

HOUSE BILL 1160

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HB 1344/21 – HGO

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By: **Delegates Kipke and Henson**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Mental Health Law – Reform of Laws and Delivery of Service

FOR the purpose of defining “danger to the life or safety of the individual or of others” for purposes of the involuntary admission of individuals with mental disorders to a facility or Veterans’ Administration hospital and the emergency evaluation of individuals with mental disorders; requiring the Maryland Police Training and Standards Commission to provide information regarding the definition of “danger to the life or safety of the individual or of others” to certain schools that conduct police entrance–level and in–service training courses; and generally relating to the reform of mental health laws and delivery of services to individuals with mental illness.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 10–601, 10–617(a), 10–622(a) and (c), 10–623, 10–626(a), and 10–632(e)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 10–632(a)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, Research shows that when a person with severe mental illness is in psychiatric crisis, minimizing the duration of untreated psychosis is essential to maximizing the person’s prospects for recovery; and

WHEREAS, While voluntary psychiatric care is preferable, it is sometimes unattainable due to the inability of some individuals experiencing psychosis to recognize

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



their own illness and need for treatment; and

WHEREAS, Maryland's laws authorizing emergency evaluation and civil commitment for mental health treatment are generally limited to apply only when the person presents a "danger to the life or safety of the individual or of others", but offer no guidance as to the circumstances that might constitute such danger; and

WHEREAS, Maryland is one of only five states without explicit statutory language recognizing the inability to meet one's basic survival needs as a form of danger to self; and

WHEREAS, Twenty-four states have statutory language recognizing the risk of significant psychiatric deterioration if treatment is not rendered as a form of danger to self; and

WHEREAS, In its 2020 Annual Report, the Commission to Study Mental and Behavioral Health in Maryland declared "it is crucial for the State to develop a clear and unambiguous standard for determining when individuals in crisis pose a danger to themselves and others" and called for legislation to address this need; now, therefore,

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

Article – Health – General

10–601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Clinical social worker" means an individual who is licensed under Title 19 of the Health Occupations Article to practice clinical social work.

(C) "DANGER TO THE LIFE OR SAFETY OF THE INDIVIDUAL OR OF OTHERS" MEANS A SUBSTANTIAL RISK, IN CONSIDERATION OF THE INDIVIDUAL'S CURRENT CONDITION AND, IF AVAILABLE, PERSONAL AND MEDICAL HISTORY, THAT AS A RESULT OF THE MENTAL DISORDER THE INDIVIDUAL WILL:

(1) CAUSE BODILY HARM TO THE INDIVIDUAL OR ANOTHER INDIVIDUAL;

(2) BE UNABLE, EXCEPT FOR REASONS OF INDIGENCE, TO PROVIDE FOR THE INDIVIDUAL'S BASIC NEEDS INCLUDING FOOD, CLOTHING, SHELTER, HEALTH, OR SAFETY DUE TO THE PERSISTENCE OF ACTIVE PSYCHOSIS, DELUSIONS, OR HALLUCINATIONS; OR

(3) SUFFER SUBSTANTIAL DETERIORATION OF THE INDIVIDUAL'S JUDGMENT, REASONING, OR ABILITY TO CONTROL BEHAVIOR, PROVIDED THAT THE

INDIVIDUAL IS CURRENTLY UNABLE TO MAKE A RATIONAL AND INFORMED DECISION AS TO WHETHER TO SUBMIT TO TREATMENT.

[(c)] (D) “Licensed clinical marriage and family therapist” means an individual who is licensed under Title 17, Subtitle 3A of the Health Occupations Article to practice clinical marriage and family therapy.

[(d)] (E) “Licensed clinical professional counselor” means an individual who is licensed under Title 17, Subtitle 3A of the Health Occupations Article to practice clinical professional counseling.

[(e)] (F) “Physician” means an individual who is licensed under Title 14 of the Health Occupations Article to practice medicine in this State.

[(f)] (G) “Psychiatric nurse practitioner” means an individual who is:

(1) Licensed as a registered nurse and certified as a nurse practitioner under Title 8 of the Health Occupations Article; and

(2) Practicing in the State as a certified registered nurse practitioner—psychiatric mental health.

[(g)] (H) “Psychologist” means an individual who is licensed under Title 18 of the Health Occupations Article to practice psychology.

10–617.

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

(1) The individual has a mental disorder;

(2) The individual needs inpatient care or treatment;

(3) The individual [presents] **IS REASONABLY EXPECTED, IF NOT HOSPITALIZED, TO PRESENT** a danger to the life or safety of the individual or of others;

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

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

10–622.

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

(1) Has a mental disorder; and

(2) [Presents] **IS REASONABLY EXPECTED, IF NOT HOSPITALIZED, TO PRESENT** a danger to the life or safety of the individual or of others.

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

(i) Be signed and verified by the petitioner;

(ii) State the petitioner's:

1. Name;

2. Address; and

3. Home and work telephone numbers;

(iii) State the emergency evaluatee's:

1. Name; and

2. Description;

(iv) State the following information, if available:

1. The address of the emergency evaluatee; and

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

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

(vi) Contain a description of the behavior and statements of the emergency evaluatee or any other information that led the petitioner to believe that the emergency evaluatee has a mental disorder and that the individual [presents] **IS REASONABLY EXPECTED, IF NOT HOSPITALIZED, TO PRESENT** a danger to the life or safety of the individual or of others; and

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

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

- (i) May be required to appear before a court; and
- (ii) Makes the statements under penalties of perjury.

10-623.

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

(b) After review of the petition, the court shall endorse the petition if the court finds probable cause to believe that the emergency evaluatee has shown the symptoms of a mental disorder and that the individual **[presents] IS REASONABLY EXPECTED, IF NOT HOSPITALIZED, TO PRESENT** a danger to the life or safety of the individual or of others.

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

10-626.

(a) A court may order, at any time, an emergency evaluation under Part IV of this subtitle of an individual who has been arrested, if the court finds probable cause to believe that the individual has a mental disorder and the individual **[presents] IS REASONABLY EXPECTED, IF NOT HOSPITALIZED, TO PRESENT** a danger to the life or safety of the individual or of others.

10-632.

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

(e) The hearing officer shall:

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

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

- (i) The individual has a mental disorder;
- (ii) The individual needs in-patient care or treatment;

(iii) The individual [presents] **IS REASONABLY EXPECTED, IF NOT HOSPITALIZED, TO PRESENT** a danger to the life or safety of the individual or of others;

(iv) The individual is unable or unwilling to be voluntarily admitted to the facility;

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

(vi) If the individual is 65 years old or older 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.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police Training and Standards Commission shall provide information regarding the definition of “danger to the life or safety of the individual or of others” in § 10–601 of the Health – General Article, as enacted by Section 1 of this Act, to all schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.