

DATE: February 5, 2020

BILL NUMBER: SB 207

COMMITTEE: Education, Health, and Environmental Affairs

BILL TITLE: Unaccompanied Minors in Need of Shelter and Supportive Services

DHS POSITION: Support with Amendments

The Department of Human Services (DHS) respectfully submits this letter to support Senate Bill 207 with amendments. While this bill is well intentioned, we believe the current version as written overlooks critical elements that are needed to keep vulnerable children safe. We are hopeful the Committee will take these issues under serious consideration, and amend the bill as needed to conform to our recommendations.

History

Senate Bill 207 is a reintroduction of House Bill 911 that was introduced during the 2019 legislative session. House Bill 911 was amended to create a work group to study how to best serve unaccompanied homeless youth in need of shelter and supportive services. The work group included representatives of the legislature, the provider community, and multiple state agencies, including DHS.

Over the course of the 2019 interim, the work group examined the body of law and policy governing homeless youth, and debated the merit of various state practices. At the end of the 2019 interim, the work group prepared a report on its findings and made recommendations for draft legislation for introduction during the 2020 legislative session. The product of the work group's effort is Senate Bill 207.

We want to be clear that we commend the efforts of the workgroup, and in no way intend to undermine those efforts. However, as the State's lead child welfare agency and policy experts in this area, we were deeply disappointed that the majority of the Department's recommendations were not incorporated into the final version of the bill. We believe the Department is owed greater deference, given that we carry the primary responsibility of caring for Maryland's most vulnerable children and families.

Recommendations

First, we are concerned that Senate Bill 207 allows children of *any* age to unilaterally consent to shelter. This is inconsistent with existing body of law governing what services a child may consent to or has authority to deny. For example, Maryland's compulsory school attendance law does not permit a child to refuse public education before age seventeen. Similarly, children younger than sixteen may not consent to certain medical and mental health services. In short, our laws recognize that children of a certain age lack the capacity to make certain decisions.

As such, the Department would recommend setting the age of consent for shelter and supportive services at sixteen. We would insist that any child younger than sixteen be referred to the Local Department of Social Services (LDSS) immediately upon presentation.



Second, while the bill requires the shelter or service provider to contact an adult (parent, guardian, relative, or another adult) within 72 hours of providing shelter, there is no requirement to report an unaccompanied minor to the Local Department of Social Services (LDSS).

Maryland Code, Family Law § 9.5-101 defines “abandoned” as left without provision for reasonable and necessary care or supervision. Maryland Code, Family Law § 5-701 defines “neglect” as the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate: (1) that the child’s health or welfare is harmed or placed at substantial risk of harm; or (2) mental injury to the child or a substantial risk of mental injury.

It is our position that if a receiving shelter cannot contact a parent or guardian willing or able to care for the child after 72 hours, that child meets the definition of abandonment. We would also maintain that abandonment is absolutely a form of child neglect. Therefore, we would insist that any receiving shelter be required to bring the child to the attention of the LDSS after 72 hours, if no parent or guardian is willing or able to either: (1) consent to shelter on behalf of the child or (2) care for the child.

Third, the prevailing trend in child welfare shows a movement away from placing our children in congregate care settings, and emergency shelters are a form of congregate care. The Annie E. Casey Foundation notes that young adults left for prolonged periods in group care are less successful than their peers. Youth with at least one group-home placement were almost 2.5 times more likely to become delinquent than their peers in foster care. Youth placed in group homes, rather than in family care, have poorer educational outcomes, including lower test scores in basic English and Math. Youth in congregate care are also more likely to drop out of school and less likely to graduate high school. Youth who have experienced trauma are at greater risk for further physical abuse when they are placed in group homes, compared with their peers placed in families.¹

In short, children who have an opportunity to be placed in a family setting have infinitely better outcomes than children in congregate care. As such, we are troubled that the bill offers no guidance as to who is responsible for preparing a permanency plan for the child. We would recommend a provision that creates a cap the amount of time the child may stay in the shelter to 90 days. At this point, if the shelter has not identified and transitioned the child to a permanent placement, the child must be brought to the attention of the LDSS.

Fourth, the bill in its current form requires the Department of Housing and Community Development to keep a registry of all service providers. While our sister agency does outstanding work, DHS is better positioned to develop regulation and policy in the area of child welfare. Additionally, the bill is silent as to what criteria a provider should meet in order to be placed on the registry. This is especially troubling, since the current version allows private individuals in the community to serve as “host homes” for children who require emergency placement. We would recommend that at minimum, explicit criteria be specified in order to be a recognized shelter provider. Ideally, these providers would be required to have a license to operate these facilities to ensure that every employee or person in the home has passed a basic criminal background check, a Child Protective Services (CPS) clearance, and that the facility or home has passed a safety inspection. In conversations with the bill’s sponsors, it was conveyed that these safeguards

¹ <https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/>



could be required by regulation. We respectfully disagree. DPSCS and the Department of State Police advise that FBI guidelines require that state-mandated national background checks for noncriminal justice purposes must be included in statute rather than regulation. It is unclear if the bill satisfies that requirement with respect to the provision that specifies that the regulations adopted by DHCD pursuant to the bill must include a requirement that each service provider conduct background checks for their employees.²

Lastly, since the bill in its current form offers no risk mitigation as far as vetting the shelter provider, we would insist on a higher standard of liability for the youth in their care. As written, the bill would only allow a family or youth to bring a claim against the provider if gross negligence or wanton and reckless behavior can be shown. We believe we owe this particular population of children more consideration. We would insist that any person or facility providing emergency shelter to a vulnerable child be required to observe an ordinary and reasonable standard of care. As such, we would recommend the gross negligence provision be stricken from the bill.

The Department is grateful to the Committee for the opportunity to raise these issues, and express our concerns. We know that we are united in our desire to do what is best for the children in our communities. We look forward to collaborating with the bill sponsors to find a solution to this problem, in a way that keeps our children safe. We respectfully ask the Committee to support Senate Bill 207, with our recommended amendments.

² http://mgaleg.maryland.gov/2020RS/fnotes/bil_0006/hb0206.pdf

