

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 550
Finance

(Senator Charles)

Health Care Decisions Act - Surrogate Decision Making - Mental Disorders

This bill repeals the prohibition against a surrogate authorizing treatment for a mental disorder for a patient who has been certified as incapable of making an informed decision. As a result, a surrogate may authorize treatment for a mental disorder.

Fiscal Summary

State Effect: The Judiciary can absorb any court involvement in guardianship or protective proceedings using existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: When a patient has been certified as being incapable of making an informed decision and has not appointed a health care agent, or when the health care agent is unavailable, the following individuals or groups, in the specified order of priority, may make decisions about health care for a patient (operate as a “surrogate”):

- a guardian for the patient, if one has been appointed;
- the patient’s spouse or domestic partner;
- an adult child of the patient;
- a parent of the patient;

- an adult brother or sister of the patient; or
- a friend or other relative of the patient who meets specified qualifications.

Individuals in a particular class may only be consulted to make a decision if all individuals in the next higher class are unavailable.

An individual may not make decisions about health care for a patient if (1) the individual is subject of an interim, temporary, or final protective order and the patient is a person eligible for relief under the order or (2) the individual is the spouse of the patient but the individual and spouse have executed a separation agreement or filed an application for divorce.

A surrogate must base the decisions on the wishes of the patient and, if the wishes of the patient are unknown/unclear, on the patient's best interest. In determining the wishes of the patient, a surrogate must consider expressed concerns about the effect on the family or friends of the patient if a treatment were provided, withheld, or withdrawn, as well as the patient's:

- current diagnosis and prognosis with and without the treatment at issue;
- expressed preferences regarding the provision of, or the withholding or withdrawal of, the specific treatment at issue or of similar treatments;
- relevant religious and moral beliefs and personal values;
- behavior, attitudes, and past conduct with respect to the treatment at issue and medical treatment generally; and
- reactions to the provision of, or the withholding or withdrawal of, a similar treatment for another individual.

A surrogate may not authorize treatment for a mental disorder or sterilization.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Health; Department of Legislative Services

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caw/jc

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