

HOUSE BILL 406

D4, J1
HB 1382/20 – APP

2lr1860

By: **Delegate Reznik**

Introduced and read first time: January 19, 2022

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Children in Out-of-Home Placements – Placement in Medical Facilities**

3 FOR the purpose of altering the circumstances under which a court may commit a child for
4 inpatient care and treatment in a psychiatric facility; establishing requirements and
5 procedures for the placement by local departments of social services of certain
6 children in medical facilities; authorizing a hospital, an emergency facility, or an
7 inpatient facility to petition a court to compel a local department to remove a child
8 from the hospital, emergency facility, or inpatient facility under certain
9 circumstances; requiring the Department of Human Services to make a certain
10 payment for a certain violation of this Act; establishing the Foster Child Support
11 Fund as a special, nonlapsing fund; prohibiting an emergency facility from admitting
12 or keeping a certain minor beyond a certain period of time under certain
13 circumstances; establishing the Task Force to Examine the Placement of Foster
14 Children in Emergency Departments; and generally relating to the placement in
15 medical facilities of children in out-of-home placements.

16 BY repealing and reenacting, without amendments,
17 Article – Courts and Judicial Proceedings
18 Section 3–819(b)(1)(iii)2.C.
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Courts and Judicial Proceedings
23 Section 3–819(h)
24 Annotated Code of Maryland
25 (2020 Replacement Volume and 2021 Supplement)

26 BY adding to
27 Article – Family Law
28 Section 5–533.1

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2019 Replacement Volume and 2021 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Health – General
5 Section 10–620(a) and (d) and 10–624(b)
6 Annotated Code of Maryland
7 (2019 Replacement Volume and 2021 Supplement)

8 BY adding to
9 Article – Health – General
10 Section 10–624(c)
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – State Finance and Procurement
15 Section 6–226(a)(2)(i)
16 Annotated Code of Maryland
17 (2021 Replacement Volume)

18 BY repealing and reenacting, with amendments,
19 Article – State Finance and Procurement
20 Section 6–226(a)(2)(ii)144. and 145.
21 Annotated Code of Maryland
22 (2021 Replacement Volume)

23 BY adding to
24 Article – State Finance and Procurement
25 Section 6–226(a)(2)(ii)146.
26 Annotated Code of Maryland
27 (2021 Replacement Volume)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
29 That the Laws of Maryland read as follows:

30 **Article – Courts and Judicial Proceedings**

31 3–819.

32 (b) (1) In making a disposition on a CINA petition under this subtitle, the
33 court shall:

34 (iii) Subject to paragraph (2) of this subsection, find that the child is
35 in need of assistance and:

1 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2) “EMERGENCY FACILITY” HAS THE MEANING STATED IN § 10-620**
4 **OF THE HEALTH – GENERAL ARTICLE.**

5 **(3) “INPATIENT FACILITY” MEANS AN INSTITUTION OR A UNIT OF A**
6 **HOSPITAL THAT PROVIDES INPATIENT, MULTIDAY PSYCHIATRIC EVALUATION,**
7 **TREATMENT, AND CARE.**

8 **(4) “RESIDENTIAL CHILD CARE PROGRAM” MEANS A PROGRAM THAT:**

9 **(I) PROVIDES CARE FOR CHILDREN 24 HOURS A DAY WITHIN A**
10 **STRUCTURED SET OF SERVICES AND ACTIVITIES DESIGNED TO ACHIEVE**
11 **OBJECTIVES RELATED TO THE NEEDS OF THE CHILDREN SERVED; AND**

12 **(II) IS LICENSED BY THE MARYLAND DEPARTMENT OF HEALTH**
13 **OR THE DEPARTMENT OF HUMAN SERVICES.**

14 **(B) (1) A LOCAL DEPARTMENT MAY NOT:**

15 **(I) FAIL TO REMOVE A CHILD FROM A HOSPITAL, AN**
16 **EMERGENCY FACILITY, OR AN INPATIENT FACILITY AFTER A MEDICAL EXAMINATION**
17 **OF THE CHILD THAT RESULTS IN A DETERMINATION THAT THE CHILD DOES NOT**
18 **REQUIRE MEDICAL INTERVENTION OR CARE; AND**

19 **(II) DELIVER A CHILD TO A HOSPITAL, AN EMERGENCY**
20 **FACILITY, OR AN INPATIENT FACILITY IF A MEDICAL EVALUATION OF THE CHILD**
21 **THAT RESULTED IN A DETERMINATION THAT THE CHILD DID NOT REQUIRE MEDICAL**
22 **INTERVENTION OR CARE HAS OCCURRED WITHIN THE PREVIOUS 7 CALENDAR DAYS**
23 **AND THE CHILD DOES NOT EXHIBIT NEW BEHAVIOR OR SYMPTOMS.**

