

SENATE BILL 8

J1, J3

(PRE-FILED)

3lr0506
CF HB 121

By: **Senator Augustine**

Requested: October 5, 2022

Introduced and read first time: January 11, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Health – Treatment Plans for Individuals in Facilities – Requirements**

3 FOR the purpose of requiring that a plan of treatment for an individual with a mental
4 disorder admitted to a certain health care facility include a certain discharge goal
5 and an estimate of the probable length of inpatient stay the individual requires
6 before transfer to a certain setting; requiring certain facility staff to review and
7 reassess a plan of treatment within certain time periods; establishing certain rights
8 and requirements relating to the participation of certain family members and other
9 individuals in the development, review, and reassessment of a plan of treatment;
10 establishing an appeals process for individuals admitted to a State facility relating
11 to the review and reassessment of a plan of treatment; requiring a certain health
12 care facility to take certain actions if the facility is unable to address certain needs
13 under a plan of treatment; and generally relating to treatment plans for individuals
14 with mental disorders admitted to health care facilities.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 10–706
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2022 Supplement)

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

22 **Article – Health – General**

23 10–706.

24 (a) (1) Except as provided by paragraph (2) of this subsection, promptly after
25 admission of an individual, a facility shall make and periodically update a written plan of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



treatment for the individual in the facility, in accordance with the provisions of this subtitle.

(2) Promptly after admission of an individual to a psychosocial center, the center shall make and periodically update a written plan of rehabilitation for the individual in the facility, in accordance with the provisions of this subtitle.

(b) The Director shall adopt rules and regulations under this section that include:

(1) **[A] SUBJECT TO SUBSECTION (D) OF THIS SECTION,** A description of the nature and content of plans of treatment; and

(2) **[Appropriate] SUBJECT TO SUBSECTION (E) OF THIS SECTION,** **APPROPRIATE** time periods for the development, implementation, and review of each plan.

(c) An individual shall:

(1) Participate, in a manner appropriate to the individual's condition, in the development and periodic updating of the plan of treatment; and

(2) Be told, in appropriate terms and language, of:

(i) The content and objectives of the plan of treatment;

(ii) The nature and significant possible adverse effects of recommended treatments;

(iii) The name, title, and role of personnel directly responsible for carrying out the treatment for the individual; and

(iv) When appropriate, other available alternative treatments, services, or providers of mental health services.

(D) A PLAN OF TREATMENT SHALL INCLUDE:

(1) A LONG-RANGE DISCHARGE GOAL; AND

(2) AN ESTIMATE OF THE PROBABLE LENGTH OF INPATIENT STAY THE INDIVIDUAL REQUIRES BEFORE TRANSFER TO A LESS RESTRICTIVE OR INTENSIVE TREATMENT SETTING.

(E) FACILITY STAFF WHO WORK DIRECTLY WITH AND PROVIDE TREATMENT TO AN INDIVIDUAL SHALL REVIEW AND REASSESS THE PLAN OF TREATMENT FOR THE INDIVIDUAL TO DETERMINE THE INDIVIDUAL'S PROGRESS AND ANY NEED FOR ADJUSTMENTS TO THE PLAN NOT LESS THAN:

1 **(1) ONCE EVERY 15 DAYS FOR THE FIRST 2 MONTHS AFTER**
2 **ADMISSION OF THE INDIVIDUAL TO THE FACILITY; AND**

3 **(2) ONCE EVERY 60 DAYS FOR THE REMAINDER OF THE INPATIENT**
4 **STAY OF THE INDIVIDUAL IN THE FACILITY.**

5 **(F) (1) ON THE ADMISSION OF AN INDIVIDUAL TO A FACILITY AND AT**
6 **EACH REVIEW AND REASSESSMENT OF THE INDIVIDUAL'S PLAN OF TREATMENT, THE**
7 **FACILITY SHALL ASK THE INDIVIDUAL WHETHER THE INDIVIDUAL CONSENTS TO**
8 **THE INCLUSION OF FAMILY MEMBERS OR ANY OTHER INDIVIDUALS IN THE**
9 **DEVELOPMENT, REVIEW, AND REASSESSMENT OF THE PLAN OF TREATMENT OF THE**
10 **INDIVIDUAL.**

11 **(2) IF AN INDIVIDUAL AGREES TO HAVE FAMILY MEMBERS OR OTHER**
12 **INDIVIDUALS PARTICIPATE IN THE DEVELOPMENT, REVIEW, AND REASSESSMENT OF**
13 **THE INDIVIDUAL'S PLAN OF TREATMENT, THE FACILITY SHALL:**

