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

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.

(a) Any individual proposed for involuntary admission under Part III of this29 subtitle shall be afforded a hearing to determine whether the individual is to be

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admitted to a facility or a Veterans' Administration hospital as an involuntary patient
 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 THE20HEARING FOR INFORMATION RELATED TO THE INDIVIDUAL SUBJECT TO THE21PETITION FOR EMERGENCY EVALUATION SHALL BE IDENTIFIED BY ACADEMIC22CREDENTIALS, EXPERIENCE, AND AGE.

(II) IF THE INFORMATION PROVIDED BY AN INDIVIDUAL
IDENTIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH LEADS TO THE
COMMITMENT OF THE INDIVIDUAL SUBJECT TO THE HEARING, THE INDIVIDUAL
PROVIDING THE INFORMATION SHALL BE PRESENT AT THE HEARING OR BE
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;

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1		2. OBSERVED THE INDIVIDUAL AT CLOSE PROXIMITY; AND
2 3 CONVERSATION	WITH TH	3. ATTEMPTED, AT LEAST ONCE, TO ENGAGE IN IE INDIVIDUAL.
4 5 HEARING DOES N 6 THE HEARING.	(II) IOT QUA	A PHONE CONVERSATION WITH A THIRD PARTY PRIOR TO THE LIFY AS AN EXAMINATION OF THE INDIVIDUAL SUBJECT TO
7 [(e)] (F)	The he	aring officer shall:
8 (1)	Consid	er all the evidence and testimony of record; and
9 (2) Order the release of the individual from the facility unless the record 10 demonstrates by clear and convincing evidence that at the time of the hearing each of 11 the following elements exist as to the individual whose involuntary admission is 12 sought:		
13	(i)	The individual has a mental disorder;
14	(ii)	The individual needs in-patient care or treatment;
15 16 individual or of othe	(iii) ers;	The individual presents a danger to the life or safety of the
17 18 to the facility;	(iv)	The individual is unable or unwilling to be voluntarily admitted
19 20 consistent with the	(v) welfare ai	There is no available less restrictive form of intervention that is and safety of the individual; and
 (vi) If the individual is 65 years old or older and is to be admitted to a State facility, the individual has been evaluated by a geriatric evaluation team and no less restrictive form of care or treatment was determined by the team to be appropriate. 		
25 [(f)] (G) (1) The parent, guardian, or next of kin of an individual 26 involuntarily admitted under this subtitle:		
27 [(1)]	(I)	Shall be given notice of the hearing on the admission; and
28 [(2)]	(II)	May testify at the hearing.
 29 (2) AN INDIVIDUAL INVOLUNTARILY ADMITTED UNDER THIS SUBTITLE 30 MAY NOT BE COERCED TO SIGN A WAIVER OF AN INVOLUNTARY ADMISSION 31 HEARING. 		

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 33 October 1, 2006.