
By: **Delegate C. Davis**

Introduced and read first time: February 20, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Involuntary Admission Hearings - Procedure**

3 FOR the purpose of requiring a petition for emergency evaluation to be shared with
4 certain individuals at a certain time before an involuntary admission hearing;
5 requiring the author of a petition for emergency evaluation to be present at an
6 involuntary admission hearing or be available by conference call and to present
7 certain information; requiring certain individuals who provide certain
8 information for an involuntary admission hearing to be identified in a certain
9 manner and be present at the hearing or be available by conference call under
10 certain circumstances; providing that a first-year medical resident may not be
11 considered an expert witness at the hearing; providing that an administrative
12 law judge may not use a certain evidentiary standard when considering certain
13 testimony; requiring certain physicians to provide certain evidence relating to
14 the examination of an individual; providing that certain phone conversations do
15 not qualify as an examination of an individual subject to an involuntary
16 admission hearing; providing that certain individuals may not be coerced to sign
17 a certain waiver; and generally relating to procedures for involuntary admission
18 hearings.

19 BY repealing and reenacting, with amendments,
20 Article - Health - General
21 Section 10-632
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2005 Supplement)

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

26 **Article - Health - General**

27 10-632.

28 (a) Any individual proposed for involuntary admission under Part III of this
29 subtitle shall be afforded a hearing to determine whether the individual is to be

1 admitted to a facility or a Veterans' Administration hospital as an involuntary patient
2 or released without being admitted.

3 (b) The hearing shall be conducted within 10 days of the date of the initial
4 confinement of the individual.

5 (c) (1) The hearing may be postponed for good cause for no more than 7
6 days, and the reasons for the postponement shall be on the record.

7 (2) A decision shall be made within the time period provided in
8 paragraph (1) of this subsection.

9 (d) The Secretary shall:

10 (1) Adopt rules and regulations on hearing procedures; and

11 (2) Designate an impartial hearing officer to conduct the hearings.

12 (E) (1) THE PETITION FOR THE EMERGENCY EVALUATION OF THE
13 INDIVIDUAL SUBJECT TO THE HEARING SHALL BE SHARED WITH THE INDIVIDUAL
14 AND THE INDIVIDUAL'S LAWYER AT LEAST 1 HOUR BEFORE THE HEARING.

15 (2) THE AUTHOR OF THE PETITION FOR EMERGENCY EVALUATION
16 SHALL BE PRESENT AT THE HEARING OR BE AVAILABLE BY CONFERENCE CALL AND
17 SHALL PROVIDE INFORMATION ON THE AUTHOR'S ACADEMIC CREDENTIALS AND
18 EXPERIENCE.

19 (3) (I) INDIVIDUALS WHO ARE REFERRED TO AND RELIED ON IN THE
20 HEARING FOR INFORMATION RELATED TO THE INDIVIDUAL SUBJECT TO THE
21 PETITION FOR EMERGENCY EVALUATION SHALL BE IDENTIFIED BY ACADEMIC
22 CREDENTIALS, EXPERIENCE, AND AGE.

23 (II) IF THE INFORMATION PROVIDED BY AN INDIVIDUAL
24 IDENTIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH LEADS TO THE
25 COMMITMENT OF THE INDIVIDUAL SUBJECT TO THE HEARING, THE INDIVIDUAL
26 PROVIDING THE INFORMATION SHALL BE PRESENT AT THE HEARING OR BE
27 AVAILABLE BY CONFERENCE CALL.

28 (4) (I) A FIRST-YEAR MEDICAL RESIDENT MAY NOT BE CONSIDERED
29 AN EXPERT WITNESS AT THE HEARING.

30 (II) THE ADMINISTRATIVE LAW JUDGE MAY NOT USE THE CLEAR
31 AND CONVINCING EVIDENCE STANDARD WHEN CONSIDERING THE OPINION OF A
32 FIRST-YEAR MEDICAL RESIDENT.

33 (5) (I) TO QUALIFY AS HAVING EXAMINED THE INDIVIDUAL SUBJECT
34 TO THE HEARING, THE CERTIFYING PHYSICIAN SHALL PROVIDE EVIDENCE THAT
35 THE PHYSICIAN:

36 1. PERSONALLY EXAMINED THE INDIVIDUAL;

