

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1040

(Senator Garagiola, *et al.*)

Finance

Rules and Executive Nominations

Mental Hygiene - Reform of Laws and Delivery of Services

This bill modifies standards for (1) involuntary admissions of individuals with mental disorders to a specified facility or Veterans' Administration hospital; (2) emergency evaluations of individuals with mental disorders; and (3) clinical review panel approval. In addition, the bill establishes the Task Force on the Delivery of Services to Individuals with Mental Illness and specifies membership for the task force. The Department of Health and Mental Hygiene (DHMH) is required to staff the task force, which must submit to the Governor and General Assembly an interim report by January 1, 2014, and a final report by January 1, 2015.

The bill takes effect July 1, 2013. The bill's provisions relating to the task force terminate June 30, 2015.

Fiscal Summary

State Effect: DHMH can staff the task force and develop the required reports with existing resources. However, DHMH advises that it is unable to estimate whether admissions and/or hearings are likely to increase or decrease under the bill. Thus, it is unclear whether the bill has any fiscal impact on State hospitals or facilities. It is also unclear to what extent the bill's repeal of the exclusion of intellectual disabilities from the definition of "mental disorder" is likely to result in an increase in emergency evaluations. To the extent that hearings increase under the bill, the workload of the Office of the Public Defender may increase.

Local Effect: DHMH advises that it is unable to estimate whether admissions and/or hearings are likely to increase or decrease under the bill. Thus, it is unclear whether the bill has any fiscal impact on locally owned hospitals or facilities.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Involuntary Admissions

Under current law, a facility (as defined in the Health-General Article) or Veterans' Administration hospital may not admit an individual unless (1) the individual presents a danger to the life or safety of the individual or of others; (2) the individual has a mental disorder or needs inpatient care or treatment; (3) the individual is unable or unwilling to be admitted voluntarily; and (4) there is no available, less restrictive form of intervention that is consistent with the welfare and safety of the individual.

The bill modifies the first of these requirements such that the individual must be reasonably expected, in the foreseeable future, to present a danger to the life or safety of the individual or of others. "Danger to the life or safety of the individual or others" means a substantial risk (1) as manifested by threats of or attempts at suicide, self-injury, or violence by the individual, that the individual or another individual will suffer substantial body harm or (2) as manifested by behavior indicating that the individual is unlikely – without the supervision and assistance of others – to satisfy the individual's need for nourishment, personal or medical care, shelter, or self-protection and safety (so that the individual will suffer substantial bodily harm, significant psychiatric deterioration or debilitation, or serious illness).

Current law affords any individual proposed for involuntary admission a hearing to determine whether the individual is to be admitted as an involuntary patient or released. After considering all the evidence and testimony of record, the hearing officer must order the individual's release unless the record demonstrates by clear and convincing evidence that, at the time of the hearing (1) the individual presents a danger to the life or safety of the individual or of others; (2) the individual has a mental disorder or needs inpatient care or treatment; (3) the individual is unable or unwilling to be admitted voluntarily; (4) there is no available, less restrictive form of intervention that is consistent with the welfare and safety of the individual; and (5) if the individual is older than age 65 and is to be admitted to a State facility, the individual has been evaluated by a geriatric evaluation team and no less restrictive form of care or treatment was determined by the team to be appropriate.

The bill modifies the first of these requirements such that the individual must be reasonably expected, in the foreseeable future, to present a danger to the life or safety of the individual or of others.

Emergency Evaluations

Under current law, a petition for emergency evaluation of an individual may be made only if the petitioner has reason to believe that the individual has a mental disorder and presents a danger to the life or safety of the individual or of others. Similarly, current law authorizes a court to (at any time) order an emergency evaluation of an individual who has been arrested, if the court finds probable cause to believe that the individual presents a danger to the life and safety of the individual or of others.

The bill modifies these requirements such that a petition for emergency evaluation of an individual may be made if the petitioner (or court) has reason to believe that the individual has a mental disorder and is reasonably expected, in the foreseeable future, to present a danger to the life or safety of the individual or others.

Current law specifies that “mental disorder” does not, with regard to emergency evaluations, include an intellectual disability. The bill repeals this exclusion.

Clinical Review Panel Approval

Current law authorizes a clinical review panel to approve the administration of medication to (and approval of alternative medications for) an individual who objects to the medication if the panel determines that (1) the medication is prescribed by a psychiatrist for the purpose of treating the individual’s mental disorder; (2) the administration of medication represents a reasonable exercise of professional judgment; and (3) without the medication, the individual is at substantial risk of continued hospitalization. Specifically, the individual must be at substantial risk of continued hospitalization due to (1) remaining seriously mentally ill with no significant relief from, or for a longer period of time with, the mental illness symptoms that cause the individual to be a danger to the individual or to others or (2) relapsing into a condition in which the individual is in danger of serious physical harm resulting from the individual’s essential human needs of health or safety.

The bill modifies the last of these requirements such that the individual must be at substantial risk of continued hospitalization due to (1) remaining seriously mentally ill with no significant relief from, or for a longer period of time with, the mental illness symptoms that cause the individual to meet the bill’s criteria for involuntary admission or (2) relapsing into a condition in which the individual is unlikely to satisfy the individual’s need for nourishment, personal or medical care, shelter, or self-protection and safety (so that it is probable that substantial bodily harm, significant psychiatric deterioration or debilitation, or serious illness will result).

Task Force on the Delivery Services to Individuals with Mental Illness

The bill requires the task force to examine issues relating to the delivery of services to individuals with mental illness in the State, including (1) the feasibility and desirability of establishing involuntary outpatient commitment of mentally ill individuals and admitting mentally ill individuals involuntarily into facilities until the individuals are psychiatrically stable; (2) expanding the use of, and increasing funds for, crisis services, diversion services, and mental health courts; and (3) eliminating procedural barriers to keeping mentally ill individuals hospitalized for longer periods of time, if needed, to reduce the likelihood of psychiatric deterioration and arrest after discharge.

A member of the task force may not receive compensation as a member of the task force but is entitled to reimbursement for standard expenses, as provided in the State budget.

Additional Information

Prior Introductions: None.

Cross File: HB 1258 (Delegate Hough, *et al.*) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Department of Veterans Affairs, Department of Legislative Services

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