24 **(2) A LOCAL DEPARTMENT SHALL REMOVE A CHILD FROM AN**
25 **INPATIENT FACILITY WITHIN 4 HOURS AFTER:**

26 **(I) THE MEDICAL STAFF AT THE INPATIENT FACILITY**
27 **DETERMINES THAT THE CHILD NO LONGER MEETS CRITERIA FOR INVOLUNTARY**
28 **CIVIL COMMITMENT AND DISCHARGES THE CHILD; OR**

29 **(II) AN ADMINISTRATIVE LAW JUDGE ORDERS THE DISCHARGE**
30 **AND RELEASE OF THE CHILD FOLLOWING AN INVOLUNTARY COMMITMENT HEARING.**

31 **(3) (I) IF A LOCAL DEPARTMENT FAILS TO REMOVE A CHILD FROM**
32 **A HOSPITAL, AN EMERGENCY FACILITY, OR AN INPATIENT FACILITY IN ACCORDANCE**

1 WITH THIS SUBSECTION, THE HOSPITAL, EMERGENCY FACILITY, OR INPATIENT
2 FACILITY MAY PETITION A COURT TO COMPEL THE LOCAL DEPARTMENT TO REMOVE
3 THE CHILD.

4 (II) 1. THE DEPARTMENT SHALL PAY \$2,000 FOR EACH DAY
5 THAT A CHILD REMAINS AT A HOSPITAL, AN EMERGENCY FACILITY, OR AN
6 INPATIENT FACILITY IN VIOLATION OF THIS SUBSECTION TO THE COMMUNITY
7 HEALTH RESOURCES COMMISSION.

8 2. THE REVENUES FROM THE PENALTY SHALL BE
9 DISTRIBUTED TO THE FOSTER CHILDREN SUPPORT FUND.

10 (C) IF A LOCAL DEPARTMENT REQUESTS THE ADMISSION OF A CHILD IN ITS
11 CUSTODY INTO A HOSPITAL OR EMERGENCY FACILITY, THE LOCAL DEPARTMENT
12 SHALL PROVIDE TO THE HOSPITAL OR EMERGENCY FACILITY ANY INFORMATION
13 REGARDING ANY HOSPITALIZATION OR ATTEMPTED HOSPITALIZATION OF THE
14 CHILD WITHIN THE PREVIOUS 7 CALENDAR DAYS IF THE CHILD WAS RELEASED DUE
15 TO:

16 (1) THE INABILITY OF A LOCAL DEPARTMENT TO FIND ANOTHER
17 SUITABLE PLACEMENT FOR THE CHILD; OR

18 (2) A MEDICAL DETERMINATION THAT THE CHILD DID NOT REQUIRE
19 HOSPITALIZATION.

20 (D) (1) A LOCAL DEPARTMENT SHALL IMMEDIATELY BEGIN PLACEMENT
21 PLANNING FOR A CHILD WHO IS EVALUATED FOR INPATIENT MENTAL HEALTH CARE
22 BY AN EMERGENCY FACILITY OR INPATIENT FACILITY.

23 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 7
24 CALENDAR DAYS AFTER PLACING A CHILD IN AN EMERGENCY FACILITY OR
25 INPATIENT FACILITY FOR MEDICAL EVALUATION, A LOCAL DEPARTMENT SHALL
26 PROVIDE TO THE COURT A PLACEMENT PLAN FOR THE CHILD IDENTIFYING:

27 (I) PERMANENT, CONTINGENCY, EMERGENCY, OR TEMPORARY
28 PLACEMENT PLANS THAT MAY BE IMPLEMENTED WITHIN REQUIRED TIMELINES;

29 (II) FAMILY MEMBERS WILLING TO PARTICIPATE IN CLINICAL
30 AND DISCHARGE PLANNING AND IN-PROGRAM ACTIVITIES WITH THE CHILD; AND

31 (III) IF THE CHILD HAS A DISABILITY, PROVISIONS FOR THE
32 PAYMENT OF ACCOMMODATIONS NEEDED FOR A SUCCESSFUL COMMUNITY
33 PLACEMENT OF THE CHILD.

