

SENATE BILL 741

J1, J3, D1

5lr2299

By: **Senators Lam and Augustine**

Introduced and read first time: January 27, 2025

Assigned to: Finance and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Forensic Mental Health Treatment**

3 FOR the purpose of altering the circumstances under which a certificate of need for
4 changing bed capacity in a health care facility is required; establishing the
5 Workgroup on Forensic Mental Health Treatment; requiring the Workgroup to
6 develop a certain form to be used by judges in a proceeding related to incompetency
7 to stand trial; establishing the Forensic Mental Health Treatment Fund as a special,
8 nonlapsing fund; requiring courts to remit certain fines and monetary penalties into
9 the Fund; requiring that interest earnings of the Fund be credited to the Fund; and
10 generally relating to forensic mental health treatment in the State.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 3–106(c)(4)
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2024 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 19–120(h) and (l)
19 Annotated Code of Maryland
20 (2023 Replacement Volume and 2024 Supplement)

21 BY adding to
22 Article – Health – General
23 Section 24–2501 and 24–2502 to be under the new subtitle “Subtitle 25. Forensic
24 Mental Health Treatment”
25 Annotated Code of Maryland
26 (2023 Replacement Volume and 2024 Supplement)

27 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Finance and Procurement
 2 Section 6–226(a)(2)(i)
 3 Annotated Code of Maryland
 4 (2021 Replacement Volume and 2024 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – State Finance and Procurement
 7 Section 6–226(a)(2)(ii)204. and 205.
 8 Annotated Code of Maryland
 9 (2021 Replacement Volume and 2024 Supplement)

10 BY adding to
 11 Article – State Finance and Procurement
 12 Section 6–226(a)(2)(ii)206.
 13 Annotated Code of Maryland
 14 (2021 Replacement Volume and 2024 Supplement)

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

17 **Article – Criminal Procedure**

18 3–106.

19 (c) (4) (I) **[If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
 20 **PARAGRAPH, IF** the Health Department fails to admit a defendant to a designated health
 21 care facility within the time period specified in paragraph (2)(i) of this subsection, the court
 22 may impose any sanction reasonably designed to compel compliance, including requiring
 23 the Health Department to reimburse a detention facility for expenses and costs incurred in
 24 retaining the defendant beyond the time period specified in paragraph (2)(i) of this
 25 subsection at the daily rate specified in § 9–402(b) of the Correctional Services Article.

26 (II) **IF THE SANCTION IMPOSED BY THE COURT INCLUDES A FINE**
 27 **OR MONETARY PENALTY THAT IS NOT INTENDED TO REIMBURSE A DETENTION**
 28 **FACILITY, THE COURT SHALL REMIT THE FINE OR MONETARY PENALTY TO THE**
 29 **FORENSIC MENTAL HEALTH TREATMENT FUND ESTABLISHED UNDER § 24–2502 OF**
 30 **THE HEALTH – GENERAL ARTICLE.**

31 **Article – Health – General**

32 19–120.

33 (h) (1) A certificate of need is required before the bed capacity of a health care
 34 facility is changed.

1 (2) [This] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
2 **SUBSECTION, THIS** subsection does not apply to any increase or decrease in bed capacity
3 if:

4 (i) For a health care facility that is not a hospital, during a 2–year
5 period the increase or decrease would not exceed the lesser of 10 percent of the total bed
6 capacity or 10 beds;

7 (ii) 1. The increase or decrease would change the bed capacity
8 for an existing medical service; and

9 2. A. The change would not increase total bed capacity;

10 B. The change is maintained for at least a 1–year period; and

11 C. At least 45 days prior to the change, the hospital provides
12 written notice to the Commission describing the change and providing an updated
13 inventory of the hospital’s licensed bed complement;

14 (iii) 1. At least 45 days before increasing or decreasing bed
15 capacity, written notice of intent to change bed capacity is filed with the Commission;

16 2. The Commission in its sole discretion finds that the
17 proposed change:

18 A. Is pursuant to the consolidation or merger of two or more
19 health care facilities, or conversion of a health care facility or part of a facility to a
20 nonhealth–related use;

