

sb191.pdf

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Position: FAV

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JUDGE
FREDERICK COUNTY
VICE-CHAIR



KELLEY O'CONNOR
ASSISTANT STATE COURT
ADMINISTRATOR
GOVERNMENT RELATIONS
AND PUBLIC AFFAIRS
P: (410) 260-1560

SUZANNE PELZ, ESQ.
SNR. GOVT. RELATIONS AND
PUBLIC AFFAIRS OFFICER
P: (410) 260-1523

MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 191
Family Law – Children in Need of Assistance – Unlicensed
Settings
DATE: January 11, 2025
(1/14)
POSITION: Support

The Maryland Judiciary supports Senate Bill 191. This bill prohibits the Maryland Department of Human Services from placing a child in need of assistance (CINA) in unlicensed foster care settings except under certain circumstances.

This bill will benefit the children of Maryland by limiting the placement of CINA children in hotels. The bill requires efforts by the Department of Social Services to locate alternative placements and limits the amount of time children can spend in a hotel setting. It also places the burden on the Department of Human Services Secretary to extend a hotel placement.

cc. Hon. William Smith, Jr.
Judicial Council
Legislative Committee
Kelley O'Connor

SB191 Maryland Department of Human Services

Uploaded by: Rafael López

Position: FWA



DEPARTMENT OF HUMAN SERVICES

Wes Moore, Governor · Aruna Miller, Lt. Governor · Rafael López, Secretary

January 14, 2025

The Honorable Will C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

**RE: TESTIMONY ON SB 191 - FAMILY LAW - CHILDREN IN NEED OF ASSISTANCE -
UNLICENSED SETTINGS - POSITION: FAVORABLE WITH AMENDMENTS**

Dear Chair Smith and Members of the Senate Judicial Proceedings Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for its consideration and respectfully requests a favorable report with our amendment for Senate Bill 191 (SB 191).

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 employment development and career opportunities. The Social Services Administration (SSA) within DHS leads the child welfare services program serving Maryland youth experiencing an out-of-home placement whose best interests are served by passing SB 191.

SB 191 addresses the critical issue of a small percentage of youth experiencing out-of-home care who are temporarily staying in unlicensed settings, such as hotels, motels, homeless shelters, or our Local Departments of Social Services (LDSS) offices. Except in very limited circumstances, after enhanced administrative efforts and with careful oversight, unlicensed settings are not in the best interest of youth. SB 191 establishes that stays in unlicensed settings are not appropriate for youth experiencing out-of-home care, except in limited circumstances and only after the agency makes enhanced efforts to reunify the youth with their family, place the youth with kin, or identify an otherwise appropriate placement.

SB 191 builds upon our successful partnership with the Maryland General Assembly and their legislative successes improving appropriate placements for youth who require out-of-home care, including passing Senate Bill 708 (2024) prioritizing

kinship care. In 2024, we promulgated changes to COMAR 07.02.09 to improve kinship caregiver licensing and support. In partnership with the Maryland General Assembly, we also promulgated COMAR 14.31.04 to appropriately compensate and incentivize Residential Child Care (RCC) providers to offer services that meet the needs of Maryland's youth experiencing out-of-home care. The new rates expand the array of appropriate placements for youth in Maryland.

In rare situations in which a youth's complex needs require a specific approach or an uncommon service we may need time to identify and secure a licensed placement. Therefore, SB 191 limits stays in an unlicensed setting to a maximum of 10 days. The bill limits stays in unlicensed settings by restricting the use of state funds for unlicensed stays beyond 10 days unless the agency establishes they have made specific efforts and the DHS Secretary provides express permission.

We appreciate the opportunity to provide favorable testimony with amendments to the Committee for consideration during your deliberations. You will find our proposed amendment on the following page. We look forward to your partnership in helping us make sure to leave no one behind through your support of Senate Bill 191.

If you require additional information, please contact Rachel Sledge, Director of Government Affairs, at rachel.sledge@maryland.gov.

