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February 27, 2020

The Honorable Maggie McIntosh  
**Chair, Appropriations Committee**  
Room 121, House Office Building  
Annapolis, MD 21401-1991

**RE: TESTIMONY IN SUPPORT OF HOUSE BILL 1382  
Children in Out-of-Home Placement – Placement in Medical  
Facilities**

**Dear Chair McIntosh and Members of the Committee:**

Thank you for your invitation to present testimony on HB 1382. The Legal Aid Bureau, Inc. (Maryland Legal Aid) is a private non-profit law firm that represents indigent persons in civil matters throughout Maryland. As a part of this representation, Maryland Legal Aid’s staff provides legal services to over 2,000 Maryland children every year in the child welfare system who participate in Child in Need of Assistance (CINA) and Termination of Parental Rights (TPR) proceedings. Consequently, Maryland Legal Aid has expertise in matters concerning child welfare, children in foster care and particularly, youth who are aging out of foster care.

As advocates of children across the state, Maryland Legal Aid attorneys have represented foster youth subjected to lengthy stays in emergency rooms and inpatient psychiatric units even after the hospital has cleared the youth for discharge. HB 1382 discourages this use of hospitals and short-term psychiatric units as out-of-home placements. It requires local Departments to immediately begin placement planning for children evaluated for inpatient care and provide the court with a placement plan within a certain period of time. Further, it prohibits courts from committing a child for inpatient care and treatment in a psychiatric facility.

HB 1382 is necessary because of teenage clients such as one we will refer to as “John,” a teenager, that came to the attention of the local Department because his father was unwilling to take him home from the emergency room. After being in the emergency room for four nights without anywhere to go, John waited in the emergency room for one additional night after the court temporarily committed him to the Department. Due to his untreated mental health, John had to be psychiatrically hospitalized shortly after being placed in a group home. His time in the hospital was supposed to be short-term and he was discharged after a month when he stabilized on

medication. Unfortunately, his previous aggressive behaviors prevented the Department from finding a placement for him. Due to his pending eighteenth birthday, the Department requested the court to order John to remain psychiatrically hospitalized, to prevent him from signing himself out of the hospital. On John's behalf his attorney advocated for his discharge from the hospital and that his CINA case be closed on his eighteenth birthday because the Department was not providing him with services during his time in their custody and his father was willing to be a resource for him. However, the court ordered John to remain psychiatrically hospitalized. The hospital's attorney and staff were dismayed by the court's order and provided documentation to John's attorney, social worker, and the court about his unlawful retention at the hospital. Eventually John was discharged from the hospital, but it took a three month stay in the hospital and two emergency hearings to achieve this result.

Sadly, John's story is not unique. Another teenage client, "Jane," waited in a windowless, locked room of a hospital emergency department for over three weeks after an attempted suicide. While waiting in the emergency department she did not receive any medical care, she did not attend school, and was without underclothes and her prescription glasses. She eventually was admitted to an inpatient psychiatric unit. After three days inpatient, her treating physician wrote a letter to the Department recommending that she be placed at a Residential Treatment Center (RTC) because her treatment needs could be met in a less restrictive environment. All of the RTCs in the area had lengthy waiting lists, which is not uncommon. Jane remained hospitalized for a month before she was discharged to an approved relative. While Jane was uncomfortable with this living arrangement, it was better than remaining unnecessarily hospitalized.

Under HB 1382, the court will be able to find that reasonable efforts for a child were not made when the local Department fails to immediately retrieve a child from medical facilities. The ability to make a finding of no reasonable efforts is an important change that will encourage local Department's to work more efficiently to find placements for children. All too often, social workers and case workers avoid visiting discharged clients in hospitals in an effort to avoid the hospital requiring the worker to take the discharged youth.

In the case of "Jill", she waited at the hospital for three weeks after discharge and her social worker would not even return her phone calls. Hospital staff consistently called the social worker because Jill grew depressed and agitated while waiting for a placement. Jill's attorney was in constant contact with Jill and the hospital staff, and requested an emergency hearing because Jill's mental health decompensated while Jill waited with uncertainty about her next move. The Department's refusal to communicate with hospital staff and Jill is the antithesis of reasonable efforts.

Children should only be removed from families and placed out-of-home when it is necessary for their welfare or in the interest of public safety. Prolonged stays in hospitals are contrary to the welfare of children and potentially compromises their emotional and physical safety. In our role as child advocates for children across the state of Maryland, we recognize and see first-hand the shortage of appropriate out-of-home placements. We also recognize that there are times when our clients need treatment in restrictive environments such as inpatient psychiatric units. However, emergency rooms and inpatient psychiatric units should never be used as out-of-home placement alternatives after children have stabilized and are ready for discharge.

Statutory clarification is needed because juvenile courts have become complicit in the inappropriate placement of children because of the lack of proper placements presented to the court. It appears that the juvenile court does not think it has authority to override the agency or does not really understand the criteria for involuntary commitment. Therefore, the Administrative Law Judge determinations that involuntary commitment is no longer authorized is virtually ignored. CINA attorneys for the youth are left without recourse and the kids left feeling hopeless.

For the reasons stated above, Maryland Legal Aid supports HB 1382 and asks that this committee give it a favorable report.



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