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Prince George's County

Finance Committee

Energy and Public Utilities Subcommittee

Senate Chair, Joint Committee on the
Management of Public Funds



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

1/25/22

The Honorable Delores G. Kelley
Chairwoman, Senate Finance Committee
3 East Miller Senate Office Building
11 Bladen Street Annapolis, MD 21401

RE: SB2 - Mental Health Law – Petitions for Emergency Evaluation – Electronic Record

Position: **Favorable with Sponsor Amendment**

Chair Kelley and Members of the Committee,

The Problem:

- Maryland Code allows for **mental health professionals, peace officers, or any interested person to petition for emergency evaluation** at a nearby emergency facility if someone with a known mental disorder is believed to be a danger to themselves or to others.¹
- However, **the law does not specify** whether approved petitions must be received by a peace officer or emergency facility in person, or if they can be received in the form of an electronic record, such as email or fax.²
- Because it has become established practice to deliver approved petitions in person only,³ **the process can take several hours.**⁴
- Receiving these petitions in person has become **even more difficult during the COVID-19 pandemic** – especially for emergency rooms at the receiving end.
- These delays stand as **barriers to evaluation and treatment** and present added challenges for mental health providers and loved ones to **pass along critical information** to the receiving emergency facility about the patient.

¹ Md. HEALTH-GENERAL Code Ann. § 10-622

² Md. HEALTH-GENERAL Code Ann. § 10-624

³ National Alliance on Mental Illness (NAMI) Maryland. What to Do in a Psychiatric Crisis in Maryland. Jul 2010. Accessed 2 Jan 2021. Retrieved from: http://namimd.org/uploaded_files/3/What_to_do_in_a_Psychiatric_Crisis_PDF_for_Web.pdf

⁴ See note 3

What SB2 does:

- Clarifies that law enforcement and/or emergency facilities are allowed to **receive approved petitions for emergency evaluation in the form of an electronic record** – after that petition is either endorsed by a court or signed by a physician or mental health provider.

How SB2 helps:

- **Gives back discretion to police departments and emergency facilities** to monitor their own compliance with the Security Rule of the Health Insurance Portability and Accountability Act.⁵
- **Reduces the uncertainty and emotional toll** of the petitioning process on individuals in crisis and their loved ones.
- **Enables better coordination with emergency facilities**, especially with information regarding:
 - Recent changes in **symptoms and behavior**
 - **Medications and dosage**, including recent changes
 - **Contact information for follow-up** with their usual healthcare provider

Sponsor Amendment:

During the interim, we met with the Administrative Office of the Courts to ascertain any concerns. The courts expressed concerns that the bill could be interpreted to permit the electronic filing of the petition. Since the intent of this statutory change is solely to allow electronic transmission of the endorsed order rather than requiring the peace officer to have a paper copy or original, the sponsor amendment was drafted to clarify intent and address that concern of the Courts.

Chair Kelley and members of the committee, I ask for your favorable report as amended.

⁵ 45 C.F.R. §§ 164.302 – 318

PETITIONS FOR EMERGENCY EVALUATION: THE CURRENT PROCESS IN MARYLAND (1/19/2022)

"My relative/friend/neighbor is in a psychiatric crisis, their health care provider recommends hospitalization, but they do not want to go voluntarily. What should I do?"



WITNESS



HEALTHCARE PROVIDER



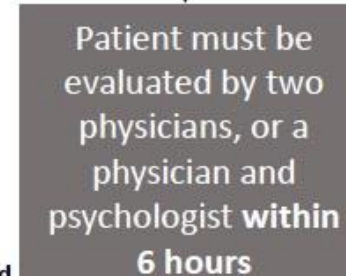
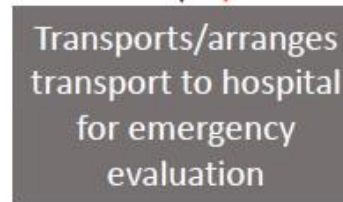
LAW ENFORCEMENT



HOSPITAL

The following people may file a petition **without a judge's approval**, given they have personally evaluated the individual in crisis:

- Physician
- Psychologist
- Licensed Clinical Social Worker
- Licensed Clinical Professional Counselor
- County health official/designee
- Law enforcement officer



