

# **Maryland Legal Aid Testimony on HB 359.pdf**

Uploaded by: James Silver

Position: FAV



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

**House Bill 359  
Petition for Guardianship of the Property of Alleged Disabled Person – Stay of Civil Actions  
and Proceedings  
Hearing February 7, 2024  
Judiciary Committee  
Position: FAVORABLE**

*Maryland Legal Aid (MLA) submits its written and oral testimony on HB 359 in response to a request from Delegate Long.*

Maryland Legal Aid (MLA) is the largest non-profit law firm in the State of Maryland. We provide court-appointed representation to the alleged disabled person in guardianship proceedings in multiple counties around the state. Under current Maryland law a petition for guardianship alleges that a person is unable to effectively manage their affairs or property due to a disability and requests the court to appoint a guardian to manage all of their decisions relating to health, lifestyle and/or property. The alleged disabled person is entitled to an attorney, who performs an investigation, identifies their wishes and capacity, and provides representation in court.

HB 359 would provide for the first time, that when such a petition for guardianship of the person is filed there would be an automatic stay of other legal proceedings that could have a permanent diminishing impact on the property of the alleged disabled person. HB 359 would protect the property against certain actions until the guardianship proceeding is completed. These include actions for alleged unpaid rent, restitution, wrongful detainer of property, foreclosure proceedings, sheriff's sale of property, and any other action against the property of the alleged disabled person. Those actions would remain stayed until the resolution of the guardianship petition, either through dismissal or appointment of a guardian of property. Current Maryland law does not provide any protection of this type for people facing a guardianship action.

MLA's guardianship clients usually come to us after a lengthy hospitalization or stay in a nursing home. Some of them are experiencing significant medical problems. They might have a temporary difficulty understanding the allegations in the petition for guardianship, due to accident or medical condition. They have the right to object to the appointment of a guardian and resist the matter in court. This bill would allow our clients to focus their attention on a proceeding that could permanently affect their right to make decisions for themselves, limit worry about claims against their property, and protect against a potential default and automatic loss of property.

MLA urges a favorable report on HB 359. Please contact me if you need additional information.

James Silver, Esq.  
Supervising Attorney, Adult Guardianship Program, Maryland Legal Aid  
(410) 951-7789  
[jsilver@mdlaborg](mailto:jsilver@mdlaborg)

**guardianship testimony feb 7th 2024.pdf**

Uploaded by: Jeffrie Long

Position: FAV



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

February 7, 2024

Good evening, Chair Clippinger, Vice Chair Bartlett, and members of the Judiciary Committee,

I am here today on behalf of HB359, "Petition for Guardianship of the Property of Alleged Disabled Person - Stay of Civil Actions and Proceedings." This legislation aimed to enhance the adult guardianship process in our state. As we deliberate on this crucial matter, we must consider the profound impact such legislation can have on the lives of vulnerable Marylanders who require legal protection and support.

The proposed legislation seeks to introduce a temporary stay provision similar to the automatic stay observed in bankruptcy proceedings. Much like the bankruptcy stay, this provision would offer a critical respite to individuals facing financial and housing crises due to their disabilities. It would temporarily halt eviction proceedings and creditor actions, allowing these individuals to have a court-appointed guardian manage their finances and affairs until a more permanent solution is reached.

Allow me to illustrate the necessity of this legislation through real-life examples that highlight the challenges faced by individuals with disabilities in navigating our legal system:

1. **Individual A's Plight:** Consider the case of Individual A, diagnosed with dementia, who faced the loss of their home due to unpaid taxes. Despite having sufficient equity and resources to rectify the situation, Individual A's cognitive impairment prevented them from taking action. The absence of a temporary stay provision led to the unfortunate sale of their home. Had such a provision been in place, a court-appointed guardian could have intervened, preventing the loss of the home and safeguarding Individual A's assets.
- 2.
3. **Individual B's Dilemma:** Similarly, imagine Individual B, living alone with dementia, facing eviction from their apartment due to unpaid rent. Despite having the means to fulfill their financial obligations, Individual B's condition impairs their ability to do so effectively. Without intervention, eviction would not only deprive Individual B of shelter but also expose them to the harsh realities of homelessness, particularly during the winter months. A temporary stay provision would enable the appointment of a guardian to address the arrears and ensure the stability and well-being of Individual B.

These examples underscore the urgent need for legislative measures that prioritize the protection and rights of individuals with disabilities. The proposed legislation offers a lifeline to those who find themselves entangled in legal proceedings they are ill-equipped to navigate alone.

Furthermore, it is crucial to emphasize that the temporary stay provision does not unduly burden landlords or creditors. Instead, it serves as a compassionate and pragmatic response to complex situations, safeguarding the interests of all parties involved.

With that, Mr. Chair and members of the Committee, we ask for a favorable report and thank you for your consideration.