14 **(I) INCLUDE THE FAMILY MEMBERS AND OTHER INDIVIDUALS**
15 **AUTHORIZED BY THE INDIVIDUAL IN:**

16 1. **EACH STAGE OF THE DEVELOPMENT OF THE PLAN OF**
17 **TREATMENT;**

18 2. **ANY REVIEW AND REASSESSMENT OF THE PLAN OF**
19 **TREATMENT; AND**

20 3. **ANY MEETING OF FACILITY STAFF THAT HAS A**
21 **PURPOSE OF DEVELOPING, REVIEWING, OR REASSESSING THE PLAN OF**
22 **TREATMENT; AND**

23 **(II) PROVIDE NOTICE TO THE FAMILY MEMBERS AND OTHER**
24 **INDIVIDUALS OF A TREATMENT TEAM MEETING:**

25 1. **AT LEAST 7 DAYS IN ADVANCE OF THE MEETING; OR**

26 2. **IF THE TREATMENT TEAM MEETING IS BEING HELD**
27 **DUE TO AN EMERGENCY, AS SOON AS THE MEETING IS SCHEDULED.**

28 **(3) THE INDIVIDUAL MAY WITHDRAW THE CONSENT GIVEN UNDER**
29 **PARAGRAPH (1) OF THIS SUBSECTION AT ANY TIME ORALLY OR IN WRITING.**

30 **(G) (1) IF AN INDIVIDUAL ADMITTED TO A FACILITY OR ANY FAMILY**
31 **MEMBER OR OTHER INDIVIDUAL AUTHORIZED BY THE INDIVIDUAL TO PARTICIPATE**

1 IN THE REVIEW AND REASSESSMENT OF THE PLAN OF TREATMENT FOR THE
2 INDIVIDUAL UNDER SUBSECTION (F) OF THIS SECTION BELIEVES THAT THE PLAN OF
3 TREATMENT IS NOT MEETING THE NEEDS OF THE INDIVIDUAL, THE INDIVIDUAL,
4 FAMILY MEMBER, OR OTHER AUTHORIZED INDIVIDUAL HAS THE RIGHT TO REQUEST
5 THAT THE FACILITY REVIEW AND REASSESS THE PLAN OF TREATMENT.

6 (2) ON RECEIPT OF A REQUEST UNDER PARAGRAPH (1) OF THIS
7 SUBSECTION, THE FACILITY STAFF WHO WORK DIRECTLY WITH AND PROVIDE
8 TREATMENT TO THE INDIVIDUAL SHALL CONDUCT A REVIEW AND REASSESSMENT
9 OF THE PLAN OF TREATMENT THAT INCLUDES A WRITTEN EXPLANATION OF HOW
10 ALL ISSUES RAISED IN THE REQUEST WERE CONSIDERED IN THE REVIEW AND
11 REASSESSMENT OF THE PLAN OF TREATMENT.

12 (3) IF THE FACILITY DOES NOT MAKE ANY CHANGES TO THE PLAN OF
13 TREATMENT FOR THE INDIVIDUAL, THE FACILITY SHALL:

14 (I) PROVIDE A DETAILED WRITTEN EXPLANATION FOR THE
15 DECISION TO THE INDIVIDUAL AND ANY FAMILY MEMBER AND INDIVIDUAL
16 AUTHORIZED BY THE INDIVIDUAL TO PARTICIPATE IN THE REVIEW AND
17 REASSESSMENT OF THE PLAN OF TREATMENT; AND

18 (II) INCLUDE THE EXPLANATION IN THE MEDICAL RECORDS OF
19 THE INDIVIDUAL.

20 (H) (1) AN INDIVIDUAL ADMITTED TO A STATE FACILITY MAY REQUEST
21 AN ADMINISTRATIVE HEARING FOR A RECONSIDERATION OF THE REVIEW AND
22 REASSESSMENT COMPLETED UNDER SUBSECTION (G) OF THIS SECTION BY FILING A
23 REQUEST FOR HEARING WITH THE CHIEF EXECUTIVE OFFICER OF THE STATE
24 FACILITY OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE WITHIN 7 DAYS AFTER
25 RECEIPT OF THE WRITTEN EXPLANATION OF THE REVIEW AND REASSESSMENT.

26 (2) WITHIN 72 HOURS AFTER RECEIPT OF A REQUEST FOR A
27 HEARING, THE CHIEF EXECUTIVE OFFICER OF THE STATE FACILITY OR THE CHIEF
28 EXECUTIVE OFFICER'S DESIGNEE SHALL FORWARD THE REQUEST TO THE OFFICE
29 OF ADMINISTRATIVE HEARINGS.

30 (3) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, THE OFFICE
31 OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A HEARING AND ISSUE A DECISION
32 WITHIN 15 CALENDAR DAYS AFTER THE RECEIPT OF THE REQUEST FORWARDED
33 UNDER PARAGRAPH (2) OF THIS SUBSECTION.

34 (4) THE INDIVIDUAL ADMITTED TO A STATE FACILITY IS ENTITLED TO
35 BE REPRESENTED BY COUNSEL AT THE ADMINISTRATIVE HEARING.

