

SENATE BILL 527

J1

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By: **Senator Astle**

Introduced and read first time: January 29, 2018

Assigned to: Finance

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) The individual [has]:

2 (I) HAS a mental disorder;

3 (II) HAS EXPERIENCED AN OVERDOSE;

4 (III) HAS A HISTORY OF CHRONIC AND PERSISTENT SUBSTANCE
5 ABUSE; OR

6 (IV) PRESENTS A DANGER TO THE LIFE OR SAFETY OF THE
7 INDIVIDUAL OR OF OTHERS.

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;

27 (II) HAS EXPERIENCED AN OVERDOSE; OR

28 (III) HAS A HISTORY OF CHRONIC AND PERSISTENT SUBSTANCE
29 ABUSE; AND

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

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

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

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

10 (iii) Any other interested person.

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

13 (i) The examination or observation; or

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

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

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

18 (ii) State the petitioner's:

19 1. Name;

20 2. Address; and

21 3. Home and work telephone numbers;

22 (iii) State the emergency evaluatee's:

23 1. Name; and

24 2. Description;

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

26 1. The address of the emergency evaluatee; and

27 2. The name and address of the spouse or a child, parent, or

1 other relative of the emergency evaluatee or any other individual who is interested in the
2 emergency evaluatee;

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

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

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

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

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

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

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

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

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

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

24 10-623.

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

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

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

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

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

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

7 10-632.

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

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

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

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

18 (d) The Secretary shall:

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

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

21 (e) The hearing officer shall:

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

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

26 (i) The individual [has]:

27 1. HAS a mental disorder; OR

28 2. MEETS THE CRITERIA UNDER § 10-622(A)(1)(II) OR
29 (III) OF THIS SUBTITLE;

- 1 (ii) The individual needs in-patient care or treatment;
- 2 (iii) The individual presents a danger to the life or safety of the
3 individual or of others;
- 4 (iv) The individual is unable or unwilling to be voluntarily admitted
5 to the facility;
- 6 (v) There is no available less restrictive form of intervention that is
7 consistent with the welfare and safety of the individual; and
- 8 (vi) If the individual is 65 years old or older and is to be admitted to
9 a State facility, the individual has been evaluated by a geriatric evaluation team and no
10 less restrictive form of care or treatment was determined by the team to be appropriate.
- 11 (f) The parent, guardian, or next of kin of an individual involuntarily admitted
12 under this subtitle:
- 13 (1) Shall be given notice of the hearing on the admission; and
- 14 (2) May testify at the hearing.
- 15 (g) If a hearing officer enters an order for involuntary commitment under Part III
16 of this subtitle and the hearing officer determines that the individual cannot safely possess
17 a firearm based on credible evidence of dangerousness to others, the hearing officer shall
18 order the individual who is subject to the involuntary commitment to:
- 19 (1) Surrender to law enforcement authorities any firearms in the
20 individual's possession; and
- 21 (2) Refrain from possessing a firearm unless the individual is granted relief
22 from firearms disqualification in accordance with § 5-133.3 of the Public Safety Article.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2018.