

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 359
Petition for Guardianship of the Property of Alleged Disabled
Person – Stay of Civil Actions and Proceedings
DATE: January 24, 2024
(2/7)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 359 in its current form. This bill requires an automatic stay of certain civil actions or proceedings on the filing of a petition for guardianship of the property of an alleged disabled person.

The courts do not have the operational capacity to screen for other causes of action that involve a party and then to enter an automatic stay. To do so would require significant programming for courts to identify and accurately flag actions involving the alleged disabled person (ADP) between district and circuit courts; 2) notify the court that a stay or postponement must be issued; and 3) lift the stay upon the appointment of a guardian or dismissal of the guardianship petition. Additionally, it is not uncommon for a petitioner to have inaccurate or incomplete information about an alleged disabled person, which would make programming even more challenging. Finally, subsection (c), ending any stay upon service of an appointed guardian of the property, could lead to harsh results by severely limiting the amount of time the guardian has to prepare a defense against an action to unhouse or interfere with the person under guardian's property.

The bill's important goal could be accomplished by amending the bill to giving the courts the flexibility to stay any of the actions, upon the filing of a petition to stay, and the discretion to extend a stay when warranted. A similar procedure is in place when an individual files for bankruptcy in another court. After so filing, that individual requests a stay upon suggestion of bankruptcy. The court rules could then be amended to require that a petitioner identify any actions they are aware of in the petition. This would allow other interested persons and counsel for the alleged disabled person to identify any actions unknown to the petitioner.

cc. Hon. Jeffrie Long, Jr.
Judicial Council
Legislative Committee

Kelley O'Connor