

HOUSE BILL 406

D4, J1
HB 1382/20 – APP

2lr1860

By: **Delegate Reznik**

Introduced and read first time: January 19, 2022

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2022

CHAPTER _____

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;~~ Maryland Department of Health or the
11 Department of Human Services to provide beds and ensure placement for certain
12 children and be subject to certain remedies for failure to provide beds; requiring a
13 certain facility to ensure that a child is placed in a certain environment; providing
14 that a certain facility may not be liable for certain federal violations under certain
15 circumstances; requiring the Governor to appoint a certain individual to coordinate
16 the carrying out of certain provisions of this Act; establishing the Foster Child
17 Support Fund as a special, nonlapsing fund; ~~prohibiting an emergency facility from~~
18 ~~admitting or keeping a certain minor beyond a certain period of time under certain~~
19 ~~circumstances;~~ establishing the Task Force to Examine the Placement of Foster
20 Children in Emergency Departments; and generally relating to the placement in
21 medical facilities of children in out-of-home placements.

22 BY repealing and reenacting, without amendments,

23 Article – Courts and Judicial Proceedings

24 Section 3–819(b)(1)(iii)2.C.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2020 Replacement Volume and 2021 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Courts and Judicial Proceedings
5 Section 3–819(h)
6 Annotated Code of Maryland
7 (2020 Replacement Volume and 2021 Supplement)

8 BY adding to
9 Article – Family Law
10 Section 5–533.1
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2021 Supplement)

13 ~~BY repealing and reenacting, without amendments,
14 Article – Health – General
15 Section 10–620(a) and (d) and 10–624(b)
16 Annotated Code of Maryland
17 (2019 Replacement Volume and 2021 Supplement)~~

18 ~~BY adding to
19 Article – Health – General
20 Section 10–624(e)
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2021 Supplement)~~

23 BY repealing and reenacting, without amendments,
24 Article – State Finance and Procurement
25 Section 6–226(a)(2)(i)
26 Annotated Code of Maryland
27 (2021 Replacement Volume)

28 BY repealing and reenacting, with amendments,
29 Article – State Finance and Procurement
30 Section 6–226(a)(2)(ii)144. and 145.
31 Annotated Code of Maryland
32 (2021 Replacement Volume)

33 BY adding to
34 Article – State Finance and Procurement
35 Section 6–226(a)(2)(ii)146.
36 Annotated Code of Maryland
37 (2021 Replacement Volume)

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

1 ~~(I) THE MEDICAL STAFF AT THE INPATIENT FACILITY~~
2 ~~DETERMINES THAT THE CHILD NO LONGER MEETS CRITERIA FOR INVOLUNTARY~~
3 ~~CIVIL COMMITMENT AND DISCHARGES THE CHILD; OR~~

4 ~~(H) AN ADMINISTRATIVE LAW JUDGE ORDERS THE DISCHARGE~~
5 ~~AND RELEASE OF THE CHILD FOLLOWING AN INVOLUNTARY COMMITMENT HEARING.~~

6 ~~(3) (I) IF A LOCAL DEPARTMENT FAILS TO REMOVE A CHILD FROM~~
7 ~~A HOSPITAL, AN EMERGENCY FACILITY, OR AN INPATIENT FACILITY IN ACCORDANCE~~
8 ~~WITH THIS SUBSECTION, THE HOSPITAL, EMERGENCY FACILITY, OR INPATIENT~~
9 ~~FACILITY MAY PETITION A COURT TO COMPEL THE LOCAL DEPARTMENT TO REMOVE~~
10 ~~THE CHILD.~~

11 ~~(H) 1. THE DEPARTMENT SHALL PAY \$2,000 FOR EACH DAY~~
12 ~~THAT A CHILD REMAINS AT A HOSPITAL, AN EMERGENCY FACILITY, OR AN~~
13 ~~INPATIENT FACILITY IN VIOLATION OF THIS SUBSECTION TO THE COMMUNITY~~
14 ~~HEALTH RESOURCES COMMISSION.~~

