

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 509 (Senator Henson)
 Judicial Proceedings

Prohibited Possession of Firearms - Assisted Outpatient Treatment Respondents

This bill prohibits a person from possessing a regulated firearm, rifle, or shotgun if the person is currently a respondent subject to a court order to comply with an assisted outpatient treatment (AOT) program. If a court orders a person to comply with an AOT program, the court must promptly report specified information through a secure portal approved by the Department of Public Safety and Correctional Services (DPSCS). **The bill takes effect July 1, 2025, contingent on the taking effect of Chapter 704 of 2024. The bill terminates when the termination provision specified in Section 3 of Chapter 704 takes effect.**

Fiscal Summary

State Effect: Assuming the bill’s contingency is met, general fund expenditures increase by \$66,000 only in FY 2026 for computer programming for the Judiciary and the Department of State Police (DSP). Otherwise, State finances are not anticipated to be materially affected, as discussed below.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	66,000	0	0	0	0
Net Effect	(\$66,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill’s changes are not anticipated to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law:

Assisted Outpatient Treatment

Established: Chapter 704 requires that an Assisted Outpatient Treatment Program be established in each county by July 1, 2026. A county may establish its own program and must notify the Maryland Department of Health (MDH) by January 1, 2025, as to whether the county intends to do so. In any county that does not opt to establish its own program, MDH must establish a program in the county. An AOT program established by a county must be approved and overseen by the local behavioral health authority (LBHA) or core service agency (CSA). A county may partner with another county to establish an AOT program. Otherwise, an AOT program must be established by MDH. Generally, the provisions of Chapter 704 take effect July 1, 2025, and terminate June 30, 2030.

Petitions: “AOT” means a specific regimen of outpatient treatment for a “serious and persistent mental illness” to which an individual is ordered by the court to adhere. The director of a specified mental health program or any individual who is at least age 18 and has a legitimate interest in the welfare of the respondent may petition a circuit court as specified for AOT. A petition for AOT must be in writing, signed by the petitioner, and state (1) the petitioner’s name, address, and relationship to the respondent; (2) the name and any known address of the respondent; (3) that the petitioner has reason to believe the respondent meets the criteria for AOT; and (4) the specific factual allegations for each criterion supporting the petitioner’s belief.

The AOT petition must be (1) filed in the circuit court for the county where the respondent resides or the last known residence of the respondent; (2) under seal and may not be published on Maryland Judiciary Case Search; and (3) accompanied by an affidavit of a psychiatrist stating that the psychiatrist is willing and able to testify at the hearing on the petition and has examined the respondent within 30 days prior to the filing of the petition and concluded the respondent meets specified criteria.

Treatment Plans

After a petition is filed, but by the date of the psychiatrist’s testimony, a “care coordination team” (a multidisciplinary team under the oversight of an LBHA, CSA, or MDH that consists of, at a minimum, a psychiatrist, case manager, certified peer recovery specialist, other treating providers as clinically appropriate, and any other individuals required by MDH regulations) must develop a “treatment plan” and provide a copy to the respondent, the respondent’s attorney and, if applicable and known, the respondent’s guardian and health care agent. “Treatment plan” means a plan developed by a care coordination team

that incorporates all outpatient treatment services that are determined to be essential and available for the maintenance of an individual's health and safety and that include, at a minimum, (1) services of a treating psychiatrist; (2) case management; (3) services of a certified peer recovery specialist; and (4) if clinically appropriate, assertive community treatment services.

In developing a treatment plan, a care coordination team must (1) give the respondent, the respondent's guardian or health care agent, and any individual designated by the respondent, a reasonable opportunity to participate and (2) honor any directions included in a respondent's mental health advance directive (if available). A treatment plan developed by the care coordination team must be recovery-oriented and consistent with evidence-based and evolving best practices in the treatment of serious and persistent mental illness. The care coordination team must provide a copy of the treatment plan (and the providers included in the treatment plan) to the respondent, the county attorney, and the Office of the Public Defender (OPD). The respondent must have an opportunity to voluntarily agree to the treatment plan. If the respondent voluntarily agrees to the treatment plan, the care coordination team must notify the court that the parties are dismissing the case, as specified, and file a stipulated agreement that includes the treatment plan.

The care coordination team must assist in connecting the respondent to services that would help the respondent be successful in adhering to a treatment plan, including (if needed) transportation, housing, accessibility services, and other services that would address the health-related social needs of the respondent. If the treatment plan or providers change before the specified hearing is conducted, the care coordination team must promptly notify the respondent, the respondent's attorney, the county attorney, and if applicable and known, the respondent's guardian and health care agent.

Hearings and Respondent Rights: On receipt of a complete petition for AOT, the court must schedule a hearing only if the respondent has not agreed to enter voluntary treatment and notify (1) the respondent; (2) the mental health division in OPD; (3) as applicable, the LBHA, CSA, or MDH; (4) the county attorney; and (5) if applicable and known, the respondent's guardian and health care agent.

