

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1553
Judiciary

(Delegate Alston, *et al.*)

Estates and Trusts - Guardianship of the Person of a Disabled Person -
Emergency and Temporary Guardianship Petitions

This bill requires specified access to a disabled person under guardianship of the person, by individuals related to the disabled person by blood or marriage, if the court determines it is in the best interests of the disabled person. The bill establishes a rebuttable presumption that such access is in the best interests of the disabled person. The bill also modifies existing provisions allowing for emergency protective services for a disabled person if an emergency exists by (1) allowing for such protective services on specified emergency or temporary bases; (2) expanding the authorization to also apply where a person is currently under a guardianship and is being medically or physically neglected; and (3) changing the evidentiary standard for such emergency/temporary protective services.

Fiscal Summary

State Effect: The bill is not expected to have a direct, material impact on State finances.

Local Effect: The bill is not expected to have a direct, material impact on local finances.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Access Schedule for Related Individuals

The bill establishes that, if the court determines that it is in the best interests of a disabled person, an order appointing a guardian of the person of the disabled person must include

an access schedule for individuals related to the disabled person by blood or marriage to access the disabled person. The bill establishes a rebuttable presumption that inclusion of such an access schedule is in the best interests of the disabled person.

The bill makes a related change to the rights, duties, and powers that the court may grant to a guardian of the person of a disabled person, to include, if it is in the best interest of the disabled person, the duty to comply with an access schedule.

Emergency and Temporary Guardianship

The bill modifies existing provisions allowing for emergency protective services (appointment of a temporary guardian of the person under emergency circumstances) by:

- establishing two types of guardianship proceedings under emergency circumstances – an emergency guardianship and a temporary guardianship – and requiring that (1) a petition filed by an interested person for an emergency guardianship be heard and ruled on within one business day after the filing of the petition and (2) a petition filed by an interested person for a temporary guardianship be heard and ruled on within seven calendar days after the filing of the petition;
- making a related change to the timing of notice that is required to be given to interested parties of the filing of a petition for an emergency guardianship (requiring notice to be given as soon as practicable before the hearing for emergency intervention rather than at least 24 hours before the hearing, subject to waiver by the court on a showing of immediate and reasonably foreseeable physical harm to the disabled person or others;
- establishing that the evidentiary standard for a court to issue an order authorizing the provision of protective services on an emergency or temporary basis is the standard of a preponderance of the evidence (rather than the standard of clear and convincing evidence currently applicable to an emergency protective services order);
- allowing for a court to also authorize the provision of protective services on an emergency or temporary basis after finding, based on a preponderance of the evidence, that the person is currently under a guardianship and is being medically or physically neglected; and
- similar to the changes discussed above for a non-emergency and non-temporary guardianship, requiring an order appointing an emergency or temporary guardian to include an access schedule for individuals related to the disabled person by blood or marriage to access the disabled person, if the court determines that it is in the best interests of the disabled person.

Current Law:

Guardianship of the Person of a Disabled Person

Section 13-705 of the Estates and Trusts Article establishes the process for the appointment of a guardian of the person of a disabled person. On petition and after any notice or hearing prescribed by law or the Maryland Rules, a circuit court may appoint a guardian of the person of a disabled person. A guardian of the person must be appointed if the court determines from clear and convincing evidence that (1) a person lacks sufficient understanding or capacity to make or communicate responsible personal decisions (including provisions for health care, food, clothing, or shelter) because of any mental disability, disease, habitual drunkenness, or addiction to drugs and (2) no less restrictive form of intervention is available that is consistent with the person's welfare and safety.

The court may grant to a guardian of the person only those powers necessary to provide for the demonstrated need of the disabled person and may appoint a guardian of the person (1) for the limited purpose of making one or more decisions related to the health care of the person and/or (2) for a limited period of time if it appears probable that the disability will cease within one year of the appointment of the guardian.

Statute specifies various rights, duties, and powers that are among those the court may grant to a guardian of the person, including, if it is in the best interest of a disabled person, the duty to foster and preserve family relationships including, as appropriate, assisting to arrange visitation and communication by telephone calls, personal mail, and electronic communications.

Emergency Protective Services

Upon petition by an interested person, a court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence that (1) the person lacks capacity under the standard for appointing a guardian of the person of a disabled person; (2) an emergency exists (defined as a person living in conditions which present a substantial risk of death or immediate and serious physical harm to the person or others); and (3) no person authorized by law or court order to give consent for the person is available to consent to emergency services.

In issuing an emergency order, the court must adhere to specified limitations, including that:

- in its order the court must appoint a temporary guardian of the person with responsibility for the person's welfare and authority to give consent for the person for the approved protective services until expiration of the order;

- only such protective services as are necessary to remove the conditions creating the emergency must be ordered and the court must specifically designate the approved services in its order; and
- protective services may be provided under an initial emergency order for not more than 144 hours – however, after a showing that the conditions found to exist for the issuance of the initial emergency order will probably continue beyond the expiration of the emergency order, the court may extend the terms of the emergency order and the appointment of the temporary guardian until the appointment of a non-temporary guardian.

Notice, to interested persons, of the filing of the petition for an emergency order must be given at least 24 hours before the hearing for emergency intervention; however, the court may waive the 24-hour notice requirement on a showing that (1) immediate and reasonably foreseeable physical harm to the person or others will result from the 24-hour delay and (2) reasonable attempts have been made to give notice.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland Department of Aging; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Human Services; Department of Legislative Services

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