In service,

A handwritten signature in black ink, appearing to read 'Rafael López', written over a horizontal line.

Rafael López
Secretary

Proposed Amendment

Amendment No. 1

On page 3, strike lines 27-28 in its entirety; reletter and number lines 25 and 26 as needed.

NASW Maryland - 2025 SB 191 UNF - Unlicensed Setti

Uploaded by: Daphne McClellan

Position: UNF

Testimony Before the Judicial Proceedings Committee

January 14, 2025

Senate Bill 191: Family Law - Children in Need of Assistance – Unlicensed Settings

**** Oppose ****

The National Association of Social Workers is the largest professional association of social workers in the country, and the Maryland Chapter represents social workers across the state. We are writing to articulate concerns regarding Senate Bill 191, which establishes a protocol for approving unlicensed settings for some children in the state's custody.

According to our members, the majority of older youth entering foster care are doing so to address high-intensity behavioral health needs. Unfortunately, the current placement continuum lacks the capacity to meet those needs. As a result, local departments have been forced to rely on unapproved settings such as hotels, providing 1:1 aides and gift cards for food—a practice that has become commonplace since 2019. It is estimated that between 30 and 50 children and youth are in hotels at any given time, costing approximately \$40,000 to \$60,000 per child each month—amounting to nearly \$3 million monthly. Additionally, children and youth have been left in overstays at psychiatric hospitals or "boarded" for days in emergency rooms.

The Department of Human Services' 2024 Annual Progress and Services Report rightly characterizes this as a "placement crisis," but it's not new. Left unresolved by the previous administration, this crisis has now become the Moore administration's responsibility to repair. Regrettably, Senate Bill 191 falls short of a viable strategy to strengthen the placement continuum and adequately serve the children. Furthermore, it inexplicably excludes children whose permanency plan is no longer return home, or those for whom the Juvenile Court has "not yet made the required findings under 9-101" of the Family Law statute, a statute pertaining to visitation when abuse has occurred.

Also concerning is the bill's requirement that for unlicensed settings to be approved, the responsible agency must present "clear and convincing evidence" that reunification efforts

(over)

were “unsuccessful due to reasons within the control of the child or family.” Similarly, efforts to locate a kinship caregiver must also be exhausted and deemed “unsuccessful due to reasons within the control of the child or kinship caregiver.” These criteria are vague and raise significant questions: What does “reasons within the control of the child or family” even mean?

In its current form, Senate Bill 191 does not address the core issues at hand and leaves critical gaps in its approach to solving the placement crisis. We urge lawmakers to revisit and revise the bill to focus on meaningful solutions that expand and strengthen the placement continuum, ensuring all children and youth in the state’s custody receive the care and support they need.

Thank you for your attention to this important issue.

Daphne McClellan, PhD, MSW
Chair, NASW-MD Legislative Committee

SB0191 CPMC UNFAV.pdf

Uploaded by: Diana Philip

Position: UNF

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect.

We strive to secure budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and wellbeing.



**Senate Bill 191 – Family Law – Children in Need of Assistance –
Unlicensed Settings
Judicial Proceedings Committee
January 14, 2024**

Position: OPPOSE

The Coalition to Protect Maryland's Children is a consortium of organizations and individuals formed in 1996 who are concerned about the care of Maryland's most vulnerable children and promote meaningful child welfare reform. CPMC urges an unfavorable report on SB0191- Family Law – Child in Need of Assistance – Unlicensed Settings.¹

Senate Bill 191 – Family Law – Child in Need of Assistance – Unlicensed Settings - proposes a pathway for approving unlicensed settings such as hotels and office buildings for the children and youth in our state's custody. Shining a light on what the Maryland Department of Human Services 2024 Annual Progress and Services Report labelled a "placement crisis" is important, but we respectfully object to a solution that sanctions children sleeping in hotels or office buildings.

