

HOUSE BILL 779

E5

5lr0001
CF 5lr0002

By: **Chair, Judiciary Committee (By Request – Departmental – Public Safety and Correctional Services)**

Introduced and read first time: January 29, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Medication Review Committee – Administration of**
3 **Psychotropic Medication to an Incarcerated Individual**

4 FOR the purpose of authorizing the establishment of a medication review committee within
5 the Department of Public Safety and Correctional Services that convenes to
6 determine whether to approve the administration of psychotropic medication to a
7 certain incarcerated individual under certain circumstances; providing that
8 psychotropic medication may not be administered to an incarcerated individual who
9 refuses the medication except under certain circumstances; providing for the
10 membership and operating procedures of a medication review committee;
11 establishing certain rights of an incarcerated individual in connection with the
12 convening of a medication review committee; establishing procedures for a certain
13 administrative review of the decision of a medication review committee; requiring a
14 certain treating physician to document certain matters under certain circumstances;
15 and generally relating to medication review committees.

16 BY adding to
17 Article – Correctional Services
18 Section 9–618
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2024 Supplement)

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

23 **Article – Correctional Services**

24 **9–618.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CLINICAL SERVICES MANAGEMENT TEAM" MEANS A TEAM CONSISTING OF THE DIRECTOR OF MENTAL HEALTH, THE DEPUTY DIRECTOR OF MENTAL HEALTH, THE CHIEF MEDICAL OFFICER, THE DEPUTY CHIEF MEDICAL OFFICER, AND THE DIRECTOR OF NURSING OF THE DEPARTMENT.

(3) "COMMITTEE" MEANS A MEDICATION REVIEW COMMITTEE ESTABLISHED IN ACCORDANCE WITH THIS SECTION THAT CONVENES TO DETERMINE WHETHER TO APPROVE THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION ON A NONEMERGENCY BASIS TO AN INCARCERATED INDIVIDUAL WHO REFUSES TO ACCEPT PSYCHOTROPIC MEDICATION AS PRESCRIBED.

(4) "LAY ADVISOR" MEANS AN INDIVIDUAL WITHIN THE DEPARTMENT WHO IS KNOWLEDGEABLE ABOUT MENTAL HEALTH PRACTICE AND CAN ASSIST INCARCERATED INDIVIDUALS WITH UNDERSTANDING THE PROCESS OUTLINED IN THIS SECTION.

(5) "LICENSED MENTAL HEALTH INFIRMARY" MEANS A DESIGNATED UNIT WITHIN A STATE CORRECTIONAL FACILITY THAT IS LICENSED BY THE MARYLAND DEPARTMENT OF HEALTH AS A MENTAL HEALTH INFIRMARY.

(B) THIS SECTION APPLIES ONLY TO STATE CORRECTIONAL FACILITIES.

(C) PSYCHOTROPIC MEDICATION MAY NOT BE ADMINISTERED TO AN INCARCERATED INDIVIDUAL WHO REFUSES THE MEDICATION, EXCEPT:

(1) IN AN EMERGENCY, ON THE ORDER OF A PRACTITIONER WHEN THE INCARCERATED INDIVIDUAL PRESENTS A DANGER TO THE LIFE OR SAFETY OF SELF OR OTHERS; OR

(2) IN A NONEMERGENCY, IF THE TREATING PRACTITIONER HAS RECOMMENDED THE INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION BECAUSE:

(I) THE INCARCERATED INDIVIDUAL IS SUFFERING FROM A MENTAL DISORDER RESULTING IN BEHAVIOR THAT CREATES A LIKELIHOOD OF SERIOUS HARM TO SELF OR OTHERS;

(II) THE INCARCERATED INDIVIDUAL HAS REFUSED TO GIVE INFORMED CONSENT TO THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION;

1 (III) OTHER TREATMENT MODALITIES, INCLUDING
2 ENCOURAGING VOLUNTARY MEDICATION COMPLIANCE, HAVE BEEN ATTEMPTED
3 AND DOCUMENTED IN THE MEDICAL RECORD;

