

Support with Amendments HB980

Family Law and State Government – Child Protection and the Office of the Child Welfare Ombudsman (Kanaiyah’s Law) - Testimony of Meyerhoff Center for Families, Children and the Courts.

Tuesday, February 24, 2026

House Judiciary Committee

Chair Bartlett, Vice-Chair Davis and Members of the Committee:

Shanta Trivedi serves as the Faculty Director and Aubrey Edwards-Luce is the Executive Director of the Sayra and Neil Meyerhoff Center for Families, Children, and the Courts (CFCC) at the University of Baltimore School of Law. CFCC envisions communities where children and families thrive without unnecessary involvement in the legal system. We engage communities as we work tirelessly to transform systems that create barriers to family well-being. Additionally, Professor Trivedi teaches courses on Family Law and the Child Welfare System and writes about the child welfare system, particularly as it affects low-income and minority families. Professor Trivedi has also represented hundreds of parents who have been separated from their children or who were at risk of being separated while Director Edwards-Luce has represented hundreds of children in these proceedings. **We urge you to support HB980 with amendments.**

The provisions of HB980 that we oppose deal with: 1) the complete ban on unlicensed foster homes 2) the location of the Office of the Ombudsman in the Attorney General’s Office; and 3) the extension of authority for DHS and the courts to continue to receive information about families once a guardianship has been ordered. We would support this bill if these amendments were removed.

First, with respect to unlicensed foster homes, allowing a blanket ban on these homes will create significant barriers to kinship placements, which are widely recognized as the most stable and beneficial option for children removed from their parents. Kinship caregivers—grandparents, aunts, uncles, and other relatives—often step forward immediately when a child is removed, providing continuity, cultural connection, and emotional security during a traumatic time. However, many of these relatives cannot meet licensing requirements quickly, if at all. Licensing standards often include physical home requirements (such as separate bedrooms for each child, specific square footage, or updated electrical systems) that low-income families cannot afford, as well as background check provisions that may disqualify relatives for minor or decades-old offenses unrelated to child safety. A blanket ban on unlicensed placements forces children into non-relative foster care—often with strangers—while their willing and capable family members navigate a lengthy, and sometimes impossible licensing process.

Second, housing the Office of the Ombudsman in the Attorney General’s office is a conflict of interest. The Attorney General’s office represents the Department of Human Services and therefore is not independent. This office should be housed separately or as part of another office without a similar conflict.

Third, with respect to the provisions that extend DHS’s authority once a final guardianship has been ordered, these provisions are fundamentally at odds with core principles of family law, constitutional protections, and sound child welfare policy. We will address five critical concerns:

I. This Bill Violates Family Integrity and Constitutional Rights

Once a guardianship is granted, the court has made a legal determination that the guardian is fit to care for the child and that the arrangement serves the child's best interests. At that point, the guardian stands in the shoes of a parent with all the constitutional protections that entails.

The Supreme Court has long held that parents have a fundamental liberty interest in the care, custody, and control of their children.¹ Guardians—who have been vetted, approved by a court, and entrusted with a child's welfare—are entitled to the same respect and protection.

This bill treats guardians as perpetual suspects. It subjects them to ongoing state surveillance without any allegation of harm or wrongdoing. That is not how we treat parents in intact families, and it should not be how we treat guardians who have stepped up to care for children, often members of their own families.

II. This Bill Undermines Finality and Stability for Children

Children in the child welfare system need permanency and stability. If children cannot be with their parents, guardianship is meant to provide that. It is a legal endpoint—a recognition that the child has found a safe, permanent home.

These provisions would destroy that finality. It tells children, guardians, and biological parents that guardianship is not really permanent—that CPS can come back at any time, reopen the case, and potentially disrupt the placement. That uncertainty is harmful to children who have already experienced trauma and instability.

It also sends a chilling message to potential guardians: *Even after you go through the process, even after the court approves you, the state will continue to watch you.* This will discourage people from stepping forward, particularly kinship caregivers who may already be wary of the system.

III. We Are Not Taking Care of the Foster Children We Already Have

Before we expand CPS authority, we need to reckon with the system's current failures. Maryland's foster care system is already overwhelmed. We have children sleeping in CPS offices, hotels and hospitals because there are no available placements, caseworkers carrying caseloads far beyond recommended limits, insufficient services for children with complex trauma and behavioral health needs and a chronic shortage of foster homes, particularly for sibling groups and teens.

We cannot adequately serve the children currently in our care. Expanding CPS's mandate to surveil guardianship families will divert already-scarce resources away from children who are in immediate danger. It is a misallocation of resources that will make the system less effective, not more.

IV. This Bill Will Discourage Guardianship and Adoption

Guardianship and adoption are critical permanency options, particularly for kinship caregivers who may not want to or be able to adopt but are willing to provide a permanent home. This bill makes guardianship less attractive by subjecting guardians to indefinite state oversight.

If this bill passes, potential guardians will ask: *Why would I take on this responsibility if it means CPS can investigate me whenever they want, even after the case is closed?* Many will choose to walk away, leaving children in long-term foster care—a far worse outcome.

¹ *Troxel v. Granville*, 530 U.S. 57 (2000); *Stanley v. Illinois*, 405 U.S. 645 (1972).

The same logic applies to adoption. If the state can surveil guardians indefinitely, what prevents the legislature from extending this authority to adoptive parents next? After all, they too were once involved with the child welfare system. This is a slippery slope that threatens all forms of permanency.

V. If We Apply This Logic Consistently, We Would Surveil All Families

Guardianship is a court-created legal relationship, but so are many others. Divorce and custody arrangements are court-ordered. Should CPS have ongoing access to information about every divorced parent? Stepparent relationships are created through marriage and often involve court proceedings. Should CPS monitor them indefinitely? Kinship care arrangements outside of the foster system exist in many families. Should CPS have authority to investigate grandparents, aunts, and uncles raising children informally and require them to report if someone new moves into their home?

The answer to all of these is no. We trust parents and guardians to make consequential decisions about children's lives every day. We do not subject them to perpetual state surveillance unless there is a specific, credible allegation of harm.

Guardians are no different. They have been evaluated, approved, and entrusted with a child's care. They deserve the same presumption of fitness that we extend to all parents, including who is able to live in their own home.

These provisions are simply unnecessary. If a guardian is harming a child, existing law already allows CPS to investigate based on a report of abuse or neglect. There is no need to create a special, invasive regime for guardianship families.

We urge you to consider amending this bill to remove the provisions related to DHS's authority once a guardianship order has been entered.