within the last 5 days; or

5 (ii) Is signed and submitted by a physician, psychologist, clinical
6 social worker, licensed clinical professional counselor, clinical nurse specialist in
7 psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical
8 marriage and family therapist, health officer or designee of a health officer, or peace
9 officer.

10 (2) After a peace officer takes the emergency evaluatee to an emergency
11 facility, the peace officer need not stay unless, because the emergency evaluatee is
12 violent, a physician asks the supervisor of the peace officer to have the peace officer
13 stay.

14 (3) A peace officer shall stay until the supervisor responds to the
15 request for assistance. If the emergency evaluatee is violent, the supervisor shall allow
16 the peace officer to stay.

17 (4) If a physician asks that a peace officer stay, a physician shall
18 examine the emergency evaluatee as promptly as possible.

19 (b) (1) If the petition is executed properly, the emergency facility shall
20 accept the emergency evaluatee.

21 (2) Within 6 hours after an emergency evaluatee is brought to an
22 emergency facility, a physician shall examine the emergency evaluatee, to determine
23 whether the emergency evaluatee meets the requirements for involuntary admission.

24 (3) Promptly after the examination, the emergency evaluatee shall be
25 released unless the emergency evaluatee:

26 (i) Asks for voluntary admission; or

27 (ii) Meets the requirements for involuntary admission.

28 (4) An emergency evaluatee may not be kept at an emergency facility for
29 more than 30 hours.

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