4 (IV) THE USE OF PSYCHOTROPIC MEDICATION IS CLINICALLY
5 INDICATED AS THE MOST APPROPRIATE TREATMENT FOR THE INCARCERATED
6 INDIVIDUAL'S CONDITION ACCORDING TO CURRENT PRACTICE FOR RESTORING OR
7 PREVENTING FURTHER DETERIORATION OF THE INCARCERATED INDIVIDUAL'S
8 MENTAL OR PHYSICAL HEALTH; AND

9 (V) A COMMITTEE HAS DETERMINED, IN ACCORDANCE WITH
10 THE PROVISIONS OF THIS SECTION, THAT PSYCHOTROPIC MEDICATION SHOULD BE
11 ADMINISTERED OVER THE OBJECTION OF THE INCARCERATED INDIVIDUAL.

12 (D) (1) A COMMITTEE SHALL CONSIST OF THE FOLLOWING INDIVIDUALS
13 APPOINTED BY THE DIRECTOR OF MENTAL HEALTH FOR THE DEPARTMENT OR THE
14 DIRECTOR'S DESIGNEE:

15 (I) THE CHIEF PSYCHIATRIST FOR THE REGION WHERE THE
16 LICENSED MENTAL HEALTH INFIRMARY IS LOCATED;

17 (II) ANOTHER PSYCHIATRIST; AND

18 (III) A MENTAL HEALTH PROFESSIONAL WHO IS NOT A
19 PHYSICIAN.

20 (2) THE DIRECTOR OF MENTAL HEALTH OR THE DIRECTOR'S
21 DESIGNEE SHALL APPOINT A CHAIR OF THE COMMITTEE FROM AMONG ITS
22 MEMBERSHIP.

23 (3) AN INDIVIDUAL WHO IS DIRECTLY RESPONSIBLE FOR
24 IMPLEMENTING THE TREATMENT PLAN FOR THE INCARCERATED INDIVIDUAL
25 UNDER REVIEW MAY NOT SERVE AS A MEMBER OF THE COMMITTEE.

26 (E) THE DIRECTOR OF MENTAL HEALTH OR THE DIRECTOR'S DESIGNEE
27 SHALL ASSIGN AN IMPARTIAL LAY ADVISOR TO ASSIST THE INCARCERATED
28 INDIVIDUAL WITH THE PROCESS SET FORTH IN THIS SECTION.

29 (F) THE DIRECTOR OF MENTAL HEALTH OR THE DIRECTOR'S DESIGNEE
30 SHALL GIVE THE INCARCERATED INDIVIDUAL AND THE LAY ADVISOR WRITTEN
31 NOTICE AT LEAST 5 BUSINESS DAYS BEFORE CONVENING THE COMMITTEE THAT
32 SHALL INCLUDE THE FOLLOWING INFORMATION:

1 (1) THE DATE, TIME, AND LOCATION OF THE SCHEDULED COMMITTEE
2 MEETING;

3 (2) THE PURPOSE OF THE COMMITTEE; AND

4 (3) A COMPLETE DESCRIPTION OF THE RIGHTS OF AN INCARCERATED
5 INDIVIDUAL UNDER SUBSECTION (G) OF THIS SECTION.

6 (G) IN CONNECTION WITH THE CONVENING OF A COMMITTEE, AN
7 INCARCERATED INDIVIDUAL HAS THE RIGHT TO:

8 (1) ATTEND THE COMMITTEE MEETING, EXCEPT FOR THE DISCUSSION
9 CONDUCTED TO ARRIVE AT A DECISION;

10 (2) PRESENT INFORMATION, INCLUDING WITNESSES;

11 (3) ASK QUESTIONS OF ANY PERSON PRESENTING INFORMATION TO
12 THE COMMITTEE;

13 (4) REQUEST ASSISTANCE FROM A LAY ADVISOR; AND

14 (5) BE INFORMED OF:

15 (I) THE IDENTITY OF THE ASSIGNED LAY ADVISOR;

16 (II) THE INCARCERATED INDIVIDUAL'S DIAGNOSIS; AND

17 (III) THE CLINICAL NEED FOR THE PSYCHOTROPIC MEDICATION,
18 INCLUDING POTENTIAL SIDE EFFECTS AND MATERIAL RISKS AND BENEFITS OF
19 TAKING OR REFUSING THE MEDICATION.

