

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Finance Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 398
Mental Health Law – Petitions for Emergency Evaluation -
Procedures
DATE: February 2, 2021
(2/9)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 398, as drafted.

The Judiciary understands and appreciates the policy aims of the bill but has some process concerns with its drafting. In particular, the Judiciary is concerned with the language that deletes the obligation to inform the evaluatee of the meaning and the content of the petition. The filing of the petition is entirely discretionary for the enumerated professionals as set forth in the introduction to Health General Section 10 – 622. However, the process that is to follow once a petition is filed and granted must be consistent with due process. Thus, “shall” and not “may” is appropriate and the Judiciary opposes the proposed change.

Further, as to Health General Section 10-624, the proposed language creates ambiguity as to who is serving the petition and bringing the evaluatee to the hospital once the petition is granted by the court. The existing law allows for the possibility that any of the enumerated professionals may voluntarily escort a client/ patient to an emergency room. The statute is designed to address its use when they are unwilling. The proposed language creates an ambiguity as to who would transport the unwilling evaluatee once the court has granted the petition. Thus, each may defer to the other, resulting in no one having the duty. In such a case, the petition could expire without the evaluatee being seen at the nearest emergency facility and despite the court having determined there was probable cause that the evaluatee was suffering from a mental disorder and presented a danger.

cc. Hon. Jill Carter
Judicial Council
Legislative Committee
Kelley O’Connor