How have we gotten here? The closing of children's mental hospitals in the 1980s, the subsequent closure of detention centers leaving foster care to take up the slack, and the movement to shutter all group homes and residential treatment programs have created a slow-motion train wreck whose results were predictable. Those results include children and youth staying in psychiatric hospitals long after being ready for discharge, boarding in emergency rooms, and sent to hotels at a cost of \$30,000 to \$60,000 per child per month. A bona fide licensed placement is not only less costly, but includes clinical services, nursing services, RCYCP certified staff, and so on.

The Legislature first recognized this issue in 2019 when HB 1382 - Foster Children in Out-of-Home Placement - Placement in Medical Facilities was introduced by then Del. Lierman. Two years later, then Del. Reznik introduced HB406 – Placement in a Medical Facility. Neither bill proposed a bona fide fix and both failed. In short, the placement crisis isn't one of this current administration's making, but it is theirs to solve. Relying on unlicensed placements such as office buildings and hotels is a symptom of the crisis, not a solution. Moreover this removes the ability of the judiciary to conduct an individualized best interest determination of the child assessment.

Who are the children? Today, foster care entries, especially of older youth, are not because of what we traditionally think of as maltreatment, but parental incapacity or unwillingness to provide care due to unmet behavioral health and/or developmental needs and the child's acutely challenging behavior. The 2024 – 2028 *Child and Family Services Plan (CFSP)* identified behavioral health needs as a factor

¹ Members of CPMC represented by this written testimony include Center for Hope, Court Appointed Special Advocates - MD CASA, Court Appointed Special Advocates - Baltimore County, Maryland Children's Alliance, MD Chapter - American Academy of Pediatrics, MD Coalition Against Sexual Assault, MD Network Against Domestic Violence, National Association of Social Workers - MD Chapter, and State Council on Child Abuse and Neglect.

contributing to entry for 60% percent of the children ages 14-17. Additional factors include abandonment (43%), youth's substance abuse (41%) and child's disability (38%). According to the *GOCCP 2023 Placement and Family Preservations Resource Plan*, "Residential Treatment Centers and other high-level residential programs do not currently offer services to adequately address the ongoing needs of the youth identified as at risk for a hospital overstay or going out-of-state."

Make no mistake. There is much to commend about the work of DHS and the local departments on behalf of vulnerable Maryland families and children. At 1.1% per thousand children, Maryland has among the lowest family separation rates in the country, and the 4th fewest children in care per 100,000 residents under 21.

Moreover, children in Maryland remain safe after child welfare intervention. According to the *GOCCP 2023 Placement and Family Preservation Resource Plan*, 95.3% of children experienced no further maltreatment up to one year after completion of In-Home services, and less than 4% of all children served in Family Preservation services experienced family separation. A Casey Family Programs report indicated that only 6% of children experience repeat maltreatment within six months of a child welfare intervention, and that the number of children in foster care has been markedly reduced in the last two decades. The progress made by Baltimore City DSS is especially to be commended, with a significant decrease in foster care entries without a concomitant rise in repeat maltreatment.

But while progress has been made, the root causes of the current placement crisis demand a more robust, long-term solution than the temporary fix of unlicensed placements such as hotels or office buildings. A sustainable solution requires a comprehensive, multi-faceted approach that not only addresses the immediate shortage of appropriate placements but also invests in preventative measures to reduce the need for these foster care placements in the first place.

Rather than focusing on short-term solutions, the state must prioritize addressing the root causes of the placement crisis. This means investing in more permanent, suitable, and safe placement options, improving collaboration between agencies, and advocating for increased funding for programs that can offer the specialized care and services children need to heal and thrive. Simply relying on unlicensed settings is not an adequate response to the underlying challenges facing Maryland's child welfare system.

In conclusion, while the introduction of Senate Bill 191 brings attention to the severity of the placement crisis, we must challenge ourselves to think beyond temporary fixes and push for solutions that protect the safety and well-being of the children who need care the most. It's a collective responsibility to ensure that our state's most vulnerable children do not fall through the cracks and that they receive the care and support they need in a safe, appropriate environment. The time for a long-term, sustainable solution is now. It is for these reasons that the Coalition to Protect Maryland's Children **urges an unfavorable report** on SB0191- Family Law – Child in Need of Assistance – Unlicensed Settings.