21 B. Is not inconsistent with the State health plan or the
22 institution–specific plan developed by the Commission;

23 C. Will result in the delivery of more efficient and effective
24 health care services; and

25 D. Is in the public interest; and

26 3. Within 45 days of receiving notice, the Commission
27 notifies the health care facility of its finding;

28 (iv) The increase or decrease in bed capacity is the result of the
29 annual licensed bed recalculation provided under § 19–307.2 of this title; or

30 (v) 1. The increase or decrease in bed capacity will occur in:

1 A. An intermediate care facility that offers residential or
2 intensive substance-related disorder treatment services and has a current license issued
3 by the Secretary; or

4 B. An existing general hospice program that has a current
5 license issued by the Secretary; and

6 2. At least 45 days before increasing or decreasing bed
7 capacity, written notice of the intent to change bed capacity is filed with the Commission.

8 **(3) NOTWITHSTANDING ANY OTHER REQUIREMENT OF THIS**
9 **SUBSECTION, A CERTIFICATE OF NEED IS REQUIRED BEFORE THE PSYCHIATRIC BED**
10 **CAPACITY OF A HEALTH CARE FACILITY IS REDUCED BY FIVE OR MORE BEDS.**

11 (1) (1) **[A] EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
12 **SUBSECTION, A certificate of need is not required to close any health care facility or part**
13 **of a health care facility if at least 90 days before the closing or if at least 45 days before the**
14 **partial closing of the health care facility, including a State hospital, a person proposing to**
15 **close all or part of the health care facility files notice of the proposed closing or partial**
16 **closing with the Commission.**

17 (2) A hospital shall hold a public informational hearing in the county where
18 the hospital is located if the hospital:

19 (i) Files a notice of the proposed closing of the hospital with the
20 Commission;

21 (ii) Requests an exemption from the Commission under subsection
22 (o)(3) of this section to convert to a freestanding medical facility; or

23 (iii) Is located in a county with fewer than three hospitals and files a
24 notice of the partial closing of the hospital with the Commission.

25 (3) The Commission may require a health care facility other than a hospital
26 described in paragraph (2) of this subsection that files notice of its proposed closing or
27 partial closing to hold a public informational hearing in the county where the health care
28 facility is located.

29 (4) A public informational hearing required under paragraph (2) or (3) of
30 this subsection shall be held by the health care facility, in consultation with the
31 Commission, within 30 days after:

32 (i) The health care facility files with the Commission a notice of its
33 proposed closing or partial closing; or

34 (ii) The hospital files with the Commission a notice of intent to
35 convert to a freestanding medical facility.

1 (5) (i) The Commission shall establish by regulation requirements for
2 a public informational hearing required under paragraph (2) or (3) of this subsection.

3 (ii) For a hospital proposing to close, partially close, or convert to a
4 freestanding medical facility, the regulations shall require the hospital to address:

5 1. The reasons for the closure, partial closure, or conversion;

6 2. The plan for transitioning acute care services previously
7 provided by the hospital to residents of the hospital service area;

8 3. The plan for addressing the health care needs of the
9 residents of the hospital service area;

10 4. The plan for retraining and placing displaced employees;

11 5. The plan for the hospital's physical plant and site; and

12 6. The proposed timeline for the closure, partial closure, or
13 conversion to a freestanding medical facility.

14 (6) Within 10 working days after a public informational hearing held by a
15 hospital under this subsection, the hospital shall provide a written summary of the hearing
16 to:

17 (i) The Governor;

18 (ii) The Secretary;

19 (iii) The governing body of the county in which the hospital is located;

20 (iv) The local health department and the local board of health or
21 similar body for the county in which the hospital is located;

22 (v) The Commission; and

23 (vi) Subject to § 2–1257 of the State Government Article, the Senate
24 Finance Committee, the House Health and Government Operations Committee, and the
25 members of the General Assembly who represent the district in which the hospital is
26 located.

27 **(7) A CERTIFICATE OF NEED IS REQUIRED IF THE CLOSING OR**
28 **PARTIAL CLOSING OF THE HEALTH CARE FACILITY WILL RESULT IN A DECREASE OF**
29 **FIVE OR MORE PSYCHIATRIC BEDS IN THE STATE.**

30 **SUBTITLE 25. FORENSIC MENTAL HEALTH TREATMENT.**

1 24-2501.