15 ~~2. THE REVENUES FROM THE PENALTY SHALL BE~~
16 ~~DISTRIBUTED TO THE FOSTER CHILDREN SUPPORT FUND.~~

17 ~~(E) IF THE MARYLAND DEPARTMENT OF HEALTH OR THE DEPARTMENT OF~~
18 ~~HUMAN SERVICES ACTING THROUGH A LOCAL DEPARTMENT REQUESTS THE~~
19 ~~ADMISSION OF A CHILD IN ITS CUSTODY INTO A HOSPITAL OR EMERGENCY FACILITY,~~
20 ~~THE LOCAL REQUESTING DEPARTMENT SHALL PROVIDE TO THE HOSPITAL OR~~
21 ~~EMERGENCY FACILITY ANY INFORMATION REGARDING ANY HOSPITALIZATION OR~~
22 ~~ATTEMPTED HOSPITALIZATION OF THE CHILD WITHIN THE PREVIOUS 7 CALENDAR~~
23 ~~DAYS IF THE CHILD WAS RELEASED DUE TO:~~

24 ~~(1) THE INABILITY OF A LOCAL THE REQUESTING DEPARTMENT TO~~
25 ~~FIND ANOTHER SUITABLE PLACEMENT FOR THE CHILD; OR~~

26 ~~(2) A MEDICAL DETERMINATION THAT THE CHILD DID NOT REQUIRE~~
27 ~~HOSPITALIZATION.~~

28 ~~(D) (C) (1) A THE MARYLAND DEPARTMENT OF HEALTH OR THE~~
29 ~~DEPARTMENT OF HUMAN SERVICES ACTING THROUGH A LOCAL DEPARTMENT~~
30 ~~SHALL IMMEDIATELY BEGIN PLACEMENT PLANNING FOR A CHILD WHO IS~~
31 ~~EVALUATED FOR INPATIENT MENTAL HEALTH CARE BY AN EMERGENCY FACILITY OR~~
32 ~~INPATIENT FACILITY.~~

33 ~~(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 7~~
34 ~~CALENDAR DAYS AFTER PLACING A CHILD IN AN EMERGENCY FACILITY OR~~
35 ~~INPATIENT FACILITY FOR MEDICAL EVALUATION, A LOCAL THE REQUESTING~~

1 DEPARTMENT SHALL PROVIDE TO THE COURT A PLACEMENT PLAN FOR THE CHILD
2 IDENTIFYING:

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

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

7 (III) IF THE CHILD HAS A DISABILITY, PROVISIONS FOR THE
8 PAYMENT OF ACCOMMODATIONS NEEDED FOR A SUCCESSFUL COMMUNITY
9 PLACEMENT OF THE CHILD.

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

14 (D) (1) (I) THE MARYLAND DEPARTMENT OF HEALTH OR THE
15 DEPARTMENT OF HUMAN SERVICES SHALL:

16 1. PROVIDE THE BEDS NECESSARY TO ACCOMMODATE
17 THE NUMBER OF CHILDREN REQUIRING MEDICAL ADMISSION OR TREATMENT
18 UNDER THIS SECTION; AND

19 2. ENSURE THE LEAST RESTRICTIVE PLACEMENT FOR
20 ANY CHILD FOR WHOM THERE IS NOT A MEDICAL DETERMINATION THAT THE CHILD
21 REQUIRES HOSPITALIZATION, ADMISSION, OR TREATMENT.

22 (II) THE MARYLAND DEPARTMENT OF HEALTH OR THE
23 DEPARTMENT OF HUMAN SERVICES MAY BE SUBJECT TO ANY ADMINISTRATIVE OR
24 LEGAL PROCEDURES AVAILABLE TO AN AGGRIEVED PARTY FOR FAILURE TO
25 PROVIDE A CHILD ADMISSION OR TREATMENT REQUIRED UNDER THIS SECTION.

26 (2) THE MARYLAND DEPARTMENT OF HEALTH OR THE
27 DEPARTMENT OF HUMAN SERVICES SHALL PAY A HOSPITAL, AN EMERGENCY
28 FACILITY, OR AN INPATIENT FACILITY PREVAILING MEDICAID RATES FOR ANY
29 ADMISSION OF A CHILD REQUESTED UNDER THIS SECTION THAT CONTINUES AFTER
30 A MEDICAL DETERMINATION THAT THE CHILD NO LONGER REQUIRES
31 HOSPITALIZATION.