Written Testimony.SB 191.pdf

Uploaded by: Megan Berger

Position: UNF

SENATE JUDICIAL PROCEEDINGS COMMITTEE

SENATE BILL 191 – Children in Need of Assistance - Unlicensed Settings

January 14, 2025

POSITION: OPPOSE

Disability Rights Maryland (DRM) is Maryland's designated Protection and Advocacy agency and is federally mandated to advance the civil rights of people with disabilities. DRM advocates for systemic reforms and policies that improve services and supports for youth with disabilities and ensures that their rights are protected. We regularly advocate for children in DHS care and custody who are stuck in unlicensed and illegal hospital settings long past their discharge dates because DHS has not located a placement for them and are co-counsel in a lawsuit against DHS and other state agencies on behalf of a putative class of foster children who have experienced hospital overstays. We also advocate for foster children who are placed in other unlicensed settings such as hotels, motels, and DSS offices. Senate Bill 191 attempts to legalize the placement of foster children in unlicensed settings and immunize the state against liability under the Americans with Disabilities Act for placing foster children in unlicensed settings that are overly restrictive and least approximate a family setting. For this reason, **DRM opposes SB 191**. The true root of the grave hospital overstay and unlicensed placement problem is the lack of sufficient community placements for foster children in Maryland. Placement of foster children in unlicensed settings will not fully be remedied until new community placements, preferably therapeutic foster care or small community group homes, are developed and funded, as well as preventive and wraparound services to prevent crises, placement disruptions and psychiatric hospitalizations whenever possible.

We strongly believe that youth with disabilities have the right to live and thrive in their communities. DRM regularly receives calls from foster families, guardians and family members of youth in DHS custody who lack appropriate placements and services. Under the *Americans with Disabilities Act*, public entities, including DHS, are required to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." 28 C.F.R. § 35.130(d). SB 191 (section 5-601.1(C)(4)) creates an unconscionable end-run around the ADA by allowing DHS to seek an order from a juvenile court finding that a foster child can be placed in an unlicensed setting because DHS has attempted to comply with the ADA but failed because of a lack of sufficient community-based placements. Moreover, it is unclear how DHS would seek to avail itself of section 5-601.1(C)(4)(II)¹, which allows DHS to ask a juvenile court for a finding that an unlicensed, illegal placement is a reasonable accommodation under the ADA.

¹ Note that the citation to the ADA is incorrect in the bill. The correct citation is 42 U.S.C. 12132.

Foster children, some of the most vulnerable youth in our communities, need to be in licensed family or community-based placements where they can achieve stability. SB 191, while on its face seems to attempt to limit the use of unlicensed placements, actually seeks to legitimize and legalize unlicensed placements by allowing DHS to seek juvenile court approval of the unlicensed placement by documenting its efforts to place the child in a licensed setting by clear and convincing evidence. Juvenile courts will likely be loathe to deny state funding for a foster child's placement and the approval of unlicensed placements could become simply a rubber stamp that will perpetuate the state's unlicensed placement crisis rather than meaningfully address the root of the problem. The state's efforts should be focused on addressing the placement shortage and creating additional community placements, including therapeutic foster care and small community group homes, as well as increasing preventive and wraparound services needed to help kids remain in the community and out of crisis.

For the foregoing reasons, DRM opposes SB 191.

Thank you for the opportunity to present this information to you today. For more information, please contact Megan Berger, Esq. at 443-692-2504 or Megan.Berger@disabilityrightsmd.org.

