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## **POSITION ON PROPOSED LEGISLATION**

**BILL: Senate Bill 191- Family Law- Child in Need of Assistance- Unlicensed Settings**

**FROM: Maryland Office of the Public Defender**

**POSITION: Informational – Proposed Amendment**

**DATE: January 14, 2025**

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The Maryland Office of the Public Defender submits this letter of information regarding SB 191, which creates a legal mechanism for the court to place children who have been found to be Children in Need of Assistance (CINA) in unlicensed placements.

I am writing this testimony on behalf of OPD's Parental Defense Division (PDD). PDD represents parents and guardians, across all 24 counties in the State of Maryland, who had or are at risk of having their children taken away from them by the State.

In the past few years, there has been an uptick statewide in the use of unlicensed placements for children. These have included children sleeping in local Department of Social Services (DSS) offices and hotel rooms with one on one (1:1) aids supervising the youth. The Department of Human Services (DHS), the State's agency that oversees the local DSS's is understandably concerned.

While SB 191 appears to aim at limiting unlicensed placements, its introduction of a formal mechanism of placing a child in an unlicensed placement raises questions about the intent of the bill and possible unintended consequences:

- **Potential Normalization:** Creating a legal mechanism may inadvertently legitimize unlicensed placements as a viable option rather than an emergency measure of last resort.
- **Ambiguity in Section 5-506.1(A):** The language in 5-506.1 is ambiguous and confusing. This paragraph should be rewritten to clarify who this bill would apply to. As is, it is unclear. Does this section only apply when reunification is the child's permanency plan? If so, it is also unclear as to why a child would be precluded from an unlicensed placement when he or she is being reunified but not when the plan is custody and guardianship or APPLA? Further, the section references "required findings" under

Family Law Article § 9–101. It is not clear on the face of either the bill or FLA § 9–101 what findings are being referenced.

OPD supports the portions of the bill that emphasizes family preservation. SB 191 creates section a new subsection to FLA 5-501 which defines an “unlicensed placements,” as:

Family Law 5–501(M) (1) “UNLICENSED SETTING” MEANS A SETTING FOR THE PLACEMENT OF A CINA THAT IS NOT LICENSED. (2) “UNLICENSED SETTING” INCLUDES: (I) A HOTEL OR MOTEL; (II) A SHELTER DESIGNED TO MEET THE NEEDS OF A CHILD WHO HAS RUN AWAY OR WHO IS HOMELESS; AND (III) AN OVERNIGHT STAY IN AN OFFICE OF THE DEPARTMENT. (3) “UNLICENSED SETTING” DOES NOT INCLUDE: (I) THE VOLUNTARY PLACEMENT OF A FORMER CINA; (II) THE PLACEMENT OF A CHILD WITH AN INDIVIDUAL WHO IS IN THE PROCESS OF APPLYING TO BE A KINSHIP CAREGIVER OR FOSTER PARENT; OR (III) THE PLACEMENT OF A CHILD WITH A PARENT, INCLUDING IN A FAMILY-BASED RESIDENTIAL TREATMENT SETTING.

Senate Bill 191 explicitly excludes placements that are with a parent or an individual actively pursuing kinship caregiver or foster placement from the definition of unlicensed placements. This exclusion means that the parent or potential caregiver would not be subjected to further placement limitations which reflects a commitment to prioritizing family-based care whenever possible.

Senate Bill 191 also requires that prior to placement in an unlicensed setting, that “(a)(1) proactive, thorough, and timely efforts were made to provide services and supports to the child and the child’s family to safely reunify the family and those efforts were unsuccessful due to reasons within the control of the child or family;” OPD would suggest that language be slightly amended to say “*Proactive, thorough, and timely efforts were made to provide services, including but not limited to financial, personnel and other supports equivalent to those required to place a child in an unlicensed placement, to the child and the child’s family to safely reunify the family and those efforts were unsuccessful due to reasons beyond the control of DSS and cannot be resolved by additional resources or order of the court.*” Currently, unlicensed placements, particularly in hotels, are among the most expensive placement options. The addition of this language would encourage that where youth are placed in hotel placements with a 1:1 aid that DSS should investigate whether providing a 1:1 or any other financial support in the parent’s home could ameliorate the need for the child’s placement in an unlicensed placement. Emphasizing financial support to families could prevent such placements and align with the bill’s intent.

OPD remains committed to advocating for the rights of families and ensuring that legislative efforts prioritize the well-being of children and families. We appreciate the opportunity to provide this perspective and welcome any further discussion to refine SB 191.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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