



Montgomery County

Office of Intergovernmental Relations

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HB 698

DATE: February 14, 2024

SPONSOR: Delegates Bartlett and Peña-Melnyk

ASSIGNED TO: Judiciary

CONTACT PERSON: Leslie Frey

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POSITION: UNFAVORABLE (Department of Health and Human Services)

Estates and Trusts - Guardianship of the Person of a Disabled Person - Expedited Proceedings

House Bill 698 requires a court to rule on a petition to appoint a guardian of the person of an alleged disabled person within ten days if the purpose of the petition is to seek transfer or discharge of the person from a hospital. The bill also requires that such hearings to appoint a guardian of the person of a disabled person be held virtually unless the party seeking appointment requests that the hearing be held in person.

While House Bill 698 seeks to relieve hospitals of the care of an alleged disabled person in an expedited manner, it does so at the cost of consideration of the person's self-determination; time to consider the least restrictive intervention for the person; adequate time for county Adult Protective Services (APS) programs to assess the person's income, assets and potential need for guardianship of property to determine whether the placement can be afforded by the person; and adequate time for the assessment of the safety and appropriateness of the potential placement options.

Under the bill, county APS programs will have to investigate and respond to petitions to obtain consent to discharge or transfer an alleged disabled person on a timeline that is much shorter than currently required; currently under Maryland Rule 2-321, parties must generally file an answer within 30 days of service. The bill would condense this timeframe down to less than ten days. Additionally, the bill does not provide notice to interested persons as is required in other emergency petitions- typically a 24-hour notice requirement in other emergency petitions.¹ Further, other statutes related to guardianship and emergency guardianship do not require virtual hearings.² We respectfully question whether the emergency of obtaining hospital discharge or transfer is substantially more significant than other emergencies under statute that would necessitate the need for virtual testimony. Finally, the bill amends the Estates and Trusts Article 13-705(f) which deals specifically with guardianship in connection with medical treatment. Although "medical treatment" is not defined in statute or caselaw, consent to discharge or transfer from hospital may not fall within the definition of treatment. Generally, this statute has been used for alleged disabled person who require time-sensitive emergency surgery or treatment and a guardian of the person was required for the treatment.

For these reasons, Montgomery County Department of Health and Human Services respectfully urges the committee to issue an unfavorable report on House Bill 698.

¹ Md. Estates and Trusts 13-709(e) and Md. Rule 10-211

² Md. Estates and Trusts 13-709(f) and Md. Rule 10-104