20 (H) THE CHAIR OF A COMMITTEE MAY:

21 (1) POSTPONE OR CONTINUE THE COMMITTEE FOR GOOD CAUSE, FOR
22 UP TO 7 DAYS; AND

23 (2) TAKE APPROPRIATE MEASURES NECESSARY TO CONDUCT THE
24 COMMITTEE IN AN ORDERLY MANNER.

25 (I) (1) BEFORE A COMMITTEE MEETS, THE TREATING PSYCHIATRIC
26 PROVIDER SHALL PROVIDE A DETAILED REPORT OF THE INCARCERATED
27 INDIVIDUAL'S MEDICAL RECORD TO INCLUDE:

1 (I) THE BASIS FOR THE REQUEST TO ADMINISTER
2 PSYCHOTROPIC MEDICATIONS ON A NONEMERGENCY BASIS;

3 (II) THE INCARCERATED INDIVIDUAL'S DIAGNOSIS, DISTURBED
4 BEHAVIORS OBSERVED, AND CURRENT MENTAL STATUS;

5 (III) A DESCRIPTION OF DAILY FUNCTIONING;

6 (IV) RECOMMENDED PSYCHOTROPIC MEDICATION;

7 (V) METHODS USED TO ENCOURAGE VOLUNTARY MEDICATION
8 ADHERENCE;

9 (VI) VOLUNTARY AND INVOLUNTARY MEDICATION HISTORY;
10 AND

11 (VII) A DESCRIPTION OF THE LESS INTRUSIVE TREATMENT
12 ALTERNATIVES CONSIDERED OR ATTEMPTED.

13 (2) THE REPORT SHALL BE DISTRIBUTED TO THE COMMITTEE
14 MEMBERS NOT LESS THAN 72 HOURS BEFORE THE COMMITTEE IS TO MEET.

15 (J) BEFORE DETERMINING WHETHER TO APPROVE THE ADMINISTRATION
16 OF PSYCHOTROPIC MEDICATION, THE COMMITTEE SHALL:

17 (1) REVIEW THE REPORT GENERATED BY THE TREATING
18 PSYCHIATRIC PROVIDER UNDER SUBSECTION (I) OF THIS SECTION; AND

19 (2) MEET FOR THE PURPOSE OF RECEIVING INFORMATION AND
20 CLINICALLY ASSESSING THE INCARCERATED INDIVIDUAL'S NEED FOR MEDICATION
21 BY:

22 (I) CONSULTING WITH THE INCARCERATED INDIVIDUAL
23 REGARDING THE REASON FOR REFUSING THE PSYCHOTROPIC MEDICATION
24 PRESCRIBED AND THE INCARCERATED INDIVIDUAL'S WILLINGNESS TO ACCEPT
25 ALTERNATIVE TREATMENT, INCLUDING OTHER MEDICATION;

26 (II) CONSULTING WITH THE TREATING CLINICIANS WHO ARE
27 RESPONSIBLE FOR INITIATING AND IMPLEMENTING THE INCARCERATED
28 INDIVIDUAL'S TREATMENT PLAN ABOUT THE CURRENT TREATMENT PLAN AND
29 ALTERNATIVE MODES OF TREATMENT, INCLUDING MEDICATIONS, THAT HAVE BEEN
30 CONSIDERED;

(III) RECEIVING INFORMATION PRESENTED BY THE INCARCERATED INDIVIDUAL AND OTHER INDIVIDUALS PARTICIPATING IN THE COMMITTEE;

(IV) PROVIDING THE INCARCERATED INDIVIDUAL WITH AN OPPORTUNITY TO ASK QUESTIONS OF ANYONE PRESENTING INFORMATION TO THE COMMITTEE; AND

(V) REVIEWING THE CONSEQUENCES OF REQUIRING THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION AND THE CONSEQUENCES OF CONTINUED REFUSAL OF PSYCHOTROPIC MEDICATION.

