

HEALTH AND GOVERNMENT OPERATIONS COMMITTEE
HOUSE BILL 1359: FACILITIES - DISABILITIES AND JUVENILES - COMMUNITY
RELATIONS PLANS
March 01, 2024
Position: Oppose

Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to participate fully in all aspects of community life and champion their rights to self-determination, dignity, equality, opportunity, and freedom from discrimination and harm.

HB1359 requires “Community Relations Plans” for residential centers serving people with intellectual and developmental disabilities (I/DD) licensed by the Developmental Disabilities Administration (DDA). These plans would have to include the procedures and processes for addressing complaints and general activity around the residential center, the plans would need to be updated regularly, and providers would need to get feedback from the community. HB 1359 would subject people with I/DD living in residential centers licensed by DDA to different treatment and standards than their nondisabled peers and disabled peers residing in congregate settings not covered under this bill, such as assisted living facilities (ALF). DRM opposes HB1359 since it is discriminatory against people with I/DD and likely violates Federal law, in particular Medicaid’s Home and Community Based Services (HCBS) Settings Rules¹ and the Fair Housing Amendments Act (FHAA)², and Maryland law³.

Pursuant to 42 CFR § 441.530(a)(1), Maryland must ensure DDA funded residential centers have particular qualities, including the following:

“(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

...

(vi)(A) The unit or dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the State, county, city or other designated entity.”

The requirement of “Community Relations Plans” under HB1359 has the potential of violating a resident’s privacy and freedom of coercion in requiring community input and involvement in what is supposed to be the person’s home. This bill may also impact the rights under Maryland’s landlord/tenant law if a “violation” of the plan could be cause for eviction. Additionally, DDA

¹ 42 CFR § 441.530

² 42 U.S.C. §§ 3601 - 3619

³ MD Health-Gen Code § 10-518(b); § 7-603(b)(1) (mandating that a small private group home be “deemed conclusively a single-family dwelling”)

funded residential centers are being treated differently than ALFs that receive funding through Maryland’s Home and Community-Based Options Waiver.⁴ Such discriminatory practices and non-compliance with the HCBS Settings Rules, as proposed under HB1359, could lead to a reduction in Maryland’s Medicaid federal funding.

Maryland Health-Gen Code § 7-603 provides:

“(b)(1) To avoid discrimination in housing and to afford a natural, residential setting, a group home or an alternative living unit for individuals with developmental disability:

- (i) Is deemed conclusively a single-family dwelling;
- (ii) Is permitted to locate in all residential zones; and
- (iii) May not be subject to any special exception, conditional use permit, or procedure that differs from that required for a single-family dwelling.”

Additionally, the FHAA prohibits discrimination “against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap...” By requiring a plan and community involvement for the residential centers funded by DDA HB1359 imposes a requirement not imposed on any similar congregate homes. This is discriminatory as it is only directed at people with I/DD.

In FY2023, 6,760 people with I/DD received residential services from DDA providers throughout Maryland.⁵ These services help people with I/DD live as independently as possible at home, rather than an institution, and be integrated in their community. State and federal law sets out protections for people with I/DD to live in their communities free of discrimination. HB1359 is at odds with these principles and protections.

For these reasons, DRM strongly opposes House Bill 1359 and urges an unfavorable report.

Respectfully,

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⁴ COMAR 10.09.54.13

⁵ DDA Budget Analysis of the FY 2025 Maryland Executive Budget, 2024, *see* pg. 11