

SENATE BILL 635

J1, J3, J2

9lr0561

By: **Senator Eckardt**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Health – Involuntary Admissions – Procedures**

3 FOR the purpose of authorizing a certain facility or Veterans' Administration hospital to
4 take an individual who is involuntarily admitted under certain circumstances into
5 confinement on observation status; requiring an individual confined on observation
6 status to be examined within a certain period of time by a physician, psychologist, or
7 psychiatric nurse practitioner; requiring that an individual confined on observation
8 status be voluntarily admitted or released with a certain plan under certain
9 circumstances; providing that an individual confined on observation status is
10 entitled to certain rights and protections; requiring that certain regulations require
11 that a certain impartial hearing officer receive testimony from a physician,
12 psychologist, or psychiatric nurse practitioner who examined the confined
13 individual; making a stylistic change; and generally relating to involuntary
14 admissions to facilities for the treatment of mental disorders.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 10–617 and 10–632
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2018 Supplement)

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

22 **Article – Health – General**

23 10–617.

24 (a) A facility or Veterans' Administration hospital may not admit the individual
25 under this part unless:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) The individual has a mental disorder;
- 2 (2) The individual needs inpatient care or treatment;
- 3 (3) The individual presents a danger to the life or safety of the individual
4 or of others;
- 5 (4) The individual is unable or unwilling to be admitted voluntarily; and
- 6 (5) There is no available, less restrictive form of intervention that is
7 consistent with the welfare and safety of the individual.

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

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

14 (i) Inform the applicant; and

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

17 **(C) (1) A FACILITY OR VETERANS' ADMINISTRATION HOSPITAL MAY**
18 **TAKE AN INDIVIDUAL ADMITTED UNDER THIS PART INTO CONFINEMENT ON**
19 **OBSERVATION STATUS.**

20 **(2) (I) AN INDIVIDUAL CONFINED ON OBSERVATION STATUS**
21 **SHALL BE EXAMINED WITHIN 24 HOURS OF THE CONFINEMENT BY A PHYSICIAN,**
22 **PSYCHOLOGIST, OR PSYCHIATRIC NURSE PRACTITIONER.**

23 **(II) IF THE PHYSICIAN, PSYCHOLOGIST, OR PSYCHIATRIC**
24 **NURSE PRACTITIONER PERFORMING THE EXAMINATION FINDS THAT THE**
25 **INDIVIDUAL DOES NOT MEET THE REQUIREMENTS FOR ADMISSION UNDER THIS**
26 **SECTION, THE INDIVIDUAL SHALL BE:**

27 **1. VOLUNTARILY ADMITTED UNDER PART II OF THIS**
28 **SUBTITLE; OR**

29 **2. RELEASED WITH AN AFTERCARE PLAN AS REQUIRED**
30 **UNDER § 10-809 OF THIS TITLE.**

31 **(3) AN INDIVIDUAL CONFINED ON OBSERVATION STATUS SHALL BE**

1 ENTITLED TO THE RIGHTS GRANTED UNDER SUBTITLE 7 OF THIS TITLE AND THE
2 PROTECTIONS PROVIDED UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE.

3 10-632.

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

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

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

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

14 (d) (1) The Secretary shall:

15 [(1)] (I) Adopt [rules and] regulations on hearing procedures; and

16 [(2)] (II) Designate an impartial hearing officer to conduct the hearings.

17 (2) **THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL**
18 **REQUIRE THAT THE IMPARTIAL HEARING OFFICER RECEIVE TESTIMONY FROM THE**
19 **PHYSICIAN, PSYCHOLOGIST, OR PSYCHIATRIC NURSE PRACTITIONER WHO**
20 **EXAMINED THE CONFINED INDIVIDUAL.**

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 a mental disorder;

27 (ii) The individual needs in-patient care or treatment;

28 (iii) The individual presents a danger to the life or safety of the
29 individual or of others;

30 (iv) The individual is unable or unwilling to be voluntarily admitted

1 to the facility;

2 (v) There is no available less restrictive form of intervention that is
3 consistent with the welfare and safety of the individual; and

4 (vi) If the individual is 65 years old or older and is to be admitted to
5 a State facility, the individual has been evaluated by a geriatric evaluation team and no
6 less restrictive form of care or treatment was determined by the team to be appropriate.

7 (f) A hearing officer may not order the release of an individual who meets the
8 requirements for involuntary admission under subsection (e)(2) of this section on the
9 grounds that a health care provider or an emergency or other facility did not comply with
10 disclosure or notice requirements under § 10–625(c) or § 10–631(b)(5) of this subtitle, §
11 10–803(b)(2) of this title, or § 4–306(c) or § 4–307(l) of this article.

12 (g) The hearing officer may not order the release of an individual who meets the
13 requirements for involuntary admission under subsection (e)(2) of this section on the
14 grounds that the individual was kept at an emergency facility for more than 30 hours in
15 violation of § 10–624(b)(4) of this subtitle.

16 (h) The parent, guardian, or next of kin of an individual involuntarily admitted
17 under this subtitle:

18 (1) Shall be given notice of the hearing on the admission; and

19 (2) May testify at the hearing.

20 (i) If a hearing officer enters an order for involuntary commitment under Part III
21 of this subtitle and the hearing officer determines that the individual cannot safely possess
22 a firearm based on credible evidence of dangerousness to others, the hearing officer shall
23 order the individual who is subject to the involuntary commitment to:

24 (1) Surrender to law enforcement authorities any firearms in the
25 individual's possession; and

26 (2) Refrain from possessing a firearm unless the individual is granted relief
27 from firearms disqualification in accordance with § 5–133.3 of the Public Safety Article.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2019.