1 **(3) IF A CHILD IS DETERMINED TO REQUIRE INPATIENT**
2 **HOSPITALIZATION, THE COURT MAY AUTHORIZE AN EXTENSION OF THE TIME FOR**
3 **SUBMISSION OF THE PLACEMENT PLAN SPECIFIED IN PARAGRAPH (2) OF THIS**
4 **SUBSECTION.**

5 **(E) WHENEVER A CHILD IS MOVED TO A HOSPITAL, AN EMERGENCY**
6 **FACILITY, OR AN INPATIENT FACILITY, BETWEEN A HOSPITAL, AN EMERGENCY**
7 **FACILITY, OR AN INPATIENT FACILITY, OR FROM A HOSPITAL, AN EMERGENCY**
8 **FACILITY, OR AN INPATIENT FACILITY TO A PLACEMENT IN ACCORDANCE WITH A**
9 **PLACEMENT PLAN, A LOCAL DEPARTMENT SHALL IMMEDIATELY NOTIFY THE**
10 **OFFICE OF THE PUBLIC DEFENDER'S MENTAL HEALTH DIVISION.**

11 **(F) (1) IN THIS SUBSECTION, "FUND" MEANS THE FOSTER CHILDREN**
12 **SUPPORT FUND.**

13 **(2) THERE IS A FOSTER CHILDREN SUPPORT FUND.**

14 **(3) THE PURPOSE OF THE FUND IS TO PROVIDE RESOURCES AND**
15 **SUPPORT TO CHILDREN IN OUT-OF-HOME PLACEMENTS AND ORGANIZATIONS WITH**
16 **A FOCUS ON SUPPORTING CHILDREN IN OUT-OF-HOME PLACEMENTS IN THE STATE.**

17 **(4) THE COMMUNITY HEALTH RESOURCES COMMISSION SHALL**
18 **ADMINISTER THE FUND.**

19 **(5) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
20 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

21 **(II) THE STATE TREASURER SHALL HOLD THE FUND**
22 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

23 **(6) THE FUND CONSISTS OF:**

24 **(I) REVENUE DISTRIBUTED TO THE FUND UNDER SUBSECTION**
25 **(B)(3) OF THIS SECTION;**

26 **(II) MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
27 **FUND;**

28 **(III) INTEREST EARNINGS; AND**

29 **(IV) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
30 **FOR THE BENEFIT OF THE FUND.**

1 **(7) THE COMMUNITY HEALTH RESOURCES COMMISSION MAY**
2 **DETERMINE THE USES OF THE FUND IN ORDER TO SUPPORT CHILDREN IN**
3 **OUT-OF-HOME PLACEMENTS AND ORGANIZATIONS THAT FOCUS ON SUPPORTING**
4 **CHILDREN IN OUT-OF-HOME PLACEMENTS, INCLUDING FOR EXPENSES INCURRED**
5 **OPERATING THE FUND.**

6 **(8) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
7 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

8 **(II) ANY INTEREST EARNINGS OF THE FUND SHALL BE**
9 **CREDITED TO THE FUND.**

10 **Article – Health – General**

11 10–620.

12 (a) In Part IV of this subtitle the following words have the meanings indicated.

13 (d) (1) “Emergency facility” means a facility that the Department designates,
14 in writing, as an emergency facility.

15 (2) “Emergency facility” includes a licensed general hospital that has an
16 emergency room, unless the Department, after consultation with the health officer,
17 exempts the hospital.

18 10–624.

19 (b) (1) If the petition is executed properly, the emergency facility shall accept
20 the emergency evaluatee.

21 (2) Within 6 hours after an emergency evaluatee is brought to an emergency
22 facility, a physician shall examine the emergency evaluatee, to determine whether the
23 emergency evaluatee meets the requirements for involuntary admission.

24 (3) Promptly after the examination, the emergency evaluatee shall be
25 released unless the emergency evaluatee:

26 (i) Asks for voluntary admission; or

27 (ii) Meets the requirements for involuntary admission.

28 (4) An emergency evaluatee may not be kept at an emergency facility for
29 more than 30 hours.