1 **(5) THE ADMINISTRATIVE HEARING MAY BE POSTPONED BY**
2 **AGREEMENT OF THE PARTIES OR FOR GOOD CAUSE SHOWN.**

3 **(6) THE ADMINISTRATIVE LAW JUDGE SHALL CONDUCT A DE NOVO**
4 **HEARING TO DETERMINE WHETHER THE PLAN OF TREATMENT IS MEETING THE**
5 **NEEDS OF THE INDIVIDUAL.**

6 **(7) AT THE HEARING, THE INDIVIDUAL REPRESENTING THE STATE**
7 **FACILITY:**

8 **(I) MAY INTRODUCE THE WRITTEN EXPLANATION RELATING**
9 **TO THE PLAN OF TREATMENT AS EVIDENCE; AND**

10 **(II) SHALL PROVE, BY CLEAR AND CONVINCING EVIDENCE,**
11 **THAT THE PLAN OF TREATMENT IS MEETING THE NEEDS OF THE INDIVIDUAL.**

12 **(8) (I) THE ADMINISTRATIVE LAW JUDGE SHALL STATE ON THE**
13 **RECORD THE FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

14 **(II) THE ADMINISTRATIVE LAW JUDGE SHALL DETERMINE**
15 **THAT:**

16 **1. BY CLEAR AND CONVINCING EVIDENCE, THE PLAN OF**
17 **TREATMENT IS MEETING THE NEEDS OF THE INDIVIDUAL; OR**

18 **2. THE PLAN OF TREATMENT IS NOT MEETING THE**
19 **NEEDS OF THE INDIVIDUAL.**

20 **(III) IF THE ADMINISTRATIVE LAW JUDGE DETERMINES THAT**
21 **THE PLAN OF TREATMENT IS NOT MEETING THE NEEDS OF THE INDIVIDUAL, THE**
22 **ADMINISTRATIVE LAW JUDGE SHALL ORDER THE STATE FACILITY TO MAKE**
23 **ARRANGEMENTS FOR THE INDIVIDUAL TO RECEIVE NECESSARY TREATMENT, WHICH**
24 **MAY INCLUDE TREATMENT FROM ANOTHER FACILITY OR ANOTHER HEALTH CARE**
25 **PROVIDER OUTSIDE THE STATE FACILITY.**

26 **(9) THE DETERMINATION OF THE ADMINISTRATIVE LAW JUDGE IS A**
27 **FINAL DECISION FOR THE PURPOSE OF JUDICIAL REVIEW OF A FINAL DECISION**
28 **UNDER THE ADMINISTRATIVE PROCEDURE ACT.**

29 **(I) (1) WITHIN 14 CALENDAR DAYS AFTER THE ADMINISTRATIVE LAW**
30 **JUDGE ISSUES A DECISION UNDER SUBSECTION (H) OF THIS SECTION, THE**
31 **INDIVIDUAL OR THE STATE FACILITY MAY APPEAL THE DECISION TO THE CIRCUIT**

COURT ON THE RECORD FROM THE HEARING CONDUCTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS.

(2) THE SCOPE OF REVIEW SHALL BE AS A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURE ACT.

(3) (I) REVIEW SHALL BE ON THE RECORD MADE BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS, UNLESS EITHER PARTY TO THE APPEAL REQUESTS TRANSCRIPTION OF THE TAPE.

(II) A REQUEST FOR TRANSCRIPTION OF THE TAPE SHALL BE MADE AT THE TIME THE APPEAL IS FILED.

(III) 1. THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL PREPARE THE TRANSCRIPTION BEFORE THE APPEAL HEARING.

2. THE PARTY REQUESTING THE TRANSCRIPTION SHALL BEAR THE COST OF TRANSCRIPTION.

(4) THE CIRCUIT COURT SHALL HEAR AND ISSUE A DECISION ON AN APPEAL WITHIN 30 CALENDAR DAYS AFTER THE DATE THE APPEAL WAS FILED.

(J) IF A FACILITY IS UNABLE TO PROVIDE THE TREATMENT NECESSARY TO ADDRESS THE REHABILITATION NEEDS OF AN INDIVIDUAL UNDER A PLAN OF TREATMENT FOR THE INDIVIDUAL, THE FACILITY SHALL:

(1) MAKE ARRANGEMENTS FOR THE INDIVIDUAL TO RECEIVE NECESSARY TREATMENT FROM ANOTHER FACILITY OR OTHER HEALTH CARE PROVIDER OUTSIDE THE FACILITY; AND

(2) ENSURE THAT TREATMENT FOR THE INDIVIDUAL IS COORDINATED BETWEEN THE FACILITY AND THE OTHER FACILITY OR HEALTH CARE PROVIDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.