

HOUSE BILL 801

E2

4r1901
CF SB 551

By: **Delegates Kaufman, Clippinger, Embry, Phillips, Taylor, and Williams**

Introduced and read first time: January 31, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Committed Persons – Release Proceedings**

3 FOR the purpose of providing that certain provisions of the Maryland Rules relating to
4 discovery apply in a certain administrative proceeding; requiring a court that
5 receives a certain report to promptly notify certain persons; requiring the Maryland
6 Department of Health to notify the court and certain persons if the Department
7 receives a certain report; requiring a court to hold a hearing on request by any party
8 after a certain application is made; establishing that a certain applicant has a certain
9 burden of proof to establish a certain issue by a preponderance of the evidence;
10 authorizing a court to modify a certain conditional release in a certain manner at a
11 certain time; and generally relating to release proceedings.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 3–119, 3–121(b), and 3–122
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2023 Supplement)

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

19 **Article – Criminal Procedure**

20 3–119.

21 (a) (1) Not earlier than 1 year after the initial release hearing ends or was
22 waived, and not more than once a year thereafter, a committed person may apply for release
23 under either subsection (b) or (c) of this section, but not both.

24 (2) Notwithstanding the time restrictions in paragraph (1) of this
25 subsection, a committed person may file an application for release at any time if the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 application is accompanied by an affidavit of a physician or licensed psychologist that states
2 an improvement in the mental condition of the committed person since the last hearing.

3 (b) (1) To apply for release under this subsection, the committed person shall
4 file an application for release with the Health Department and notify the court and State's
5 Attorney, in writing, of this request.

6 (2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
7 **SUBSECTION**, the provisions of this title governing administrative hearing and judicial
8 determination of eligibility for release apply to any application for release under this
9 subsection.

10 (3) **IN A PROCEEDING HELD UNDER THIS TITLE TO DETERMINE**
11 **ELIGIBILITY FOR CONDITIONAL RELEASE OR DISCHARGE, THE MARYLAND RULES**
12 **GOVERNING DISCOVERY IN THE CIRCUIT COURT SHALL APPLY REGARDLESS OF THE**
13 **VENUE OF THE HEARING.**

14 (c) (1) To apply for release under this subsection, the committed person shall
15 file a petition for release with the court that ordered commitment.

16 (2) The committed person shall send a copy of the petition for release to the
17 Health Department and the State's Attorney.

18 (3) If the committed person requests a trial by jury, the trial shall be held
19 in a circuit court with a jury as in a civil action at law.

20 (4) The trier of fact shall:

21 (i) determine whether the committed person has proved eligibility
22 for release by a preponderance of the evidence; and

23 (ii) render a verdict for:

24 1. continued commitment;

25 2. conditional release; or

26 3. discharge from commitment.

27 (5) If the trier of fact renders a verdict for conditional release, within 30
28 days after the verdict, the court shall release the committed person under conditions it
29 imposes in accordance with specific recommendations for conditions under § 3-116(b) of
30 this title.

31 (d) (1) An appeal from a District Court order shall be on the record in the
32 circuit court.

1 (2) An appeal from a circuit court order shall be by application for leave to
2 appeal to the Appellate Court of Maryland.

3 3-121.

4 (b) (1) If a court receives a report that alleges that a committed person has
5 violated a condition of a conditional release, the court promptly shall:

6 (i) notify:

7 1. the Health Department;

8 2. **COUNSEL OF RECORD FOR THE COMMITTED PERSON;**

9 and

10 [(ii) 3. [notify] the State's Attorney; and

11 (II) provide **THE STATE'S ATTORNEY WITH** the name, address, and
12 telephone number of the person who reported the violation and a copy of the order for
13 conditional release.

14 (2) If the Health Department receives a report that alleges that a
15 committed person has violated conditional release, the Department shall:

16 (i) notify:

17 1. the court;

18 2. **COUNSEL OF RECORD FOR THE COMMITTED PERSON;**

19 and

20 3. the State's Attorney; and

21 (ii) provide the State's Attorney with the name, address, and
22 telephone number of the person who reported the violation and a copy of the order for
23 conditional release.

24 3-122.

25 (a) (1) An application to the court for a change in conditional release of a
26 committed person may be made by:

27 (i) the Health Department or the State's Attorney at any time; or

1 (ii) the committed person not earlier than 6 months after the court
2 ordered the conditional release, unless the court for good cause permits an earlier
3 application.

4 (2) The applicant for a change in conditional release shall notify the court
5 and other parties, in writing, of the application and the reasons for the requested change.

6 **(3) ON REQUEST BY ANY PARTY, THE COURT SHALL HOLD A HEARING**
7 **AFTER AN APPLICATION IS MADE UNDER THIS SUBSECTION TO DETERMINE**
8 **WHETHER THE APPLICANT HAS SATISFIED THE REQUIREMENTS FOR RELEASE**
9 **UNDER § 3-114 OF THIS TITLE.**

10 (b) The **APPLICANT HAS THE** burden [of proof of] **TO ESTABLISH, BY A**
11 **PREPONDERANCE OF THE EVIDENCE,** any issue raised [by the] **IN AN** application for
12 change in conditional release [rests with the applicant] **UNDER SUBSECTION (A) OF THIS**
13 **SECTION.**

14 (c) After the court considers the application for change in conditional release and
15 the evidence, in accordance with § 3-114 of this title, the court shall:

16 (1) change the conditions;

17 (2) impose appropriate additional conditions;

18 (3) revoke the conditional release;

19 (4) continue the present conditions of release; [or]

20 (5) extend the conditional release by an additional term [of] **NOT**
21 **EXCEEDING 5 years;**

22 **(6) SHORTEN THE CONDITIONAL RELEASE; OR**

23 **(7) TERMINATE THE CONDITIONAL RELEASE.**

24 (d) (1) Not earlier than 1 year after the court action on the application for
25 change filed by the committed person, and not more than once a year thereafter, a
26 committed person may reapply for a change in conditional release.

27 (2) Notwithstanding the time restrictions in paragraph (1) of this
28 subsection, a committed person may apply for a change in conditional release at any time
29 if the application is accompanied by an affidavit of a physician or licensed psychologist that
30 states an improvement in the mental condition of the committed person.

31 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
32 October 1, 2024.