Letter to Senate Jud. Proc. Committee re SB 191 (2

Uploaded by: Mitchell Mirviss

Position: UNF

January 10, 2025

t 410.244.7412
f 410.244.7742
MYMirviss@Venable.com

Senator William Smith
Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

Re: **SB 191 (2025): OPPOSE**

Dear Chairman Smith and Members of the Committee:

I strongly oppose SB 191 and urge the Committee to issue an unfavorable report. The bill would not help the hundreds of foster children who will languish in unlicensed (*i.e.*, illegal) settings such as a DSS office, hotels, and worst of all, psychiatric hospitals, psychiatric wings of acute care hospitals, or even hospital emergency departments. Instead, it will give the local Departments of Social Services and their parent agency the Department of Human Services a way to obtain court sanction because the court is faced with an unconscionable Sophies' Choice of cutting off funding for the child (effectively putting the child on the street) or making a factual finding that no alternative exists to the unlicensed placement. In virtually all such cases, the parties and the court will check off the requisite boxes, make the statutory findings, and give the State a pass for having created this deplorable situation in the first place. This is a shameful fig leaf, and the General Assembly should not put it into law to camouflage what is happening to the most vulnerable children in the state—foster children who have suffered grave maltreatment and cannot be placed with their families.

The State has been placing and keeping foster children in illegal, unlicensed placements for the last five to six years, at least. Hundreds of children have languished in these situations. Time and time again, the Secretaries of the Departments of Health ("MDH") and Human Services ("DHS") have testified before various legislative histories and vowed to fix the problem soon. Year after year, the promised fixes don't arrive or don't work as promised. Just last year, the DHS Secretary testified at a budget hearing that "I will fix it." Yet the Office of Public Defender reports that currently it represents 10 children in hospital overstay. The Baltimore City Department of Social Services reported last night that three foster children had to stay overnight in one of its offices. Last Friday (January 3, 2025), the most recent data available, it reported six foster children in hospital overstay.

Hospital overstay typically last for several weeks and many times last for several months. According to Baltimore City data that I have analyzed, most of these children are not waiting for highly restrictive residential placements to open up, but, rather, ultimately are placed with relatives, foster parents, or in group homes. DHS openly asserts that there is no placement

January 10, 2025

Page 2

shortage, yet children languish in these situations on waiting lists for placements to open up—and when a placement opens, the child is placed.

Having just learned of this bill and the very rapid deadline for providing testimony, I do not have time to provide an analysis of current Baltimore City data. Therefore, the Committee should consider the relatively recent data as of May 31, 2024 that Plaintiffs’ counsel shared with the federal court for the District of Maryland in early June 2024 in enforcement proceedings in the *L.J. v. Lopez* class action, where a modified consent decree prohibits DHS and Baltimore City DSS (“BCDSS”) from housing children in unlicensed facilities.

- On May 17-23, 2024, BCDSS illegally housed **nine** Plaintiffs in hospital overstay. On May 28-30, 2024, it illegally housed **nine** more in hotels.
- Most children (approximately 90%) leave for community placements, not RTCs or other hospitals.
- On most days, at least one foster child is housed in a BCDSS office.
- The problem is getting worse: **21 children** illegally housed on May 22, and, statewide, **68 foster children** (15 in hospitals and 53 in hotels) on January 25.
- The net supply of beds continues to plummet, declining by *dozens* in the previous year. DHS has admitted to **losing 125 beds in FY 2024**.
- The mean length of hospital overstay was **32 days** during FY 2024.
- On May 21, 2024, BCDSS housed **five children in an office**, and a total of **20 children** in an office, overstay, or hotel that night. This was well over 1% of all foster children in BCDSS custody.
- In 2023, BCDSS housed children in its offices **222 times**. From January 1 through May 30, 2024 it had already done so **157 times**. By contrast, there were only 39 nights when no foster children were housed in the building during that period.

Pls. Reply Mem. in Supp. of Pet. for Enforcement, *L.J. v. Lopez*, Case 1:85-cv-04409-SAG, at 1-

2, 8, 18, ECF No. 698 (D. Md. June 10, 2024). Plaintiffs also provided some case examples:

- A 16-year-old girl had been in a hotel since Jan. 8 because she is third on the waitlist at a group home, one treatment foster care (“TFC,” aka therapeutic foster homes) provider “cannot find a parent for her,” and another lacks a home “that is able to accommodate any teenagers.”

