

HOUSE BILL 499

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HB 1009/17 – HGO

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CF 8lr1593

By: **Delegates Kipke, Anderton, Arentz, Buckel, Cassilly, Chang, Ciliberti, Ghrist, Glass, Grammer, S. Howard, Jacobs, Jalisi, Jones, Kittleman, Krebs, Long, Mautz, McConkey, McKay, W. Miller, Otto, Reilly, Saab, Shoemaker, Sophocleus, Szeliga, Vogt, West, and Wivell**
Introduced and read first time: January 25, 2018
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Standards for Involuntary Admissions and Petitions for Emergency**
3 **Evaluation – Modification**

4 FOR the purpose of altering a certain exception to allow for the involuntary admission of
5 certain individuals who have experienced a drug overdose to certain facilities or a
6 Veterans' Administration hospital; altering certain circumstances to allow a petition
7 for an emergency evaluation to be made for certain individuals who have experienced
8 a drug overdose; altering the circumstances under which a court is required to
9 endorse a petition for an emergency evaluation; altering a certain exception to the
10 requirement that a certain hearing officer order the release of an individual proposed
11 for involuntary admission; making a technical correction; making a conforming
12 change; and generally relating to involuntary admissions, petitions for emergency
13 evaluation, and individuals who have experienced a drug overdose.

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 10–617, 10–622, 10–623, and 10–632
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2017 Supplement)

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

21 **Article – Health – General**

22 10–617.

23 (a) A facility or Veterans' Administration hospital may not admit the individual

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 under this part unless:

2 (1) The individual [has]:

3 (I) HAS a mental disorder; OR

4 (II) 1. IS NOT A MINOR;

5 2. HAS EXPERIENCED A DRUG OVERDOSE; AND

6 3. HAS HEALTH INSURANCE COVERAGE AS A
7 DEPENDENT UNDER THE INDIVIDUAL'S PARENT'S HEALTH INSURANCE PLAN;

8 (2) The individual needs inpatient care or treatment;

9 (3) The individual presents a danger to the life or safety of the individual
10 or of others;

11 (4) The individual is unable or unwilling to be admitted voluntarily; and

12 (5) There is no available, less restrictive form of intervention that is
13 consistent with the welfare and safety of the individual.

14 (b) (1) In addition to the limitations in subsection (a) of this section, a State
15 facility may not admit an individual who is 65 years old or older unless a geriatric
16 evaluation team determines that there is no available, less restrictive form of care or
17 treatment that is adequate for the needs of the individual.

18 (2) If admission is denied because of the determination of the geriatric
19 evaluation team, the team shall:

20 (i) Inform the applicant; and

21 (ii) Help the applicant obtain the less restrictive form of care or
22 treatment that the team finds would be adequate for the needs of the individual.

23 10-622.

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

26 (1) (I) Has a mental disorder; OR

27 (II) 1. IS NOT A MINOR;

28 2. HAS EXPERIENCED A DRUG OVERDOSE; AND

1 **3. HAS HEALTH INSURANCE COVERAGE AS A**
2 **DEPENDENT UNDER THE INDIVIDUAL'S PARENT'S HEALTH INSURANCE PLAN; and**

3 (2) **[The individual presents] PRESENTS** a danger to the life or safety of
4 the individual or of others.

5 (b) (1) The petition for emergency evaluation of an individual may be made by:

6 (i) A physician, psychologist, clinical social worker, licensed clinical
7 professional counselor, clinical nurse specialist in psychiatric and mental health nursing,
8 psychiatric nurse practitioner, licensed clinical marriage and family therapist, or health
9 officer or designee of a health officer who has examined the individual;

10 (ii) A peace officer who personally has observed the individual or the
11 individual's behavior; or

12 (iii) Any other interested person.

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

15 (i) The examination or observation; or

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

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

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

20 (ii) State the petitioner's:

21 1. Name;

22 2. Address; and

23 3. Home and work telephone numbers;

24 (iii) State the emergency evaluatee's:

25 1. Name; and

26 2. Description;

27 (iv) State the following information, if available:

1 1. The address of the emergency evaluatee; and

2 2. The name and address of the spouse or a child, parent, or
3 other relative of the emergency evaluatee or any other individual who is interested in the
4 emergency evaluatee;

5 (v) If the individual who makes the petition for emergency
6 evaluation is an individual authorized to do so under subsection (b)(1)(i) of this section,
7 contain the license number of the individual;

8 (vi) Contain a description of the behavior and statements of the
9 emergency evaluatee or any other information that led the petitioner to believe that the
10 emergency evaluatee [has a mental disorder and that the individual presents a danger to the
11 life or safety of the individual or of others] **MEETS THE CRITERIA UNDER SUBSECTION**
12 **(A) OF THIS SECTION;** and

13 (vii) Contain any other facts that support the need for an emergency
14 evaluation.

15 (2) The petition form shall contain a notice that the petitioner:

16 (i) May be required to appear before a court; and

17 (ii) Makes the statements under penalties of perjury.

18 (d) (1) A petitioner who is a physician, psychologist, clinical social worker,
19 licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental
20 health nursing, psychiatric nurse practitioner, licensed clinical marriage and family
21 therapist, health officer, or designee of a health officer shall give the petition to a peace
22 officer.

23 (2) The peace officer shall explain to the petitioner:

24 (i) The serious nature of the petition; and

25 (ii) The meaning and content of the petition.

26 10-623.

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

32 (b) After review of the petition, the court shall endorse the petition if the court
33 finds probable cause to believe that the emergency evaluatee [has]:

1 (1) (I) **HAS** shown the symptoms of a mental disorder; **OR**

2 (II) **MEETS THE CRITERIA UNDER § 10-622(A)(1)(II) OF THIS**
3 **SUBTITLE; and**

4 (2) [that the individual presents] **PRESENTS** a danger to the life or safety
5 of the individual or of others.

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

8 10-632.

9 (a) Any individual proposed for involuntary admission under Part III of this
10 subtitle shall be afforded a hearing to determine whether the individual is to be admitted
11 to a facility or a Veterans' Administration hospital as an involuntary patient or released
12 without being admitted.

13 (b) The hearing shall be conducted within 10 days of the date of the initial
14 confinement of the individual.

15 (c) (1) The hearing may be postponed for good cause for no more than 7 days,
16 and the reasons for the postponement shall be on the record.

17 (2) A decision shall be made within the time period provided in paragraph
18 (1) of this subsection.

19 (d) The Secretary shall:

20 (1) Adopt rules and regulations on hearing procedures; and

21 (2) Designate an impartial hearing officer to conduct the hearings.

22 (e) The hearing officer shall:

23 (1) Consider all the evidence and testimony of record; and

24 (2) Order the release of the individual from the facility unless the record
25 demonstrates by clear and convincing evidence that at the time of the hearing each of the
26 following elements exist as to the individual whose involuntary admission is sought:

27 (i) The individual [has]:

28 1. **HAS** a mental disorder; **OR**

