

SENATE BILL 398

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1lr1898
CF HB 537

By: **Senator Carter**

Introduced and read first time: January 15, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Health Law – Petitions for Emergency Evaluation – Procedures**

3 FOR the purpose of authorizing, rather than requiring, a certain petitioner for emergency
4 evaluation of an individual to give the petition to a peace officer; repealing the
5 requirement that a peace officer explain certain information to a certain petitioner;
6 requiring a certain petitioner for emergency evaluation to take an emergency evaluatee
7 to the nearest emergency facility under certain circumstances; requiring, to the
8 extent practicable, a certain petitioner to notify the emergency facility in advance
9 that the petitioner is bringing an emergency evaluatee to the emergency facility;
10 providing that a certain petitioner who brings an emergency evaluatee to an emergency
11 facility is not required to stay with the emergency evaluatee; and generally relating to
12 petitions for emergency evaluation.

13 BY repealing and reenacting, with amendments,
14 Article – Health – General
15 Section 10–622 and 10–624
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Health – General
20 Section 10–623
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2020 Supplement)

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

25 **Article – Health – General**

26 10–622.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (1) Has a mental disorder; and

4 (2) Presents a danger to the life or safety of 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; and

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

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

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

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

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

22 **[(2)]** The peace officer shall explain to the petitioner:

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

24 (ii) The meaning and content of the petition.]

25 10–623.

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

31 (b) After review of the petition, the court shall endorse the petition if the court
32 finds probable cause to believe that the emergency evaluatee has shown the symptoms of a

1 mental disorder and that the individual presents a danger to the life or safety of the
2 individual or of others.

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

5 10-624.

6 (a) (1) A **PHYSICIAN, PSYCHOLOGIST, CLINICAL SOCIAL WORKER,**
7 **LICENSED CLINICAL PROFESSIONAL COUNSELOR, CLINICAL NURSE SPECIALIST IN**
8 **PSYCHIATRIC AND MENTAL HEALTH NURSING, PSYCHIATRIC NURSE PRACTITIONER,**
9 **LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST, HEALTH OFFICER OR**
10 **DESIGNEE OF A HEALTH OFFICER, OR** peace officer shall take an emergency evaluatee to
11 the nearest emergency facility if the **PHYSICIAN, PSYCHOLOGIST, CLINICAL SOCIAL**
12 **WORKER, LICENSED CLINICAL PROFESSIONAL COUNSELOR, CLINICAL NURSE**
13 **SPECIALIST IN PSYCHIATRIC AND MENTAL HEALTH NURSING, PSYCHIATRIC NURSE**
14 **PRACTITIONER, LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST, HEALTH**
15 **OFFICER OR DESIGNEE OF A HEALTH OFFICER, OR** peace officer has a petition under
16 Part IV of this subtitle that:

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

18 (ii) Is signed and submitted by a physician, psychologist, clinical
19 social worker, licensed clinical professional counselor, clinical nurse specialist in
20 psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical
21 marriage and family therapist, health officer or designee of a health officer, or peace officer.

22 (2) To the extent practicable, a **PHYSICIAN, PSYCHOLOGIST, CLINICAL**
23 **SOCIAL WORKER, LICENSED CLINICAL PROFESSIONAL COUNSELOR, CLINICAL**
24 **NURSE SPECIALIST IN PSYCHIATRIC AND MENTAL HEALTH NURSING, PSYCHIATRIC**
25 **NURSE PRACTITIONER, LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST,**
26 **HEALTH OFFICER OR DESIGNEE OF A HEALTH OFFICER, OR** peace officer [shall notify
27 the emergency facility in advance that the peace officer] **WHO** is bringing an emergency
28 evaluatee to the emergency facility **SHALL NOTIFY THE EMERGENCY FACILITY IN**
29 **ADVANCE.**

30 (3) (I) After a peace officer brings the emergency evaluatee to an
31 emergency facility, the peace officer need not stay unless, because the emergency evaluatee
32 is violent, emergency facility personnel ask the supervisor of the peace officer to have the
33 peace officer stay.

34 (II) A **PHYSICIAN, PSYCHOLOGIST, CLINICAL SOCIAL WORKER,**
35 **LICENSED CLINICAL PROFESSIONAL COUNSELOR, CLINICAL NURSE SPECIALIST IN**
36 **PSYCHIATRIC AND MENTAL HEALTH NURSING, PSYCHIATRIC NURSE PRACTITIONER,**
37 **LICENSED CLINICAL MARRIAGE AND FAMILY THERAPIST, HEALTH OFFICER OR**

1 **DESIGNEE OF A HEALTH OFFICER WHO BRINGS AN EMERGENCY EVALUEE TO AN**
2 **EMERGENCY FACILITY NEED NOT STAY WITH THE EMERGENCY EVALUEE.**

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

6 (5) If emergency facility personnel ask that a peace officer stay, a physician
7 shall examine the emergency evaluatee as promptly as possible.

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

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

13 (3) Promptly after the examination, the emergency evaluatee shall be
14 released unless the emergency evaluatee:

15 (i) Asks for voluntary admission; or

16 (ii) Meets the requirements for involuntary admission.

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2021.