

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Appropriations Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1382
Children in Out-of-Home Placement – Placement in Medical
Facilities
DATE: February 19, 2020
(2/27)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1382. The bill amends § 3-816.1 of the Courts and Judicial Proceedings Article, which governs out-of-home placement for children in need of assistance. The bill creates new restrictions and procedures for youth who are placed in a psychiatric care facility or emergency facility.

First, the bill contains several mandatory provisions, as outlined in the summary above. The Judiciary traditionally opposes mandatory provisions on the grounds that it is important for judges to have discretion to weigh the individual facts and circumstances of a particular case.

Second, the bill would hamstring the court's ability to hear evidence and make findings of fact and would instead require the court to base much of its decision on the administrative law judge's (ALJ) findings, in essence substituting the ALJ's judgment for its own. This runs counter to the court's mandate to hear all the evidence and make a determination based on the best interests of the child.

Lastly, removing the court's authority to order a youth to be held at a facility pending placement increases the risk of harm to both the child and the community. It is often exceedingly difficult to find a placement for these youth, and the placements that exist are often out of state. Even when a placement can be found, it is not likely to be feasible to transfer a child to that placement within the timeframe mandated by this bill, and the bill would strip the court of its authority to order a youth to be kept in a facility while the arrangements for his or her placement are being made. This includes, for example, a youth for whom a placement has been found, but at which there is a wait list, or a youth for whom the only available placement is out of state, and arrangements for transportation and other logistics simply cannot be made within the timeframe required.

cc. Hon. Brooke Lierman
Judicial Council
Legislative Committee
Kelley O'Connor