
By: Delegate Morgan

Introduced and read first time: February 2, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disabilities Administration - Hearings**

3 FOR the purpose of requiring the Secretary of the Department of Health and Mental
4 Hygiene to grant hearings on the release of certain individuals from State
5 residential facilities; providing that the release cannot take place during the
6 pendency of a hearing; requiring the Secretary to grant certain formal hearings
7 regarding actions or inactions of the Secretary; and generally relating to hearings
8 regarding services provided by the Developmental Disabilities Administration.

9 BY repealing and reenacting, with amendments,
10 Article - Health - General
11 Section 7-406, 7-508, and 7-803
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1995 Supplement)

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

16 **Article - Health - General**

17 7-406.

18 [(a)] An applicant for services or a recipient of services under this title may:

19 (1) (I) Request an informal hearing before the Secretary's designee on
20 any action or inaction of the Secretary made under this title; and

21 [(2)] (II) Request the Secretary to review the decision of the informal
22 hearing[.

23 (b) After the Secretary receives a request for a review, the Secretary shall conduct
24 the review] in accordance with Title 10, Subtitle 2 of the State Government Article; OR

25 (2) REQUEST A FORMAL HEARING UNDER TITLE 10, SUBTITLE 2 OF THE
26 STATE GOVERNMENT ARTICLE ON ANY ACTION OR INACTION OF THE SECRETARY
27 MADE UNDER THIS TITLE.

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1 7-508.

2 (a) At the direction of the Secretary, an individual who has been admitted under
3 this subtitle shall be released from a State residential center if:

4 (1) The individual is not an individual with mental retardation;

5 (2) The individual is an individual with mental retardation but does not
6 need residential services; or

7 (3) There is an available, less restrictive kind of service that is consistent
8 with the welfare and safety of the individual.

9 (b) (1) At the direction of the Secretary, any individual who has been admitted
10 under this subtitle may be released conditionally from a State residential center for
11 individuals with mental retardation, if, in the judgment of the Secretary, the individual:

12 (i) Would be cared for properly by the individual or another person;
13 and

14 (ii) Would not endanger the individual or the person or property of
15 another.

16 (2) The Secretary may set the conditions for release that the Secretary
17 considers reasonable. The conditions may relate to:

18 (i) The duration of the release;

19 (ii) Treatment during release; or

20 (iii) Placement under supervised care in an approved setting.

21 (3) An individual with mental retardation released conditionally is
22 considered to be held by the State residential center from which the individual was
23 released.

24 (c) Each determination of any release of an individual, whether full or
25 conditional, including a summary of the reasons for the determination, shall be made a
26 permanent part of the individual's record.

27 (D) THE SECRETARY SHALL GRANT AN INDIVIDUAL THE OPPORTUNITY FOR
28 A HEARING UNDER § 7-406 OF THIS TITLE ON THE PROPOSED RELEASE. IF A
29 HEARING IS REQUESTED, A RELEASE MAY NOT TAKE PLACE UNTIL A DECISION IS
30 ISSUED AS A RESULT OF THE HEARING.

31 7-803.

32 (a) In this section, the term "facility" means an intermediate care facility-mental
33 retardation.

34 (b) A resident of a facility may not be transferred or discharged from the facility
35 involuntarily except for the following reasons:

36 (1) A medical reason;

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1 (2) The welfare of the resident or other residents;

2 (3) Knowingly transferring personal assets in violation of a contract
3 provision and only to become eligible for Medicaid benefits;

4 (4) A nonpayment for a stay; or

5 (5) The planned closing of the facility.

6 (C) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PERSON TO A HEARING
7 UNDER § 7-406 OF THIS TITLE REGARDING A TRANSFER, RELEASE, OR DISCHARGE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.