32 (E) (1) A HOSPITAL, AN EMERGENCY FACILITY, OR AN INPATIENT
33 FACILITY THAT ADMITS A CHILD UNDER SUBSECTION (B) OF THIS SECTION SHALL

1 ENSURE THAT THE CHILD IS PLACED IN THE LEAST RESTRICTIVE ENVIRONMENT
2 AVAILABLE.

3 (2) IF A HOSPITAL, AN EMERGENCY FACILITY, OR AN INPATIENT
4 FACILITY IS REQUIRED TO EXTEND THE ADMISSION OF A CHILD DUE TO THE
5 INABILITY OF THE REQUESTING DEPARTMENT TO FIND ANOTHER SUITABLE
6 PLACEMENT FOR THE CHILD, THE HOSPITAL, EMERGENCY FACILITY, OR INPATIENT
7 FACILITY MAY NOT BE HELD LIABLE FOR VIOLATING THE REQUIREMENTS OF THE
8 FEDERAL EMERGENCY MEDICAL TREATMENT AND LABOR ACT.

9 ~~(E)~~ (F) WHENEVER A CHILD IS MOVED TO A HOSPITAL, AN EMERGENCY
10 FACILITY, OR AN INPATIENT FACILITY, BETWEEN A HOSPITAL, AN EMERGENCY
11 FACILITY, OR AN INPATIENT FACILITY, OR FROM A HOSPITAL, AN EMERGENCY
12 FACILITY, OR AN INPATIENT FACILITY TO A PLACEMENT IN ACCORDANCE WITH A
13 PLACEMENT PLAN, A LOCAL DEPARTMENT SHALL IMMEDIATELY NOTIFY THE
14 OFFICE OF THE PUBLIC DEFENDER'S MENTAL HEALTH DIVISION.

15 ~~(F)~~ (G) (1) THE GOVERNOR SHALL APPOINT AN INDIVIDUAL TO
16 COORDINATE BETWEEN THE MARYLAND DEPARTMENT OF HEALTH, THE
17 DEPARTMENT OF HUMAN SERVICES, LOCAL DEPARTMENTS, AND COURTS AS THEY
18 CARRY OUT THE REQUIREMENTS OF THIS SECTION.

19 (2) THE INDIVIDUAL APPOINTED IN PARAGRAPH (1) OF THIS
20 SUBSECTION SHALL NOTIFY THE OFFICE OF THE PUBLIC DEFENDER'S MENTAL
21 HEALTH DIVISION OF THE PLACEMENT OF EACH CHILD IN THE CUSTODY OF THE
22 DEPARTMENT OF HUMAN SERVICES IN A HOSPITAL, AN EMERGENCY FACILITY, OR
23 AN INPATIENT FACILITY FOR WHOM THERE IS NOT A MEDICAL DETERMINATION
24 THAT THE CHILD REQUIRES HOSPITALIZATION, ADMISSION, OR TREATMENT.

25 (H) (1) IN THIS SUBSECTION, "FUND" MEANS THE FOSTER CHILDREN
26 SUPPORT FUND.

27 (2) THERE IS A FOSTER CHILDREN SUPPORT FUND.

28 (3) THE PURPOSE OF THE FUND IS TO PROVIDE RESOURCES AND
29 SUPPORT TO CHILDREN IN OUT-OF-HOME PLACEMENTS AND ORGANIZATIONS WITH
30 A FOCUS ON SUPPORTING CHILDREN IN OUT-OF-HOME PLACEMENTS IN THE STATE.

31 (4) THE COMMUNITY HEALTH RESOURCES COMMISSION SHALL
32 ADMINISTER THE FUND.