January 10, 2025

Page 3

- For another 16-year-old girl in a hotel since April 19, BCDSS reports these placement efforts: “As of 5/28/24, [...] TFC reported that they do not have any placements that are accepting females at this time. [...] TFC reported that they do not have any openings.”
- One youth discharged from Sheppard Pratt on December 20, 2023 with a recommendation for RTC placement, was housed in a hotel until May 20, six months later, waiting for a spot to open at one of the five RTCs that accepted him.
- A youth spent a month in a hotel, from Jan. 5 to Feb. 8, because his treatment foster parent closed her home and the provider had no other families available, until another provider in Baltimore found a foster home for him.
- A 14-year-old youth with Type 1 diabetes was hospitalized after his TFC provider failed to replace his glucose monitoring device after it expired and did not take other measures to monitor his glucose. He spent 16 days in overstay, Oct. 22 to Nov. 7, 2023, because all but one TFC and group-home provider rejected him, and the one group home that accepted him required training on diabetes management.
- One youth with a history of severe sexual trauma had been at Spring Grove Hospital since September 2023, following three months at JHH. BCDSS was told that she would be ready for discharge in December, and it has been searching for an RTC since then. Sheppard Pratt RTC told BCDSS that it “is not accepting any new referrals at this time.” In February 2024, the hospital wrote to the juvenile court that she is stable and not an imminent threat to herself or others and can be placed elsewhere. It has told BCDSS that her prolonged stay is detrimental to her wellbeing.

Id. at 19-20. The problem is not, as the State often portrays it, mostly older children with severe behavioral health disorders that no facility will take. Most children do get placed in the community, eventually. Medically fragile infants have had to stay in hospitals without medical necessity due to the lack of foster homes.

The hospital overstays are particularly deplorable. Languishing in an E.R. or psychiatric ward without medical necessity harms children: their schooling is interrupted (it often takes weeks or months before small amounts of tutoring are arranged); they rarely exposed to fresh air; they have no or scant opportunity for recreation; and they have almost no socializing opportunities. Visits from relatives or friends are infrequent. And the academic literature is clear that prolonged hospitalization damages children, as their developmental progress is halted and impaired. Before the Committee gives DHS the judicial fig leaf it is seeking, it should appear from the medical practitioners who must try to serve these children under horrific conditions about just what harm is occurring and would receive judicial authorization should SB 191 be enacted.

If a parent abandons a child in a hospital because it is unable to care for the children in the home with the services available, DSS often will file a CINA petition in juvenile court against the

January 10, 2025

Page 4

parent. When DSS refuses to pick up a foster child from the hospital when called by a hospital social worker because DSS lacks a placement and services to care for the child, the same neglect is occurring. It is no less a form of maltreatment when the State does it.

The question that the Committee should ask of DHS is whether it believes that SB 191 will reduce the number of children in illegal unlicensed placements, and, if so, why. Having worked with this problem intensively over the last six years, I strongly believe that SB 191 will have virtually no effect on improving conditions for foster children. Rather than pass a bill that will not help, the Committee should direct DHS to implement solutions that have worked in other jurisdictions. These have been passed on to DHS, but we await word on whether they will be adopted.

As for my interest in the issue, I am co-counsel for the class of Baltimore City foster children in the *L.J.* case discussed above and have served as class counsel since 1988. In addition, I am co-counsel with Disability Rights Maryland in another federal class action, *T.G., et al. v. Md. Dep't of Human Servs., et al.*, which also seeks to end hospital overstay of foster children outside of Baltimore City. *T.G.* also is pending in the U.S. District Court for the District of Maryland. Overall, I have been involved in foster care reform at the federal, state, and local levels since 1979.

