



HB 766 – Children – Residential Treatment Centers – Education Funding

Committee: House Ways and Means

Date: February 23, 2022

POSITION: Support

The Maryland Coalition of Families: Maryland Coalition of Families (MCF) helps families who care for a loved one with behavioral health needs. Using personal experience, our staff provide one-to-one peer support and navigation services to family members with a child, youth or adult with a mental health, substance use or gambling issue.

MCF strongly supports HB 766.

In 2007, the Maryland General Assembly passed legislation that established the “Voluntary Placement Agreement” (VPA) process. The goal was to stop the practice of custody relinquishment, whereby a family with private insurance gave up custody of their child to the state so that the child could receive the mental health treatment that they so desperately needed (and was not covered by private insurance). Parents would lose all parental rights, were charged with child abandonment, and were placed on a child abuse registry.

The VPA process was meant to provide an alternative. Parents could “voluntarily” place their child in the custody of the state to access mental health treatment. They would lose legal custody, but maintain parental rights. They could terminate the contract at any time and regain legal custody. HB 1226 of the 2007 legislative session tasked the then Department of Human Resources with the responsibility of managing the VPA program, and the administration of processing Voluntary Placement Agreements was assigned to the local DSSs. The fiscal note at the time said that the local departments could administer the program with existing resources.

Fast forward 15 years. The VPA process has morphed into something that was not originally anticipated. Families with Medicaid (which covers treatment in an Residential Treatment Center if it is deemed medically necessary) must do a VPA if their child does not have a non-public school placement on an Individualized Education Plan (since most RTCs have their residents attend the RTC’s non-public school). This has created a two tier system. Families whose child is on Medicaid and has a non-public school placement on their IEP need only go to the Local Behavioral Health Authority (LBHA)/Core Service Agency (CSA) for a determination that the child meets medical necessity criteria, and receive assistance applying to RTCs. Families with a child on Medicaid who does not have a non-public school placement on their

IEP (most have IEPs, however) must go through the VPA process and give child welfare the legal custody of their child. They must have a home study done by DSS, go to court if the child is in the RTC longer than 180 days, and pay child support, which can be assessed at amounts of \$1,500 - \$2,000/month for a middle class family.

This two tier system should not exist. One family should not have to place their child in the custody of DHS simply because their child does not have a non-public school placement. All children with Medicaid, regardless of their school placement, should be able to access the psychiatric treatment they require without their family having to enter the child welfare system. Currently, State General Funds pay for the educational component of an RTC for children without a non-public school placement. Those dollars could (and should) run through MDH instead of DHS.

The situation is not uncommon. Two families have submitted testimony today who had to go through the VPA process in order to access the psychiatric treatment that their child needed in an RTC simply because their child did not have a non-public school placement. One family never actually had the VPA approved, but was told instead that she should relinquish custody of her child to the state. We have come full circle. **I urge you to read the stories of Ms. Colbert and Ms. Graber-Hayes.**

HB 766 would place the administrative task of approving psychiatric placement in an RTC on the LBHAs/CSAs, where it rightly belongs. Some LBHAs/CSAs have expressed concern that this will place an additional administrative burden on them, which they aren't able to absorb. We sympathize with this concern. That is why the bill designates one position at the Behavioral Health Administration (BHA) to assist the locals with the administrative tasks that need to be managed (which the LBHAs/CSAs are already handling for children with non-public school placements). The bill has an implementation date of July 2023, in order to give BHA and the locals time to work out policies and promulgate regulations.

The system as it exists now is absurd. No family with a Medicaid-eligible child should have to enter the child welfare system simply to access psychiatric treatment that is covered by Medicaid.

We urge a favorable report on HB 766.

Contact: Ann Geddes
Director of Public Policy
The Maryland Coalition of Families
10632 Little Patuxent Parkway, Suite 234
Columbia, Maryland 21044
Phone: 443-926-3396
ageddes@mdcoalition.org

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Thraia Colbert
38 Juliana Circle East
Annapolis, MD 21401
443-994-1612
tyraialc@gmail.com

I would like to ask you to support HB 766.