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

1 (II) THE STATE TREASURER SHALL HOLD THE FUND
2 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

3 (6) THE FUND CONSISTS OF:

4 (I) ~~REVENUE DISTRIBUTED TO THE FUND UNDER SUBSECTION~~
5 ~~(B)(3) OF THIS SECTION;~~

6 ~~(H)~~ MONEY APPROPRIATED IN THE STATE BUDGET TO THE
7 FUND;

8 ~~(H)~~ (II) INTEREST EARNINGS; AND

9 ~~(IV)~~ (III) ANY OTHER MONEY FROM ANY OTHER SOURCE
10 ACCEPTED FOR THE BENEFIT OF THE FUND.

11 (7) THE COMMUNITY HEALTH RESOURCES COMMISSION MAY
12 DETERMINE THE USES OF THE FUND IN ORDER TO SUPPORT CHILDREN IN
13 OUT-OF-HOME PLACEMENTS AND ORGANIZATIONS THAT FOCUS ON SUPPORTING
14 CHILDREN IN OUT-OF-HOME PLACEMENTS, INCLUDING FOR EXPENSES INCURRED
15 OPERATING THE FUND.

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

18 (II) ANY INTEREST EARNINGS OF THE FUND SHALL BE
19 CREDITED TO THE FUND.

20 ~~Article Health General~~

21 ~~10-620.~~

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

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

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

28 ~~10-624.~~

29 (b) (1) ~~If the petition is executed properly, the emergency facility shall accept~~
30 ~~the emergency evaluate.~~

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

~~(3) Promptly after the examination, the emergency evaluate shall be released unless the emergency evaluate:~~

~~(i) Asks for voluntary admission; or~~

~~(ii) Meets the requirements for involuntary admission.~~

~~(4) An emergency evaluate may not be kept at an emergency facility for more than 30 hours.~~

~~(c) FOR A MINOR IN THE CUSTODY OF A LOCAL DEPARTMENT OF SOCIAL SERVICES, AN EMERGENCY FACILITY MAY NOT:~~

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

~~(2) ADMIT THE MINOR IF THE MINOR IS NOT EXHIBITING NEW BEHAVIOR AND THE MINOR:~~

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

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

~~(iii) HAS BEEN DISCHARGED BY THE INPATIENT PSYCHIATRIC TREATMENT TEAM OF THE FACILITY.~~

Article – State Finance and Procurement

6–226.

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

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

3 144. the Health Equity Resource Community Reserve Fund;

4 [and]

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

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

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

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

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

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

13 (2) two members of the House of Delegates, appointed by the Speaker of
14 the House;

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

17 (i) ~~one attorney who serves as counsel for foster children in federal~~
18 ~~class action litigation~~ social worker with knowledge and experience in extended hospital
19 overstays for foster children;

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

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

23 (iv) one representative of the Maryland Association of Resources for
24 Families and Youth; ~~and~~

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

26 (vi) one labor union representative who is an employee of the
27 Department of Human Services, the Maryland Department of Health, or a local department
28 of social services; and

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

- 1 (i) one representative of the Department of Human Services;
- 2 (ii) one representative of the Department of Juvenile Services;
- 3 (iii) one representative of the Interagency Rates Committee;
- 4 (iv) one representative of the Maryland Department of Health;
- 5 (v) one representative of the State Department of Education; ~~and~~
- 6 (vi) one representative of the Maryland Hospital Association;
- 7 (vii) one representative of the Maryland Psychological Association;
- 8 and
- 9 (viii) one representative of the Citizens Review Board for Children.

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

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

13 (e) A member of the Task Force:

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

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

17 (f) The Task Force shall:

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

21 (2) ascertain the current shortages for appropriate placement settings in
22 the State;

23 (3) assess shortfalls in supportive services; ~~and~~

24 (4) collect and review census data on foster children and their placement
25 in hospitals, emergency facilities, and inpatient facilities in other states; and

26 (5) make recommendations on:

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

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

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

5 (iv) how to appropriately expand services for foster children
6 including intensive respite care, emergency foster homes, and other placement
7 alternatives.

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

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

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

16 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
17 4 of this Act, this Act shall take effect June 1, 2022. Section 2 of this Act shall remain
18 effective for a period of 1 year and 1 month and, at the end of June 30, 2023, Section 2 of
19 this Act, with no further action required by the General Assembly, shall be abrogated and
20 of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.