In sum, I urge the Committee to focus on solutions, whether enacted by the General Assembly or developed by DHS and MDH. At a minimum, there should be hearings on placement needs and service deficiencies that have caused the placement crisis. And advocates should be given time to develop and present fulsome testimony rather than the few days of notice provided for SB 191. Giving DHS the fig leaf it seeks to paper over the problem with minimal public input is a terrible fix. It will hurt foster children. I urge the Committee to issue an unfavorable report for SB 191.

Respectfully submitted,

/s/ Mitchell Y. Mirviss

SB 191 MOPD Written Testimony - Informational.pdf

Uploaded by: Hayley Lichterman

Position: INFO



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

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

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.

Authored by: Hayley Lichterman at hayley.lichterman@maryland.gov and Natasha Khalfani at natasha.khalfani@maryland.gov.

SB 191 Children in Need of Assistance - Unlicensed

Uploaded by: Jane Krienke

Position: INFO



Maryland
Hospital Association

Senate Bill 191- Family Law - Children in Need of Assistance - Unlicensed Settings

Position: *Letter of Information*

January 14, 2025

Senate Judicial Proceedings Committee

MHA Position

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to provide information on Senate Bill 191.

Maryland Hospital Association agrees that hotels, shelters, and offices are not appropriate placement options for the long-term needs of children and youth in foster care. Similarly, hospitals are also unlicensed and inappropriate placement options. However, without increasing capacity for placements such as residential treatment centers across the state to meet the needs of children and youth, these placements are likely to continue.

Maryland hospitals have and continue to face challenges with children and youth staying in emergency departments and inpatient units beyond medical necessity. This means a medical professional has deemed the patient ready for discharge, but for a variety of reasons the patient is unable to transition either to another level of care like a residential treatment center or home (inclusive of a parent or guardian's home, foster home, or group home).

Children and youth in foster care tend to face longer delays.

Hospitals are qualified to deliver care to meet the acute needs of children and youth. However, utilizing hospitals as a long-term placement option for days, weeks, months, and, in some extreme cases, a year or more, presents numerous challenges and concerns.

Children and youth who live in hospitals often destabilize, miss school, are isolated from friends and family, do not have access to certain services and are restricted in their ability to go outside and engage in activities. Additionally, they are often living in clinical environments. Especially in the emergency department, bed space is often limited, and the medical staff caring for these children and youth are needed to treat life and death emergencies.

Since 2018, MHA has worked to quantify the reasons for these discharge delays and understand the demographics of these patients. Each study identified unique challenges children and transition-age youth face, especially those in foster care.

In 2021 and 2022, MHA collected data focused solely on children and youth up to age 21, who had been in an emergency department longer than 24 hours or admitted to an inpatient unit beyond medical necessity.

Recent MHA data showed the following:

- Pediatric hospital overstay study (2021, eight weeks)
 - Average age of patient was 14 years old
 - Most common causes of delays:
 - Waiting for action by the Department of Social Services
 - Waiting for an inpatient psychiatric placement
- Pediatric hospital overstay study (2022, 12 weeks)
 - 70% of patients were between 13-17 years old
 - On average, 48 youths experienced a discharge delay each week
 - 30% of patients were involved with the Department of Social Services
 - 27% of patients were delayed because there was no available placement

We are happy to provide additional information to the Committee on this topic and appreciate the Department of Human Services' attention to this critical issue.

For more information, please contact:
Jane Krienke, Director, Government Affairs & Policy
Jkrienke@mhaonline.org

SB191_MARFY_INFO.pdf

Uploaded by: Therese Hessler

Position: INFO



January 14, 2025

Senate Bill 191 - Family Law - Children in Need of Assistance - Unlicensed Settings

Senate Judicial Proceedings Committee

Position: Letter of Information

The Maryland Association of Resources for Families and Youth (MARFY) is an association of private child caring organizations providing foster care, group homes, and other services through more than 200 programs across Maryland. The members of MARFY represent providers who serve Maryland's most vulnerable children who are in out of home placements due to abuse, neglect or severe mental health, and medical needs. We operate group homes, treatment foster care programs and independent living programs, primarily serving the adoptive and foster care population as well as a juvenile services population.

