

Education Advocacy Coalition

for Students with Disabilities

SENATE FINANCE COMMITTEE

SENATE BILL 696: PUBLIC HEALTH—PEDIATRIC OVERSTAY PATIENTS

DATE: FEBRUARY 18, 2025

POSITION: LETTER OF INFORMATION

Disability Rights Maryland (DRM) the protection and advocacy for Maryland, is federally mandated to defend and advance the civil rights of people with disabilities. DRM works to ensure that all individuals with disabilities in Maryland receive the services and supports they need to live and participate in their communities. DRM submits this letter of information to identify issues for the Committee as you consider Senate Bill 696, which is intended to address pediatric hospital overstays.

In 1987, DRM filed *Lisa L. v. Wilzack*, a class action lawsuit, on behalf of children and youth stuck in public psychiatric hospitals beyond their discharge date. The case settled in 1993, and the state successfully resolved the overstay problem. However, over the past six years or so, overstays began to recur, with dozens of children in overstay status, often for weeks or months at a time. With no solution on the horizon, DRM became a plaintiff, as well as co-counsel, in *T.G. et.al. v. Maryland Department of Human Services, et al.*, a class action lawsuit filed in May, 2023 on behalf of foster children in hospital overstay status. The case is pending; the State's motion to dismiss was denied in part, and the parties are currently in discovery. During the pendency of this suit, the number of children in overstay status has increased. Numbers alone do not tell the full story, however. Each child in overstay is a child who is not getting access to school, to time outside, to friends and family or to meaningful treatment.

Although many children in overstay status are recommended for residential treatment centers, this number is misleading; DRM has been told on numerous occasions that hospital staff have recommended residential treatment center placements because they did not know there were alternatives such as therapeutic foster care or because they were pressured into issuing a certificate of need by the local department of social services social worker. The majority of children and youth recommended for residential treatment center placements return to the community and do well; they do not need the restrictiveness of residential treatment placements if supports and services are provided to them in community placements such as therapeutic foster care or group homes.

The issue of hospital overstays persists in part because the state of Maryland has not used approaches that have worked in other states, such as wraparound services and crisis prevention and intervention services. DRM strongly advocated for Maryland's adoption of START, an evidence-based crisis prevention and intervention program utilized in about a dozen states throughout the country. After several years, the state agreed to implement a pilot program

with minimal components of the START program; however, the state did not put even these components in place in a meaningful way. Families have been waiting for more than a decade for wraparound services that might enable them to keep their children home with them and keep their families together. It is important for state officials and policymakers to recognize that a placement crisis exists and that the Section 1915(i) waiver, which enables some families to receive home-based mental health services, does not solve the problems caused by the lack of wraparound services.

Senate Bill 696 is intended to address the hospital overstay issue by adding beds to the two regional institutes for children and adolescents (RICAs) and by allowing concurrent applications to in-state and out-of-state residential programs. Focusing on residential treatment raises several issues that need to be considered.

First, on May 13, 2024, the United States Senate Committee on Finance issued "Warehouses of Neglect: How Taxpayers Are Funding Systemic Abuse in Youth Residential Treatment Facilities", a report finding rampant abuse and neglect in residential facilities owned by Acadia, UHS and Vivant, three for-profit, private equity-owned companies, and Devereux, a nonprofit company. Maryland has a long history of sending children and youth to Acadia, UHS and Devereux facilities outside the state. Since 2019 alone, the Board of Public Works has approved, for millions of dollars, 19 Acadia, 3 Devereux and 34 UHS contracts sought by the Department of Human Services. The Board of Public Works has approved many additional out of state programs run by other companies, some of them for-profit. In 2015, the state had to bring more than 30 children back from AdvoServ in Delaware after the death of a Maryland teen. Soon after, the state emergently returned several youth from the Eagleton School in Massachusetts after a federal raid shut down the facility. Maryland also returned a number of youth from the Woods School in Pennsylvania because of quality of care concerns. The Senate Finance Committee concluded that congregate care does not work and strongly recommended the provision of community services as an alternative.

Additionally, in its capacity as the protection and advocacy organization for Maryland, DRM has received numerous complaints over the years about RICA Baltimore and RICA Rockville. DRM is concerned that a proposal to expand beds in these facilities to address hospital overstays instead of working with community providers to focus on wraparound services, crisis prevention and intervention, expansion of therapeutic community placements and other supports will not solve the overstay problem; for children and youth who can be served in less restrictive settings, placement at RICA or in an out-of-state program may well violate their rights under the Americans with Disabilities Act.

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DRM asks the Committee to consider these points in your deliberations about Senate Bill 696. Moving children in overstay status to restrictive residential treatment programs with a history of abuse and neglect of children has ramifications that cannot be ignored.

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