(K) THE COMMITTEE MAY APPROVE THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION AND MAY RECOMMEND AND APPROVE ALTERNATIVE MEDICATIONS, IF THE COMMITTEE DETERMINES THAT:

(1) THE MEDICATION IS PRESCRIBED BY A PSYCHIATRIC PROVIDER FOR THE PURPOSE OF TREATING THE INCARCERATED INDIVIDUAL'S MENTAL DISORDER;

(2) THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION REPRESENTS A REASONABLE EXERCISE OF PROFESSIONAL JUDGMENT; AND

(3) WITHOUT THE MEDICATION, THE INCARCERATED INDIVIDUAL IS AT SUBSTANTIAL RISK OF CONTINUED SELF-HARM AND DANGEROUS BEHAVIORS RESULTING FROM THE INDIVIDUAL:

(I) REMAINING SERIOUSLY MENTALLY ILL WITH NO SIGNIFICANT RELIEF OF THE PSYCHIATRIC SYMPTOMS THAT:

1. CAUSE THE INCARCERATED INDIVIDUAL TO BE A DANGER TO SELF OR OTHERS WHILE IN THE LICENSED MENTAL HEALTH INFIRMARY; OR

2. WOULD CAUSE THE INCARCERATED INDIVIDUAL TO BE A CONTINUED DANGER TO SELF AND OTHER INCARCERATED INDIVIDUALS IF DISCHARGED FROM THE LICENSED MENTAL HEALTH INFIRMARY; OR

(II) RELAPSING INTO A CONDITION IN WHICH THE INCARCERATED INDIVIDUAL IS UNABLE TO PROVIDE FOR THE INDIVIDUAL'S OWN ESSENTIAL HUMAN NEEDS OF HEALTH AND SAFETY.

1 (L) (1) A COMMITTEE SHALL BASE ITS DECISION ON ITS CLINICAL
2 ASSESSMENT OF THE INFORMATION CONTAINED IN THE INCARCERATED
3 INDIVIDUAL'S RECORD AND INFORMATION PRESENTED TO THE COMMITTEE.

4 (2) A COMMITTEE SHALL MEET PRIVATELY TO RENDER A DECISION.

5 (M) (1) THE COMMITTEE SHALL DOCUMENT ITS CONSIDERATION OF THE
6 ISSUES AND THE BASIS FOR ITS DECISION ON THE ADMINISTRATION OF
7 PSYCHOTROPIC MEDICATION.

8 (2) THE COMMITTEE SHALL PROVIDE A WRITTEN DECISION ON THE
9 ADMINISTRATION OF PSYCHOTROPIC MEDICATION, WHICH SHALL BE PROVIDED TO
10 THE INCARCERATED INDIVIDUAL, THE LAY ADVISOR, AND THE INCARCERATED
11 INDIVIDUAL'S TREATMENT TEAM FOR INCLUSION IN THE MEDICAL RECORD.

12 (3) IF A COMMITTEE APPROVES THE ADMINISTRATION OF
13 PSYCHOTROPIC MEDICATION, THE DECISION SHALL SPECIFY:

14 (I) THE PSYCHOTROPIC MEDICATION APPROVED AND THE
15 DOSAGE AND FREQUENCY RANGE;

16 (II) THE DURATION OF THE APPROVAL, NOT TO EXCEED THE
17 MAXIMUM TIME ALLOWED UNDER SUBSECTION (P) OF THIS SECTION; AND

18 (III) THE REASON THAT ALTERNATIVE TREATMENTS, INCLUDING
19 OTHER MEDICATION, WERE REJECTED BY THE COMMITTEE.

