

*in the welfare of the mentally retarded person may file the petition on his behalf. The Administration shall be the respondent in any such case, unless the mentally retarded person is in a private facility or a Veterans' Administration Hospital, in which case the private facility or the Veterans' Administration Hospital shall be named as the respondent.*

*(b) The petition shall be in the form and contain data as may be designated by the Maryland Rules.*

*(c) The petitioner may request that his petition be heard by a jury, and thereafter, such trial shall proceed as in a civil action at law.*

*(d) The issues to be determined are:*

*(1) Is the person mentally retarded?*

*(2) Is the condition of such a nature that for the protection or adequate care of himself or others, the person needs in-residence care or treatment?*

*If the jury or court sitting as a jury answers both questions affirmatively, the court shall remand the person to the custody of the facility or Veterans' Administration Hospital from which he petitioned for release. If either question is answered in the negative, the petitioner shall be released from the facility or Veterans' Administration Hospital.*

*(e) Appeals may be taken from decisions on petitions as in any other equity cases and may be taken by the petitioner or the respondent.*

*(f) Records of all such proceedings shall be made a permanent part of the record of each mentally retarded person.*

*(g) Once a mentally retarded person has had a determination on the merits of any one petition filed by OR FOR him pursuant to this section, no subsequent petition prepared by or for him shall be heard by a court of equity within one year of such prior determination, unless, in addition to all other required data, the petition is accompanied by a valid affidavit showing improvement of the mentally retarded person's condition subsequent to the trial. When filed, the petition and affidavit shall be reviewed by the court, and if the court, after review, determines that the matter should be re-opened, the petition shall be heard as provided in this section.*

## **15. Transfer Generally**

*(a) If the Director or his designee determines that:*

*(1) any mentally retarded person can receive better care or treatment;*

*(2) the safety or welfare of other mentally retarded persons would be better ensured; or*

*(3) the mentally retarded person would more likely profit from care or treatment at another facility if such person is transferred to another facility, public or private, such transfer may be made. No such transfer shall be made to a private facility unless such facility agrees.*