All rules of civil procedure and any right normally afforded to an individual in a civil or criminal matter must apply to cases that proceed following a petition for AOT. Further, the provisions may not be construed to abridge or modify any civil right of the respondent, including (1) any civil service ranking or appointment; (2) the right to apply for voluntary admission to a facility; and (3) any right relating to a license, permit, certification, privilege, or benefit under any law. Participation in AOT may not be used against a respondent in a subsequent legal matter that carries negative collateral consequences, and an order for AOT may not be the basis for the involuntary admission of the respondent to a facility or used as evidence of incompetency of the respondent.

A respondent is entitled to be represented by counsel at all stages of the proceedings; if the respondent is unable to afford an attorney or is unable to obtain an attorney due to the respondent's mental illness, representation must be provided by OPD or an OPD panel attorney. The respondent may not be required to give testimony at a hearing and must be given the opportunity to present evidence, call witnesses, and cross-examine adverse witnesses at the hearing.

At the hearing, the petitioner must present testimonial evidence of both a psychiatrist whose most recent examination of the respondent is within the 30 days prior to the date of the petition as well as a psychiatrist to explain the treatment plan who (1) may or may not be the same as the examining psychiatrist; (2) has met with or made a good faith effort to meet with the respondent; (3) is familiar with the relevant history to the extent practicable; and (4) has examined the treatment plan.

Criteria for Ordering Assisted Outpatient Treatment: The court may order the respondent to receive AOT on a finding of clear and convincing evidence that:

- the respondent is at least age 18;
- the respondent has a "serious and persistent mental illness" meaning a mental illness that is severe in degree and persistent in duration, that causes a substantially diminished level of functioning in the primary aspects of daily living and an inability to meet the ordinary demands of life, and that may lead to an inability to maintain independent functioning in the community without intensive treatment and support;
- the respondent has demonstrated a lack of adherence with treatment for the serious and persistent mental illness that has (1) been a significant factor in necessitating either hospital inpatient admission to a psychiatric hospital for at least 48 hours or receipt of services in a correctional facility, at least twice within the immediately preceding 36 months or (2) resulted in an act of serious violent behavior toward self or others, or patterns or threats of, or attempts at, serious physical harm to self or others, at least once within the immediately preceding 36 months;
- the respondent is in need of AOT in order to prevent a relapse or deterioration that would create a substantial risk of serious harm to self or others;
- the respondent is unlikely to adequately adhere to outpatient treatment on a voluntary basis, as specified; and
- AOT is the least restrictive alternative appropriate to maintain the health and safety of the respondent, as specified.

The court must hear all relevant evidence and (using a clear and convincing evidence standard) either (1) deny the petition if the court finds that the respondent does not meet specified criteria for AOT or (2) order the respondent to comply with AOT for up to one year if the court finds that the respondent meets specified criteria.

Orders for Assisted Outpatient Treatment: The court’s order for AOT must incorporate a treatment plan that is limited in scope to those elements included in the treatment plan presented to the court and to those elements the court finds by clear and convincing evidence to be essential to the maintenance of the respondent’s health or safety.

Order Modifications: At any time during an order for AOT, a petitioner, a care coordination team member, or a respondent may move that the court stay, vacate, or modify the order. “Material change” means an addition or a deletion of a category of services to or from the treatment plan.

Within 30 days of receiving a motion (and any timely responses to the motion) for a material change, the court must issue a ruling on the motion (and any timely responses to the motion), unless the respondent informs the court that the respondent agrees to the proposed material change (in which case the court may incorporate the material change). Otherwise, the respondent need not comply with the material change unless explicitly authorized in advance by the court’s initial order or incorporated into the treatment plan following a finding by clear and convincing evidence that the change is essential to the respondent’s health or safety. However, nonmaterial changes to the treatment plan require the respondent’s compliance without further court action. The provisions may not be construed to require a psychiatrist to delay changes to the respondent’s treatment plan as circumstances may immediately require, but the care coordination team must notify the respondent, the respondent’s attorney, and if applicable and known, the respondent’s guardian and health care agent.

Failure to Comply with Assisted Outpatient Treatment: If a petition for emergency evaluation of the respondent is filed or the respondent is the subject of other court involvement, the petitioner (to the extent practicable) must notify the respondent’s care coordination team. If the care coordination team knows that a petition for emergency evaluation was filed for the respondent, a team member must notify the court in writing of the reasons for and finding of the evaluation. In response to such a notice or at any time during an AOT order, the court may convene the parties on its own motion for a conference to review the respondent’s progress. Failure to comply with an AOT order is not grounds for a finding of contempt or for involuntary admission.

Orders to Continue Assisted Outpatient Treatment: At least 30 days before an AOT order expires, the respondent’s care coordination team must provide the respondent with a plan for continued treatment, if considered necessary.