2 (A) IN THIS SECTION, "WORKGROUP" MEANS THE WORKGROUP ON
3 FORENSIC MENTAL HEALTH TREATMENT.

4 (B) THERE IS A WORKGROUP ON FORENSIC MENTAL HEALTH TREATMENT.

5 (C) THE WORKGROUP CONSISTS OF:

6 (1) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

7 (2) THE CHIEF JUSTICE OF THE SUPREME COURT OF MARYLAND;

8 (3) ONE CIRCUIT COURT JUDGE, APPOINTED BY THE CHIEF JUSTICE
9 OF THE SUPREME COURT OF MARYLAND;

10 (4) ONE REPRESENTATIVE OF THE MENTAL HEALTH DIVISION OF
11 THE OFFICE OF THE PUBLIC DEFENDER, APPOINTED BY THE PUBLIC DEFENDER
12 OF MARYLAND;

13 (5) THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE
14 COMMISSION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

15 (6) THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS'
16 ASSOCIATION, OR THE PRESIDENT'S DESIGNEE;

17 (7) THE EXECUTIVE DIRECTOR OF ON OUR OWN OF MARYLAND, OR
18 THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

19 (8) THE PRESIDENT OF DISABILITY RIGHTS MARYLAND, OR THE
20 PRESIDENT'S DESIGNEE.

21 (D) THE SECRETARY AND THE CHIEF JUSTICE OF THE MARYLAND
22 SUPREME COURT SHALL COCHAIR THE WORKGROUP.

23 (E) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE WORKGROUP.

24 (F) A MEMBER OF THE WORKGROUP:

25 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
26 WORKGROUP; BUT

1 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
2 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

3
4 **(G) (1) ON OR BEFORE OCTOBER 1, 2026, THE SECRETARY AND CHIEF**
5 **JUSTICE SHALL JOINTLY CREATE, IN CONSULTATION WITH THE WORKGROUP, A**
6 **DATA COLLECTION FORM FOR USE BY JUDGES IN A PROCEEDING RELATED TO**
7 **INCOMPETENCY TO STAND TRIAL.**

8 **(2) THE FORM SHALL INCLUDE:**

9 **(I) THE JUDGE PRESIDING OVER THE PROCEEDING;**

10 **(II) THE EVALUATOR WORKING ON BEHALF OF THE**
11 **DEPARTMENT WHO EXAMINED THE DEFENDANT AS PART OF THE INCOMPETENCY**
12 **PROCEEDINGS;**

13 **(III) THE CHARGES BROUGHT AGAINST THE DEFENDANT;**

14 **(IV) THE EVALUATOR'S OPINION ON THE DEFENDANT'S**
15 **COMPETENCY AND DANGEROUSNESS UNDER § 3-105 OF THE CRIMINAL**
16 **PROCEDURE ARTICLE;**

17 **(V) THE POSITION TAKEN BY THE STATE'S ATTORNEY AND**
18 **COUNSEL FOR THE DEFENDANT ON THE DEFENDANT'S COMPETENCY OR**
19 **DANGEROUSNESS;**

20 **(VI) THE COURT'S DECISION ON THE COMPETENCY AND**
21 **DANGEROUSNESS OF THE DEFENDANT;**

22 **(VII) IF THE COURT FOUND THE DEFENDANT INCOMPETENT,**
23 **WHETHER THE COURT ORDERED THE DEFENDANT TO BE COMMITTED TO A FACILITY**
24 **DESIGNATED BY THE DEPARTMENT OR THAT THE DEFENDANT BE RELEASED; AND**

25 **(VIII) ANY OTHER INFORMATION IDENTIFIED BY THE SECRETARY**
26 **AND CHIEF JUSTICE.**

27 **(H) FOLLOWING THE CREATION OF THE FORM UNDER SUBSECTION (G) OF**
28 **THIS SECTION, THE CHIEF JUSTICE SHALL DIRECT THE COURTS TO:**

29 **(1) COMPLETE THE FORM FOLLOWING A PROCEEDING RELATED TO**
30 **INCOMPETENCY TO STAND TRIAL; AND**

31 **(2) SUBMIT THE FORM TO THE DEPARTMENT.**

1 **(I) THE WORKGROUP SHALL MEET AT LEAST ANNUALLY TO REVIEW DATA**
2 **COLLECTED FROM THE SUBMITTED FORMS AND ANY OTHER RELEVANT**
3 **INFORMATION.**