30 **(C) FOR A MINOR IN THE CUSTODY OF A LOCAL DEPARTMENT OF SOCIAL**
31 **SERVICES, AN EMERGENCY FACILITY MAY NOT:**

1 **(1) KEEP THE MINOR LONGER THAN AUTHORIZED UNDER**
 2 **SUBSECTION (B) OF THIS SECTION DUE TO THE INABILITY OF THE LOCAL**
 3 **DEPARTMENT TO LOCATE AN APPROPRIATE ALTERNATIVE PLACEMENT FOR THE**
 4 **MINOR; OR**

5 **(2) ADMIT THE MINOR IF THE MINOR IS NOT EXHIBITING NEW**
 6 **BEHAVIOR AND THE MINOR:**

7 **(i) HAS BEEN DISCHARGED FROM ANOTHER EMERGENCY**
 8 **FACILITY WITHIN THE PAST 7 CALENDAR DAYS AND HAS NOT BEEN PLACED IN AN**
 9 **APPROPRIATE OUT-OF-HOME PLACEMENT BY THE LOCAL DEPARTMENT;**

10 **(ii) HAS BEEN RECENTLY RELEASED FROM AN INPATIENT**
 11 **PSYCHIATRIC HOSPITAL BY ORDER OF AN ADMINISTRATIVE LAW JUDGE; OR**

12 **(iii) HAS BEEN DISCHARGED BY THE INPATIENT PSYCHIATRIC**
 13 **TREATMENT TEAM OF THE FACILITY.**

14 **Article – State Finance and Procurement**

15 6–226.

16 (a) (2) (i) Notwithstanding any other provision of law, and unless
 17 inconsistent with a federal law, grant agreement, or other federal requirement or with the
 18 terms of a gift or settlement agreement, net interest on all State money allocated by the
 19 State Treasurer under this section to special funds or accounts, and otherwise entitled to
 20 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
 21 Fund of the State.

22 (ii) The provisions of subparagraph (i) of this paragraph do not apply
 23 to the following funds:

24 144. the Health Equity Resource Community Reserve Fund;

25 [and]

26 145. the Access to Counsel in Evictions Special Fund; **AND**

27 **146. THE FOSTER CHILDREN SUPPORT FUND.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) There is a Task Force to Examine the Placement of Foster Children in
 30 Emergency Departments.

31 (b) The Task Force consists of the following members:

1 (1) two members of the Senate of Maryland, appointed by the President of
2 the Senate;

3 (2) two members of the House of Delegates, appointed by the Speaker of
4 the House;

5 (3) the following members, appointed jointly by the President of the Senate
6 and the Speaker of the House:

7 (i) one attorney who serves as counsel for foster children in federal
8 class action litigation;

9 (ii) one representative of Maryland Legal Aid who represents
10 children in need of assistance;

11 (iii) one representative of the Office of the Public Defender;

12 (iv) one representative of the Maryland Association of Resources for
13 Families and Youth; and

14 (v) one representative of Disability Rights Maryland; and

15 (4) the following members, appointed by the Governor:

16 (i) one representative of the Department of Human Services;

17 (ii) one representative of the Department of Juvenile Services;

18 (iii) one representative of the Interagency Rates Committee;

19 (iv) one representative of the Maryland Department of Health;

20 (v) one representative of the State Department of Education; and

21 (vi) one representative of the Maryland Hospital Association.

22 (c) The President of the Senate and the Speaker of the House jointly shall
23 designate the chair of the Task Force.

24 (d) The Department of Human Services shall provide staff for the Task Force.

25 (e) A member of the Task Force:

26 (1) may not receive compensation as a member of the Task Force; but

1 (2) is entitled to reimbursement for expenses under the Standard State
2 Travel Regulations, as provided in the State budget.

3 (f) The Task Force shall:

4 (1) examine the placement of foster children in hospital emergency
5 departments and other issues related to the placement of children in out-of-home settings,
6 focusing especially on children with disabilities;

7 (2) ascertain the current shortages for appropriate placement settings in
8 the State;

9 (3) assess shortfalls in supportive services; and

10 (4) make recommendations on:

11 (i) resources needed to fill gaps in placement services;

12 (ii) a plan to develop needed resources and services;

13 (iii) a structure to maximize cooperation between the Maryland
14 Department of Health and the Department of Human Services in securing appropriate
15 placement for children in foster care; and

16 (iv) how to appropriately expand services for foster children
17 including intensive respite care, emergency foster homes, and other placement
18 alternatives.

19 (g) On or before December 31, 2022, the Task Force shall report its findings and
20 recommendations to the Governor and, in accordance with § 2-1257 of the State
21 Government Article, the General Assembly.

22 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act may be
23 interpreted to require a hospital, an emergency facility, or an inpatient facility to violate
24 the requirements of the federal Emergency Medical Treatment and Labor Act.

25 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take
26 effect October 1, 2022.

27 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
28 4 of this Act, this Act shall take effect June 1, 2022. Section 2 of this Act shall remain
29 effective for a period of 1 year and 1 month and, at the end of June 30, 2023, Section 2 of
30 this Act, with no further action required by the General Assembly, shall be abrogated and
31 of no further force and effect.