

March 10, 2020

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The Hon. Luke H. Clippinger
Chair, Committee on Appropriations
101 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: **HB 1588: SUPPORT**

Dear Chairman Clippinger and Members of the Committee:

I write in two capacities: first, as counsel for the class of Baltimore City foster children in the federal class action *L.J. v. Massinga*, and second, as co-counsel, with Disability Rights Maryland, in the *Doe v. MDH* case, which addresses some of the protections at issue in HB 1588.

I support passage and enactment of HB 1588, which closes a gaping loophole in our system for protecting children placed in private residential treatment centers (“RTC”s) licensed by the Maryland Department of Health (“MDH”) from sexual assault. Under current law, pursuant to the “*Doe*” settlement, individuals who are placed in MDH psychiatric hospitals and facilities, as well as children placed in Regional Institutes for Children and Adolescents (“RICAs”), must have individualized “protection plans” and other safeguards against sexual assault and mandated procedures for investigating such claims. Likewise, individuals who attend MDH day programs receive certain (but lesser) protections under the “*Demby*” regulations. HB 1588 expands upon those protections and extends them to children in private RTCs and mandates use of protective plans at all MDH facilities. This closes an important loophole in the system for protection against sexual assault.

Last year’s arrest of three employees at the Jefferson School and the discovery of widespread sexual abuse at that private RTC facility make this legislation imperative. It is certainly possible that, had the full array of protections and procedures required by the *Doe* settlement been in place at RTCs, some of the abuse might have been prevented.

That said, HB 1588 does not go far enough. Maryland should have a uniform set of safeguards and investigatory procedures for all residents or patients at MDH-licensed facilities. Otherwise, the system becomes confusing and the requirements will overlap and become difficult to follow. For instance, under HB 1588, SETTS (Secure Evaluation and Therapeutic Treatment Centers) will be added to the statutory definition of “facility” and therefore made subject to the lesser *Demby* regulations when they already have maximum protection under the *Doe* settlement. Protective plans are not defined and will be decided by future MDH regulation, even though, under

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the *Doe* settlement, they are carefully and extensively defined. The regulations mandated by the *Doe* settlement are overdue and have not yet been promulgated by MDH; legislative action either to codify *Doe* or to compel immediate compliance would be helpful.

In sum, HB 1588 is a good start, but I hope that, next year, the General Assembly will pass a bill that achieves full harmony of requirements across the spectrum of MDH programs.

Thank you again in protecting children placed in RTCs. I would be happy to answer any questions the Committee might have about these matters.

Very truly yours,

/s/ Mitchell Y. Mirviss