

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Appropriations Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 206
Unaccompanied Minors in Need of Shelter and Supportive
Services
DATE: January 28, 2020
(1/28)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 206. This bill defines “unaccompanied minor in need of shelter” as a minor who: (1) is not in the physical custody of a parent or guardian and lacks a fixed, regular, and adequate nighttime residence; or (2) whose status or circumstances indicate a significant danger of experiencing homelessness in the near future. The bill directs service providers to register with the Department of Housing and Community Development (Department) before providing shelter and supportive services under this subtitle, and also to obtain written consent from the minor, including the minor’s age, guardianship status, and living situation. The bill also directs the Department to maintain a registry of all such services providers.

While the bill’s intentions are laudable, it is at odds with the existing statutes and case law protecting minors and the rights of parents in these circumstances.

The bill’s definition of an “unaccompanied minor in need of shelter” is broad enough to encompass the Child In Need of Assistance (CINA) statute’s definition of a “child” (an individual under the age of 18 years) requiring court intervention because: “(1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) The child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” Md. Code, Cts. & Jud. Proc. § 3-801. A minor who is not in the physical custody of a parent or guardian and who lacks a fixed, regular, and adequate nighttime residence is potentially a CINA, and should be in the care of the Department of Social Services, with court oversight. The effect of this bill would be to reroute an unknown number of CINA cases to the Department of Housing and Community Development.

Furthermore, a minor whose circumstances indicate a significant danger of experiencing homelessness in the near future may or may not be a CINA—the language is very vague and does not explain what circumstances might qualify a minor as “an unaccompanied minor in need of shelter” and who makes the determination.

The bill also does not seem to exclude a minor who IS in the physical custody of a parent or guardian and is in significant danger of experiencing homelessness in the near future. Accordingly, the bill raises serious due process issues for parents and guardians.

Finally, it is very troubling that under the bill a service provider—an entity of undefined professional qualifications—is authorized to make the determination that it is not in the child’s best interest to contact a parent, guardian, or adult relative. That is a determination best left for the court to make. The statutory schemes found in the Family Law Article and the Courts and Judicial Proceedings Article establish the court’s role, acting on behalf of the State, as *parens patriae* over youth who are at risk. *See In re Mark M.*, 365 Md. 687, 707, (2001)(“A trial court, acting under the State’s *parens patriae* authority, is in the unique position to marshal the applicable facts, assess the situation, and determine the correct means of fulfilling a child’s best interests.”). Moreover, the bill also states that if the service provider decides not to contact the minor’s parents, the service provider can instead contact “another adult identified by the unaccompanied minor.” There is no mention of any vetting process. This provision carries serious safety implications, such as human trafficking.

cc. Hon. Carol Krimm
Judicial Council
Legislative Committee
Kelley O’Connor