

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 1550 (Delegate C. Davis)  
Health and Government Operations

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**Involuntary Admission Hearings - Procedure**

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This bill sets additional requirements regarding a petition for an emergency evaluation of an individual suspected of having a mental disorder, the examination of the individual, and the subsequent hearing.

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**Fiscal Summary**

**State Effect:** Any change in State activities would not materially affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A petition for an emergency evaluation of an individual suspected of having a mental disorder must be shared with the individual and the individual's lawyer at least one hour before an involuntary admission hearing. The author of an emergency evaluation petition must be present at the hearing or available by conference call. Individuals referred to and relied on in the hearing also must be either present or available by conference call if the information they provide leads to the commitment of the individual who is the subject of the hearing.

To qualify as having examined the individual subject to the hearing, the certifying physician must provide evidence that the physician personally examined the individual; observed the individual at close proximity; and attempted at least once to engage in

conversation with the individual. A phone conversation with a third party before the hearing does not qualify as an examination of the individual subject to the hearing.

A first-year medical resident may not be considered an expert witness at a hearing. The administrative law judge may not use the clear and convincing evidence standard when considering the opinion of a first-year medical resident.

An individual voluntarily committed for treatment of a mental disorder may not be coerced to sign a waiver of an involuntary admission hearing.

**Current Law:** Any individual proposed for involuntary admission for treatment of a suspected mental disorder must be afforded a hearing to determine if the individual is to be admitted to a facility or a Veteran's Administration hospital as an involuntary patient or be released without being admitted. The hearing must be conducted within 10 days of the date of the individual's initial confinement. The hearing may be postponed for good cause for no more than seven days, with the reasons for the postponement stated on the record. A decision must be made within the above time period. The Secretary of Health and Mental Hygiene must adopt rules and regulations on hearing procedures and designate an impartial hearing officer to conduct the hearings.

The hearing officer must consider all the evidence and testimony of record and order the individual's release from the facility unless the record demonstrates by clear and convincing evidence that, at the time of the hearing:

- the individual has a mental disorder;
- the individual needs in-patient care or treatment;
- the individual presents a danger to the life or safety of the individual or of others;
- the individual is unable or unwilling to be voluntarily admitted to the facility;
- there is no available less restrictive form of intervention that is consistent with the welfare and safety of the individual; and
- 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.

The individual's parent, guardian, or next of kin must be given notice of and may testify at the hearing.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of Administrative Hearings, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 17, 2006  
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