

Substance Abuse Assessments and Treatment for Offenders – Health-
General (HG) Art., §8-505 and 8-507 provides “immediate” treatment within
30 days from court order

*city of the
endant in
partment*

1. Place the defendant, pending examination, in an appropriate health care facility; or

2. Immediately conduct an evaluation of the defendant.

(ii) Unless the Department retains a defendant, the defendant shall be promptly returned to the court after an examination.

(iii) A defendant who is detained for an examination under this section may question at any time the legality of the detention by a petition for a writ of habeas corpus.

(d) (1) If a court orders an evaluation under this section, the evaluator shall:

(i) Conduct an evaluation of the defendant; and

(ii) Submit a complete report of the evaluation within 7 days to the:

1. Court;

2. Department; and

3. Defendant or the defendant’s attorney.

(2) On good cause shown, a court may extend the time for an evaluation under this section.

(3) Whenever an evaluator recommends treatment, the evaluator’s report shall:

(i) Name a specific program able to IMMEDIATELY provide the recommended treatment; and

(ii) Give an actual or estimated date when the program can begin treatment of the defendant.

(e) (1) The Department shall IMMEDIATELY provide the services required by this section.

(2) A designee of the Department may carry out any of its duties under this section [if appropriate funding is provided].

1 (f) Evaluations performed in facilities operated by the Department of Public
2 Safety and Correctional Services shall be conducted by the Administration.

3 8-507.

4 (a) Subject to the limitations in this section, a court that finds in a criminal case
5 or during a term of probation that a defendant has an alcohol or drug dependency may
6 commit the defendant as a condition of release, after conviction, or at any other time the
7 defendant voluntarily agrees to participate in treatment, to the Department for treatment
8 that the Department recommends, even if:

9 (1) The defendant did not timely file a motion for reconsideration under
10 Maryland Rule 4-345; or

11 (2) The defendant timely filed a motion for reconsideration under Maryland
12 Rule 4-345 which was denied by the court.

13 (b) Before a court commits a defendant to the Department under this section, the
14 court shall:

15 (1) Offer the defendant the opportunity to receive treatment;

16 (2) Obtain the written consent of the defendant:

17 (i) To receive treatment; and

18 (ii) To have information reported back to the court;

19 (3) Order an evaluation of the defendant under § 8-505 or § 8-506 of this
20 subtitle;

21 (4) Consider the report on the defendant's evaluation; and

22 (5) Find that the treatment that the Department recommends to be
23 appropriate and necessary.

24 (c) Immediately on receiving an order for treatment under this section, the
25 Department shall order a report of all pending cases, warrants, and detainers for the
26 defendant and forward a copy of the report to the court, the defendant, and the defendant's
27 last attorney of record.

28 (d) (1) The Department shall provide the services required by this section.

29 (2) A designee of the Department may carry out any of the Department's
30 duties under this section [if appropriate funding is provided].

1 (e) (1) A court may not order that the defendant be delivered for treatment
2 until:

3 (i) [The Department gives the court notice that an appropriate
4 treatment program is able to begin treatment of the defendant;

5 (ii) Any detainer based on an untried indictment, information,
6 warrant, or complaint for the defendant has been removed; and

7 [(iii)] (II) Any sentence of incarceration for the defendant is no longer
8 in effect.

9 (2) The Department shall facilitate the [prompt] IMMEDIATE treatment of
10 a defendant UNLESS THE COURT FINDS EXIGENT CIRCUMSTANCES TO DELAY
11 COMMITMENT FOR TREATMENT FOR LONGER THAN 30 DAYS.

12 (3) IF A DEFENDANT WHO HAS BEEN COMMITTED FOR TREATMENT
13 UNDER THIS SECTION IS NOT PLACED IN TREATMENT WITHIN 21 DAYS OF THE
14 ORDER, THE COURT MAY ORDER THE DEPARTMENT TO APPEAR TO EXPLAIN THE
15 REASON FOR THE LACK OF PLACEMENT.

16 (f) For a defendant committed for treatment under this section, a court shall order
17 supervision of the defendant:

18 (1) By an appropriate pretrial release agency, if the defendant is released
19 pending trial;

20 (2) By the Division of Parole and Probation under appropriate conditions
21 in accordance with §§ 6-219 through 6-225 of the Criminal Procedure Article and Maryland
22 Rule 4-345, if the defendant is released on probation; or

23 (3) By the Department, if the defendant remains in the custody of a local
24 correctional facility.

25 (g) A court may order law enforcement officials, detention center staff, Department
26 of Public Safety and Correctional Services staff, or sheriff's department staff within the
27 appropriate local jurisdiction to transport a defendant to and from treatment under this
28 section.

29 (h) The Department shall promptly report to a court a defendant's withdrawal of
30 consent to treatment and have the defendant returned to the court within 7 days for further
31 proceedings.

32 (i) A defendant who is committed for treatment under this section may question
33 at any time the legality of the commitment by a petition for a writ of habeas corpus.

1 (j) (1) A commitment under this section shall be for at least 72 hours and not
2 more than 1 year.

3 (2) On good cause shown by the Department, the court, or the State, the
4 court may extend the time period for providing the necessary treatment services in
5 increments of 6 months.

6 (3) Except during the first 72 hours after admission of a defendant to a
7 treatment program, the Department may terminate the treatment if the Department
8 determines that:

9 (i) Continued treatment is not in the best interest of the defendant;
10 or

11 (ii) The defendant is no longer amenable to treatment.

12 (k) When a defendant is to be released from treatment under this section, the
13 Department shall notify the court that ordered the treatment.

14 (l) (1) If a defendant leaves treatment without authorization, the responsibility
15 of the Department is limited to the notification of the court that ordered the defendant's
16 treatment as soon as it is reasonably possible.

17 (2) Notice under this subsection shall constitute probable cause for a court
18 to issue a warrant for the arrest of a defendant.

19 (m) Nothing in this section imposes any obligation on the Department:

20 (1) To treat any defendant who knowingly and willfully declines to consent
21 to further treatment; or

22 (2) In reporting to the court under this section, to include an assessment of
23 a defendant's dangerousness to one's self, to another individual, or to the property of another
24 individual by virtue of a drug or alcohol problem.

25 (n) Time during which a defendant is held under this section for inpatient
26 evaluation or inpatient or residential treatment shall be credited against any sentence
27 imposed by the court that ordered the evaluation or treatment.

28 (o) This section may not be construed to limit a court's authority to order drug
29 treatment in lieu of incarceration under Title 5 of the Criminal Law Article.

30 **SUBTITLE 6D. ADDICTION TREATMENT DIVESTITURE FUND.**

31 **8-6D-01.**