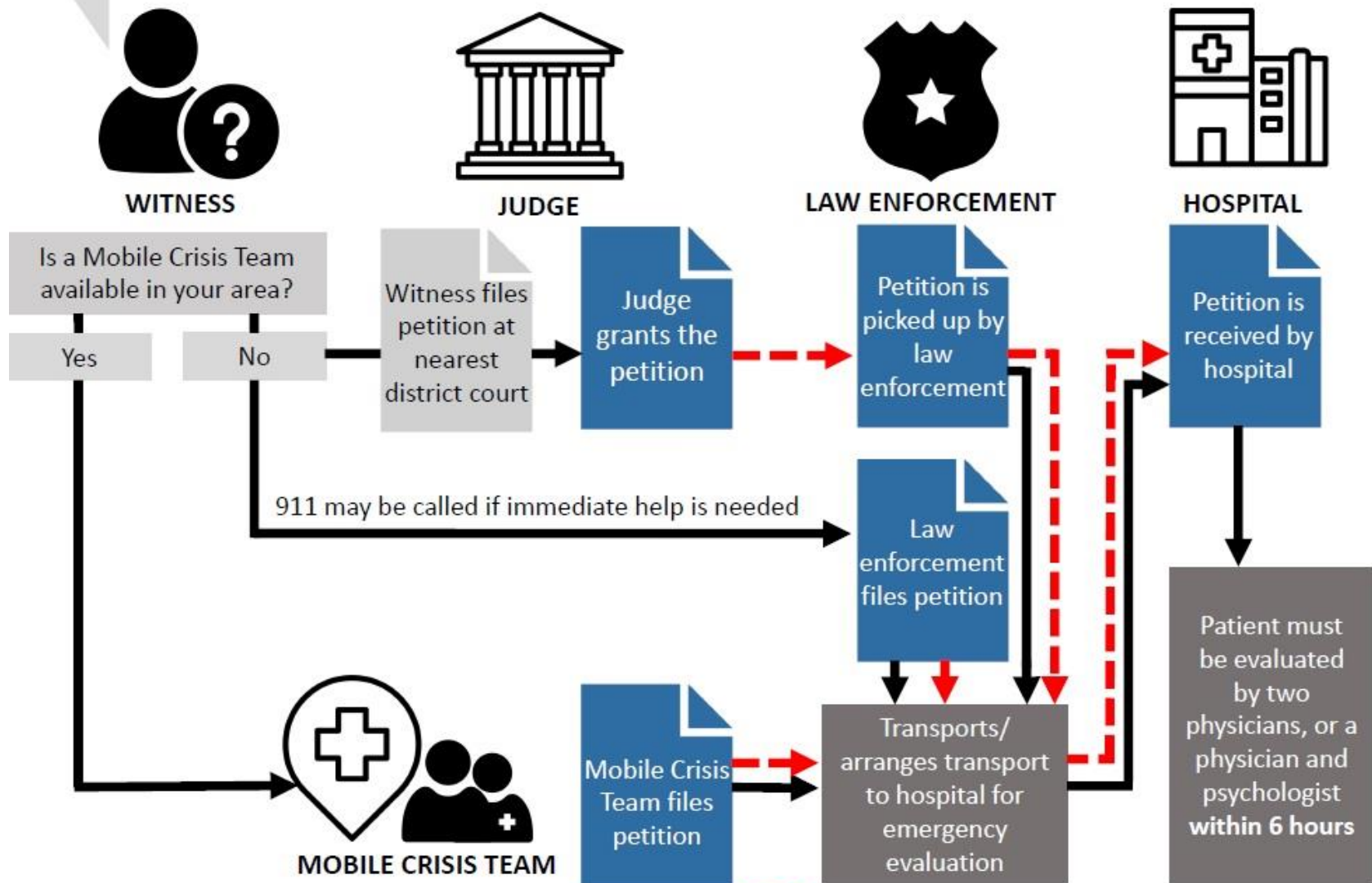
Dashed lines indicate the path by which petitions are being physically delivered

A petition for emergency evaluation can be made only if the petitioner has reason to believe that the individual:

- Has a mental disorder, AND
- The individual presents a danger to the life or safety of the individual or others

PETITIONS FOR EMERGENCY EVALUATION: THE CURRENT PROCESS IN MARYLAND (1/19/2022)

“My relative/friend/neighbor is in a psychiatric crisis, and cannot or will not help themselves, and has no health care provider. How can I get the person medical attention?”



Dashed lines indicate the path by which petitions are being physically delivered