I have a son, Kaden, who is now 17, who was diagnosed with autism spectrum disorder at the age of 13. He has also been diagnosed with Disruptive Mood Disorder and Anxiety Disorder. As an adolescent, he became very aggressive – extremely so. He saw a therapist and psychiatrist, had intensive outpatient treatment at Kennedy Krieger Institute, and we got 8 weeks of in-home services through a program with crisis response, and still things got worse. Over the course of 9 months, I was calling the police once or twice a week because of his violent outbursts. About 7 times over that period he went into inpatient hospitalization. They would keep him for a week or two, change his medications, and send him home. He never got any better. One time he spent 75 days in the hospital, waiting for a bed in a Residential Treatment Center.

During that time, I was working to get a Voluntary Placement Agreement so that he could get into an RTC. We needed to do a VPA because even though he was on Medicaid, he did not have a non-public school placement on his IEP. This was a long and hard process. I had to meet with a panel of people from DSS and go over all the documentation that I had of everything that had been happening over the last few years. I had to show that I had done everything possible in the community to try to get my son and our family help. Then DSS had to come into my home. Finally, they approved the VPA. DSS took legal custody of Kaden, so I was ordered to pay child support. At first this was set at \$450 month, but I pled with them that I couldn't afford that, and it was reduced to \$300 month.

I can't afford \$300/month either. I have another son at home with a disability. I live from paycheck to paycheck, and the only expense of mine that has changed by having Kaden in an RTC is that my grocery bill is a little bit lower. I am behind in my child support, and don't know when I'll be able to catch up.

If HB 766 had been in effect, I wouldn't have had to get a Voluntary Placement Agreement. Things might have gone faster, I wouldn't have had to relinquish legal custody of my son, and I wouldn't have to be paying child support that I can't afford.

Please pass HB 766 so that other families can avoid some of the things that my family had to go through.

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Chelsea Graber-Hayes

16 Francis Street

Annapolis, MD 21401

(Identification # ACP 11031)

graber.chelsea@gmail.com

Please vote in favor of HB 766. Had this bill been the law, it would have saved my family a huge amount of trauma and cost.

I have 6 children. 4 girls were adopted by me at a young age. All had Reactive Attachment Disorder and PTSD (from abuse). Two also had bipolar disorder.

The 3 of the girls that were adopted all ended up needing residential treatment. There were two ways I could get them into an RTC:

1. Pay an attorney thousands of dollars in order to get a non-public school placement on their IEP
2. Do a Voluntary Placement Agreement, place my child back in the custody of DSS, have a home study done by DSS, and pay child support

For my first adopted daughter, Samantha, who did not have a non-public school placement, I paid an attorney \$7,000 to get a non-public on her IEP. We prevailed in the proceedings against the school, so I didn't need to do a VPA. Samantha entered a residential treatment center.

For my second adopted daughter, Tiffany, I had to do a VPA. Not only did she not have a non-public on her IEP, but DSS decided to place her in a therapeutic group home. My daughter had to go back into the custody of DSS (with all that entails), and I paid approximately \$800/month of child support. I am a single mom.

For my third adopted daughter, Sabrina, I had to do a VPA since she did not have a non-public school placement on her IEP. While waiting for the VPA to be approved (which took 4 months), she went into the emergency department 5 or 6 times. DSS came into the home, did a home study, and I was again levied about \$800/month of child support.

I also have a biological son, who has been diagnosed with Disruptive Mood Dysregulation Disorder, ADHD, Autism Spectrum Disorder, and PTSD. He has had 14 inpatient hospitalizations. I went to do a VPA, but not only was I told I'd have to pay a lot in child support,

they told me they'd have to contact his biological father, who was in prison for 20 ½ years for trying to kill me and my son in 2006. This simply was not an option (we are in a protection program). So I just left my son in the hospital and refused to take him home. He was in that hospital (admitted to a medical floor and receiving no mental health treatment) for 81 days before he was placed in an RTC. The hospital called Child Protective Services on me three times for child abandonment, but I did not care. I could not take him home. He was a danger to the rest of my family.

Still, even with him in an RTC, I would have had to pay child support since he did not have a non-public school placement on his IEP, so I paid an attorney \$5,000 to fight with the school and get him a non-public placement. We won, so I do not have to pay child support. I still have attorney fees to keep his IEP intact.

Please vote in favor of HB 766.