20 (4) IF A COMMITTEE APPROVES THE ADMINISTRATION OF
21 PSYCHOTROPIC MEDICATION, THE DECISION SHALL CONTAIN NOTICE OF THE RIGHT
22 TO REQUEST AN ADMINISTRATIVE REVIEW UNDER SUBSECTION (O) OF THIS
23 SECTION.

24 (N) IF A COMMITTEE APPROVES THE ADMINISTRATION OF PSYCHOTROPIC
25 MEDICATION, THE LAY ADVISOR PROMPTLY SHALL:

26 (1) INFORM THE INCARCERATED INDIVIDUAL OF THE RIGHT TO SEEK
27 ADMINISTRATIVE REVIEW OF THE DECISION UNDER SUBSECTION (O) OF THIS
28 SECTION; AND

29 (2) ADVISE THE INCARCERATED INDIVIDUAL OF THE PROVISION FOR
30 RENEWAL OF AN APPROVAL UNDER SUBSECTION (P) OF THIS SECTION.

(O) (1) AN INCARCERATED INDIVIDUAL MAY REQUEST AN ADMINISTRATIVE REVIEW BY THE CLINICAL SERVICES MANAGEMENT TEAM WITHIN 2 BUSINESS DAYS AFTER RECEIPT OF THE DECISION OF THE COMMITTEE.

(2) WITHIN 1 BUSINESS DAY AFTER RECEIPT OF A REQUEST FOR AN ADMINISTRATIVE REVIEW, THE LAY ADVISOR SHALL FORWARD THE REQUEST TO THE CLINICAL SERVICES MANAGEMENT TEAM.

(3) (I) AN INITIAL COMMITTEE DECISION AUTHORIZING THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION SHALL BE STAYED FOR 2 BUSINESS DAYS.

(II) IF A REQUEST FOR ADMINISTRATIVE REVIEW IS FILED UNDER THIS SUBSECTION, THE STAY SHALL REMAIN IN EFFECT UNTIL THE ISSUANCE OF THE ADMINISTRATIVE DECISION.

(4) THE CLINICAL SERVICES MANAGEMENT TEAM SHALL ISSUE A DECISION WITHIN 7 CALENDAR DAYS AFTER THE DECISION BY THE COMMITTEE.

(5) THE TREATING CLINICAL TEAM SHALL IMPLEMENT IMMEDIATELY ON RECEIPT THE DECISION OF THE CLINICAL SERVICES MANAGEMENT TEAM.

(P) (1) ADMINISTRATION OF PSYCHOTROPIC MEDICATION IN ACCORDANCE WITH THIS SECTION MAY NOT BE APPROVED FOR LONGER THAN 90 DAYS.

(2) (I) BEFORE EXPIRATION OF AN APPROVAL PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF THE INCARCERATED INDIVIDUAL CONTINUES TO REFUSE PSYCHOTROPIC MEDICATION, A COMMITTEE MAY BE CONVENED TO DECIDE WHETHER RENEWAL IS WARRANTED.

(II) IF A COMMITTEE APPROVES THE RENEWAL OF THE ADMINISTRATION OF PSYCHOTROPIC MEDICATION, THE ADMINISTRATION OF MEDICATION NEED NOT BE INTERRUPTED WHEN THE INCARCERATED INDIVIDUAL REQUESTS ADMINISTRATIVE REVIEW OF THE RENEWAL.

(Q) WHEN PSYCHOTROPIC MEDICATION IS ORDERED IN ACCORDANCE WITH THIS SECTION, NOT LESS FREQUENTLY THAN EVERY 15 DAYS, THE TREATING PHYSICIAN SHALL DOCUMENT ANY KNOWN BENEFITS OF TAKING THE MEDICATION TO THE INCARCERATED INDIVIDUAL AND SIDE EFFECTS OF THE MEDICATION THAT AFFECT THE INCARCERATED INDIVIDUAL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.