



8601 Robert Fulton Dr  
Suite 140  
Columbia, MD 21046



## MARYLAND DEVELOPMENTAL DISABILITIES COALITION

Dedicated to the rights and quality of life for people with developmental disabilities in Maryland



1500 Union Avenue  
Suite 2000  
Baltimore, MD 21211

### HB 698- Estates and Trusts - Guardianship of the Person of a Disabled Person - Expedited Proceedings

Judiciary Committee

February 14, 2024

**Position: Oppose**



8835 Columbia 100 Pky  
Suite P  
Columbia, MD 21044

The Maryland Developmental Disabilities Coalition is comprised of five statewide organizations that are committed to improving the opportunities and outcomes for Marylanders with intellectual and developmental disabilities (IDD).



**Maryland Developmental  
Disabilities Council**

217 E Redwood Street  
Suite 1300  
Baltimore, MD 21202

In 2022, Senate 559 passed during the legislative session and Maryland's Supported Decision Making (SDM) law went into effect October 01, 2022. The purpose of our SDM law is to assist adults in: (1) Obtaining support for the adult in making, communicating, or effectuating decisions that correspond to the will, preferences, and choices of the adult; and (2) Preventing the need for the appointment of a substitute decision maker for the adult, including a guardian of the person or property.<sup>1</sup>



7000 Tudsbury Road  
Windsor Mill, MD  
21244

The adoption of SDM is in line with the recommendations of national experts and MD workgroups, which includes a 2011 report which found that "less restrictive alternatives" are a more efficient approach to facilitating moving an adult disabled person to a less restrictive and appropriate setting in an expedited time frame, not implementing a "temporary limited" guardianship policy.<sup>2</sup>

Additionally, Md. Code, Est. & Trusts § 13-705(f) already provides a mechanism for an expedited hearing process for decisions related to

<sup>1</sup> Md. Code, Est. & Trusts § 18-102

<sup>2</sup> See, [MD 2011 Report of the Workgroup on Hospitalized Adult Disabled Persons – Appointment of Temporary Limited Guardian](#); [May 2016 Guardianship Work Group Report and Recommendations](#); [ABA PRACTICAL Tool](#).

medical decisions, which includes the discharge and transfer process. Rather, the real barrier for many patients during the discharge and transfer process is not the lack of a guardian, but the lack of affordable, accessible and safe discharge locations. HB0698 does not address the question of where the patient will actually be discharged/transferred to and as drafted does not require petitioners to confirm that a discharge/transfer location has actually been identified.

However, even if a discharge/transfer location is identified these placements can be lost quickly, sometimes within the same day, and no guardianship process can solve this problem.<sup>3</sup> Rather, it may have the unintended consequence of exasperating an already strained medical system and placing patients at risk of unsafe discharge/transfer placements by prioritizing the need to discharge/transfer over the patient's needs.

In recognition of these issues, the federal Administration on Community Living (ACL) funded a two-year initiative to disrupt the "Hospital to Guardianship Pipeline." Close to a million dollars has been invested in the work to thoroughly examine contributing factors, and to create a report and toolkit to be used by the Judiciary and Healthcare Providers. The work of this group is expected to be completed by August 2024.<sup>4</sup>

HB 698 is not aligned with the recommendations and findings of national and local experts and workgroups. Additionally, as drafted HB 698 is broader than its proposed purpose of ensuring timely discharges and transfers from hospitals. We are deeply concerned about the risks HB 698 creates for people with disabilities being placed under unnecessary, plenary guardianship orders.

Contact:

Randi A. Ames, Managing Attorney, Disability Rights Maryland

[RandiA@DisabilityRightsmd.org](mailto:RandiA@DisabilityRightsmd.org)

---

<sup>3</sup> See, MHA [Executive Summary: Behavioral Health Discharge Delays in Maryland Hospitals](#); "Dealing with Disability: Physical Impairments & Homelessness." Healing Hands, vol. 6, no. 6, Nashville: Health Care for the Homeless Clinicians' Network, National Health Care for the Homeless Council, October, 2002.

<sup>4</sup> [Elder Justice Innovations Profile: Maryland](#)