Prohibitions on Possession of a Regulated Firearm, Rifle, or Shotgun: Generally, a person is prohibited from possessing a regulated firearm, rifle, or shotgun if the person:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- is addicted to a controlled dangerous substance or is a habitual user;
- suffers from a mental disorder and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial;
- has been found not criminally responsible;
- has been voluntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders;
- has been involuntarily committed to a facility that provides treatment or other services for mental disorders;
- is under the protection of a guardian of the person or property of a disabled person appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom a current non *ex parte* civil protective order has been entered in this State or an order for protection has been issued by a court of another state or a Native American tribe and is in effect; or
- if younger than age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

In addition, a person is prohibited from possessing a regulated firearm if the person (1) was previously convicted of a crime of violence, a violation of specified controlled dangerous substances laws, or an offense under the laws of another state or the United States that would constitute one of these crimes if committed in this State; (2) has been convicted on or after October 1, 2023, of a second or subsequent violation of § 4-104 of the Criminal Law Article (child's access to firearms), or has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person; or (3) unless the person was not convicted of but received only probation before judgment for an offense, is on supervised probation after being convicted of a crime punishable by imprisonment for one year or more, for a violation of § 21-902(b) or (c) of the Transportation Article (driving while impaired), or for violating a protective order under § 4-509 of the Family Law Article. Further, a person who has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article may not possess a regulated firearm for five years following the date of the conviction.

A person who violates the prohibition against possession of a regulated firearm is guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

A person who violates the prohibition against possession of a rifle or shotgun is guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$1,000 maximum fine.

Required Reporting by Courts or Health Facilities: A court is required to promptly report to the National Instant Criminal Background Check System (NICS), through a secure portal approved by DPSCS, the date of the court determination or finding, and the name and identifying information of a person:

- determined to be not criminally responsible;
- found to be incompetent to stand trial; or
- found to be in need of the protection of a guardian under specified provisions of the Estates and Trusts Article relating to the protection of minors and disabled persons, except for cases in which the appointment of a guardian is solely a result of a physical disability.

A mental health care facility must similarly report to NICS the name and identifying information of a person admitted or committed to the facility, the date of admission or commitment, and the name of the facility to which the person was admitted or committed.

Relief from Firearms Disqualification: A person seeking relief from firearms disqualification may file an application with MDH. An application for relief from a firearms disqualification must include, along with any other information required by MDH, (1) a statement explaining why the applicant is prohibited from possessing a regulated firearm, rifle, or shotgun; (2) a statement why the applicant should be relieved from that prohibition; (3) a signed authorization allowing MDH to access specified health and criminal records; (4) three statements related to the applicant's reputation and character; and (5) if the applicant is prohibited from possessing a firearm for certain mental health reasons, a certificate issued within 30 days of the submission of the application on a form signed by an individual licensed in the State as a physician who is board certified in psychiatry or as a psychologist stating:

- the length of time that the applicant has not had symptoms that cause the applicant to be a danger to self or others;
- the length of time that the applicant has been compliant with the treatment plan for the applicant's mental illness; and

- an opinion as to whether the applicant, because of mental illness, would be a danger to the applicant or to another person if allowed to possess a firearm.

Additional information is required to be included in the application for individuals who are prohibited on the basis of guardianship orders.

MDH may not approve an application if a determination is made that (1) the applicant supplied incomplete or false information; (2) the application is not properly completed; or (3) the applicant has not shown by a preponderance of the evidence that the applicant will be unlikely to act in a manner dangerous to self or public safety and that granting a permit to possess a regulated firearm or authorizing the possession of a rifle or shotgun would be contrary to the public interest.

Within 60 days from the receipt of a completed application, MDH must provide the applicant with a certificate affirming the applicant's mental competence to possess a regulated firearm or a written statement that the applicant is not mentally competent to possess a firearm. An aggrieved applicant may request a hearing in accordance with the Administrative Procedure Act, and judicial review may be sought.

A physician or psychologist who acts in good faith and with reasonable grounds in providing the statements and opinions required by the restoration process may not be held civilly or criminally liable for those actions

State Expenditures: Assuming the bill's contingency is met, general fund expenditures increase by \$66,040 only in fiscal 2026 for DSP and the Judiciary to update computer programming to accommodate the bill's changes.

DSP currently operates a licensing portal for many transactions relating to firearms, including applications for the purchase or transfer of a handgun as well as applications for a handgun qualification license and a permit to wear, carry, or transport a regulated firearm. Altering the disqualifiers for possession of a regulated firearm necessitates an update to the DSP licensing portal at a cost of \$50,000 in fiscal 2026 only.

The Judiciary also needs to update its computer system to accommodate the bill's changes at a cost of \$16,040 in fiscal 2026 only.

DPSCS advises that it can implement the bill with existing resources. Although MDH did not respond to requests for information on the fiscal and operational impact of the bill, this analysis assumes that MDH can handle the bill's changes with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 592 (Delegate Phillips, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of State Police; Department of Public Safety and Correctional Services; Department of Legislative Services

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js/lgc

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