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# **HB 359- Petition for Guardianship of the Property**

Uploaded by: Pegeen Townsend

Position: FAV



Maryland  
Hospital Association

February 5, 2024

To: The Honorable Luke Clippinger, Chair, House Judiciary Committee

Re: Choose an item.- House Bill 359- Petition for Guardianship of the Property of Alleged Disabled Person – Stay of Civil Actions and Proceedings

Dear Chair Clippinger:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment on House Bill 359.

MHA fully supports all efforts to improve the Maryland health care system and hospital experience for patients. HB 359 would further assist patient care and hospital throughput by restricting civil actions taken against the assets of disabled patients who have filed for a guardian.

Often patients are admitted to hospitals without family or representatives to speak on their behalf. In some instances, these disabled patients are incapacitated and unable to account for their finances. HB 359 places a stay on civil actions once a disabled person files for a petition for guardianship of the property. This guardianship legislation protects patients from incurring additional financial hardship while unable to contest.

In many instances, patients are unable to be transported to post-acute settings due to financial impediments. Issues such as lacking access to bank accounts and asset acquisition, stand in between a patient receiving the next step in care. HB 359 would delay any actions against a patient's personal property until a guardian is appointed—giving patients a greater opportunity to retain assets while the guardianship petition works its way through the judicial system—a process that often can take months.

For these reasons, we request a favorable report on HB 359.

For more information, please contact:  
Pegeen Townsend, Consultant  
Ptownsend@mhaonline.org

**HB0359 - FAV - DHS.pdf**

Uploaded by: Rachel Sledge Government Affairs

Position: FAV



February 7, 2024

The Honorable Luke Clippinger  
Chair, Judiciary Committee  
House Office Building, Room 101  
Annapolis, Maryland 21401

**RE: TESTIMONY ON HB0359 - Petition for Guardianship of the Property of Alleged Disabled Person - Stay of Civil Actions and Proceedings - POSITION: FAVORABLE**

Dear Chair Clippinger and Members of the Judiciary Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for the opportunity to provide written testimony in favor of House Bill 359 (HB 359).

With offices in every one of Maryland's jurisdictions, we empower Marylanders to reach their full potential by providing preventative and supportive services, economic assistance, and meaningful connections to workforce development and career opportunities. The Social Services Administration within DHS implements the Adult Services programs which are impacted by HB 359.

HB 359 strengthens protections offered to adults who might need a substitute decision-maker due to significant impairment caused by disease, accident, or disability, during the guardianship process. HB 359 prevents legal actions against property, including evicting or foreclosing on an alleged disabled individual during the guardianship process. Preventing eviction or foreclosure ensures housing security for alleged disabled people during the process of establishing guardianship. In addition, protecting the alleged disabled individual's housing reduces the burden on a local department of social services which may become the guardian for an alleged disabled individual and be required to determine where the person will reside. The burden on the agency is reduced when an individual is able to maintain existing housing arrangements. Moreover, foreclosure or eviction could prevent an individual who is the subject of a pending guardianship from remaining in the community. One of the goals of services for adults is helping them remain in their community when that is a viable option. Preventing foreclosure or eviction furthers the goals of our adult services programs.

We appreciate the opportunity to provide favorable written testimony to the Committee for consideration during your deliberations. If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at [rachel.sledge@maryland.gov](mailto:rachel.sledge@maryland.gov).

In service,



Rafael López  
Secretary



**HB 0359 - MBA - FWA - GR 24.pdf**

Uploaded by: Evan Richards

Position: FWA



**HB 359 - Petition for Guardianship of the Property of Alleged Disabled Person -  
Stay of Civil Actions and Proceedings**  
**Committee:** House Judiciary Committee  
**Date:** February 7, 2024  
**Position:** Favorable with Amendments

The Maryland Bankers Association (MBA) **SUPPORTS HB 359 WITH AMENDMENTS**. This legislation creates an automatic stay of certain actions, including foreclosure, upon the filing of a petition for guardianship of the property of an alleged disabled person.

As drafted, HB 359 could result in excessive delays in foreclosure cases. A borrower could file a petition, resulting in a stay, that could remain in Maryland's judicial system for a significant amount of time. In addition, a borrower could repeatedly file petitions for the sole purpose of delaying foreclosure. The bill also needs to specify that it only applies to foreclosure cases filed on or after the effective date of the Act. If amendments were adopted to address these concerns, MBA would not have any objections to the bill.

Accordingly, MBA urges issuance of a **FAVORABLE** report on HB 359 **WITH AMENDMENTS**.

*The Maryland Bankers Association (MBA) represents FDIC-insured community, regional, and national banks, employing more than 26,000 Marylanders and holding more than \$209 billion in deposits in over 1,200 branches across our State. The Maryland banking industry serves customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking, and more.*

Submitted by: Evan Richards  
Senior Policy & Political Strategist, Maryland Bankers Association  
186 Duke of Gloucester Street  
Annapolis, MD 21401

**hb359.pdf**

Uploaded by: Linda Miller

Position: UNF

**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

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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