4 **(J) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2027, THE**
5 **WORKGROUP SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE**
6 **WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY**
7 **ON:**

8 **(1) THE DATA COLLECTED USING THE FORMS SUBMITTED UNDER**
9 **SUBSECTION (G) OF THIS SECTION;**

10 **(2) THE NEED FOR MORE PSYCHIATRIC BEDS IN THE STATE;**

11 **(3) THE NEED FOR INCREASED OUTPATIENT COMPETENCY**
12 **RESTORATION OPTIONS;**

13 **(4) FUNDING RECOMMENDATIONS RELATED TO PARAGRAPHS (2)**
14 **AND (3) OF THIS SUBSECTION; AND**

15 **(5) ANY OTHER FINDINGS OR RECOMMENDATIONS.**

16 **(K) THE WORKGROUP AND THE DEPARTMENT SHALL TAKE APPROPRIATE**
17 **PRECAUTIONS TO PROTECT THE IDENTITY OF A JUDGE, AN EVALUATOR, AND A**
18 **DEFENDANT INCLUDED ON A FORM COMPLETED UNDER SUBSECTION (H) OF THIS**
19 **SECTION.**

20 **24-2502.**

21 **(A) IN THIS SECTION, “FUND” MEANS THE FORENSIC MENTAL HEALTH**
22 **TREATMENT FUND.**

23 **(B) THERE IS A FORENSIC MENTAL HEALTH TREATMENT FUND IN THE**
24 **DEPARTMENT.**

25 **(C) (1) THE COMPTROLLER SHALL COLLECT ALL FINES AND MONETARY**
26 **PENALTIES REMITTED TO THE FUND BY THE COURTS UNDER § 3-106 OF THE**
27 **CRIMINAL PROCEDURE ARTICLE.**

28 **(2) THE COMPTROLLER SHALL DISTRIBUTE THE FINES AND**
29 **MONETARY PENALTIES TO THE FUND.**

1 (D) THE PURPOSE OF THE FUND IS TO PROVIDE SUPPORT FOR INCREASING
2 THE TOTAL NUMBER OF LICENSED PSYCHIATRIC BEDS IN THE STATE.

3 (E) THE DEPARTMENT SHALL ADMINISTER THE FUND.

4 (F) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
5 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

6 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
7 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

8 (G) THE FUND CONSISTS OF:

9 (1) FINES AND MONETARY PENALTIES DISTRIBUTED TO THE FUND
10 UNDER SUBSECTION (C) OF THIS SECTION;

11 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

12 (3) INTEREST EARNINGS; AND

13 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
14 THE BENEFIT OF THE FUND.

15 (H) THE FUND MAY BE USED ONLY FOR PURPOSES DESIGNED TO INCREASE
16 THE TOTAL NUMBER OF LICENSED PSYCHIATRIC BEDS IN THE STATE.

17 (I) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
18 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

19 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
20 THE FUND.

21 (J) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
22 WITH THE STATE BUDGET.

23 (K) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT
24 INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE
25 APPROPRIATED FOR INCREASING THE TOTAL NUMBER OF LICENSED PSYCHIATRIC
26 BEDS IN THE STATE.

27 (L) THE DEPARTMENT SHALL ADOPT REGULATIONS ON THE DISTRIBUTION
28 OF FUNDS FROM THE FORENSIC MENTAL HEALTH TREATMENT FUND.

1 6-226.

2 (a) (2) (i) 1. This subparagraph does not apply in fiscal years 2024
3 through 2028.

4 2. Notwithstanding any other provision of law, and unless
5 inconsistent with a federal law, grant agreement, or other federal requirement or with the
6 terms of a gift or settlement agreement, net interest on all State money allocated by the
7 State Treasurer under this section to special funds or accounts, and otherwise entitled to
8 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
9 Fund of the State.

10 (ii) The provisions of subparagraph (i) of this paragraph do not apply
11 to the following funds:

12 204. the Victims of Domestic Violence Program Grant Fund;
13 [and]

14 205. the Proposed Programs Collaborative Grant Fund; AND

15 **206. THE FORENSIC MENTAL HEALTH TREATMENT FUND.**

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