We are writing in response to Senate Bill 191, Family Law—Children in Need of Assistance—Unlicensed Settings. The longstanding issue of youth being placed in unlicensed settings is deeply concerning and predates this administration. While we recognize and appreciate the Department's efforts to establish standards for identifying appropriate placements and providing oversight for unlicensed settings, we believe this bill falls short in addressing the needs of youth with significant behavioral health or developmental challenges. Unlicensed placements pose serious risks to the safety and well-being of youth. Although the state may have an adequate number of total placements by bed count, there is a critical shortage of specialized resources for high-need youth.

While the bill's prohibition on the use of unlicensed settings for child placement under most circumstances is commendable, it does not provide a sustainable or comprehensive solution to

1

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Maryland's systemic placement problem for unhoused and foster youth. Our concern is that this bill, while aiming to regulate unlicensed placements, may inadvertently legitimize and expand their use, further compromising the care of vulnerable youth and their path to permanency.

Shortcomings of SB 191 as a Long-term Solution:

1. Over-reliance on Existing Licensed Facilities

The bill prohibits placements in unlicensed settings unless stringent conditions are met. However, it fails to address the shortage of licensed facilities and foster homes capable of meeting the diverse and complex needs of CINA. Without significant investment in expanding and enhancing licensed care options, this prohibition risks creating bottlenecks in the placement process and leaving vulnerable children in precarious situations.

2. Limited Timeframe for Emergency Unlicensed Placements

SB 191 allows unlicensed placements for up to 10 days under specific conditions, provided the Secretary of Human Services authorizes extensions. While this limitation aims to protect children, it does not consider the logistical and systemic delays in finding appropriate licensed placements, especially for children with specialized needs.

3. Failure to Address Root Causes of Placement Problems

The legislation emphasizes compliance with licensing but does not propose actionable steps to address the systemic issues contributing to the placement crisis, such as:

- The lack of financial and structural support for foster families.
- Insufficient recruitment and retention of qualified caregivers.
- The growing number of children entering the system due to socio-economic challenges.

4. Exclusion of Broader Support Mechanisms

While the bill mandates thorough efforts to locate kinship caregivers or reunify families before unlicensed placement, it does not provide additional funding or resources for family support programs, community interventions, or mental health services that could prevent the need for foster care placements altogether.

Recommendations for a Sustainable Approach:

2

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Resources for Families & Youth

To ensure the long-term success of Maryland's child welfare system, we recommend the following:

1. Increased Funding: Allocate resources to expand the number of licensed care facilities, incentivize the recruitment of foster families, and facilitate the path to permanency for youth in care. This specifically includes the State finishing the process of rate reform, especially reforms for funding therapeutic foster care, which includes increased reimbursement for foster families, as well as making specific investments in wraparound services for kinship families for youth with intensive needs, whether they be in kinship or non-relative care.

2. Enhanced Family Support Services: Invest in preventive measures, such as mental health services, substance abuse treatment, and housing assistance, to reduce the number of children entering care as well as address their ongoing needs.

3. Streamlined Licensing Processes: Simplify and expedite the licensing of kinship caregivers and foster homes to increase available placements.

4. Holistic Policy Approach: Develop a comprehensive strategy addressing systemic barriers and fostering collaboration between state agencies, local departments, and community organizations. Additionally, the Department should prioritize updating outdated regulations for both public and private providers, so they align with national standards and best practices, ensuring a safe path to permanency for all children.

Maryland's children deserve a child welfare system that prioritizes stability, safety, and long-term well-being. While parts of SB 191 represent a step forward, it must be supplemented with systemic reforms to truly solve the placement crisis for unhoused and foster youth.

For more information call or email:

Therese M. Hessler | 301-503-2576 | therese@ashlargr.com



1500 Union Avenue, Suite 2500, Baltimore, MD 21211
410-727-6367 | www.marylandnonprofits.org



Maryland Association of
Resources for Families & Youth