

February 27, 2026

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The Hon. Ben Barnes  
Chair, House Appropriations Committee  
120 Taylor House Office Building  
Annapolis, MD 21401

Re: **HB 1559: STRONGLY SUPPORT**

Dear Chairperson Barnes and Members of the Committee:

I strongly support HB 1559 and urge the Committee to issue a favorable report.

I am co-counsel for the class of Baltimore City foster children in the federal class action, *L.J. v. López*, Civ. A. No. SAG-84-4409 (D. Md.), serving as lead counsel since 1988 monitoring implementation of a consent decree and then a comprehensive modified consent decree governing quality of care and conditions in foster care. Housing foster children in unlicensed facilities is prohibited by the *L.J.* consent decree. Keeping foster children in hospitals without medical need merely because the Department of Human Services has no placement available for these children therefore is prohibited under the decree. I wrote to DHS *seven years ago* that it was egregiously violating the decree and needed to halt the practice immediately. Despite constant advocacy and even an enforcement action filed in federal court, DHS has not curtailed the practice. Three years ago, I joined Disability Rights Maryland in bringing the federal *T.G. v. DHS* class action to end hospital overstay (outside of Baltimore City). I have also testified many times in the General Assembly about the horrific practice, but none of this has halted it. Instead, DHS issued a policy this fall prohibiting use of hotels, offices, and shelters—but not hospitals—as ersatz foster care.

Legislative action is desperately needed.

Children spend weeks or many months in hospitals—emergency departments, psychiatric wings of acute care hospitals, or even psychiatric hospitals—for the simple reason that DHS has failed to plan to meet their needs and accordingly does not have services and placements available for them. One child has been housed in the emergency department of a Montgomery County hospital since August 2025. This is her third long hospital overstay since 2024.

This is a horrendous, a real-life *Cuckoo's Nest* world here in Maryland in 2026. These children do not go to school, do not have access to recreation, to socialization, to family and friends, to any of the normal attributes of a child's life. Children stuck in emergency departments do not even receive treatment for their presenting mental health problems. Instead, they languish and, all too often, decompensate or deteriorate, eliminating whatever beneficial effect might have

February 27, 2026

Page 2

occurred from the initial treatment. One hospital E.D. administrator described their condition as worse than juvenile detention. It is unconscionable that this is happening in Maryland. It is as bad as I have ever seen in my 41 years of work on foster-care reform in Maryland.

Some of the children are there simply because they have substantial medical needs that require specialized care. Others have experienced acute trauma resulting in behaviors that have not been adequately treated with effective therapies. Or a small crisis caused a disruption that led to a hospitalization because other interventions weren't attempted. Supportive services like respite or wraparound are not provided. Autistic children do not receive specialized interventions proven to work in other jurisdictions. In most cases, when these children finally do leave for placements, they go to placements in the community, not highly restrictive residential treatment centers.

Nor is this a small handful of children. In the *T.G.* case, Defendants produced records showing that **144** different foster children outside of Baltimore City had had overstays from January 1, 2024 to January 21, 2025, totaling 181 separate occurrences in just one year. Adding the Baltimore City children and the children not yet in foster care, this adds up to *hundreds* of children that Maryland has egregiously failed.

The children languish in overstay not because they are the “worst of the worst” as they often are portrayed, but because they are defined by behaviors rather than underlying traumas and therapeutic needs. Both a report by Chapin Hall at the University of Chicago School of Social Work—the premier child-welfare research institution in the country—and our experts in the *T.G.* case have reviewed the files of these children and determined that DHS consistently fails to assess their needs and then looks for a bed—any bed anywhere—to take them, rather than develop a plan to meet their needs back when the crisis first appears (as opposed to when the overstay is called in by the hospital, which is usually the case). Because DHS defines the children by their behaviors, facilities and programs reject them over and over again, so the children have nowhere to go.

DHS also has steadfastly refused to conduct or allow a comprehensive assessment of its placements and services to determine what more is needed—such as psychiatric respite (the last facility closed in 2021 and has not been replaced); wraparound services; etc. Even though Chapin Hall was retained to conduct a placement needs assessment, DHS would not allow it to assess the supply of available placements and services, defeating half of the mission (or more). DHS blocked this work even though it was court-ordered in the *L.J.* case.

I therefore strongly support HB 1559. Though it is an interim measure pending the final report of the workgroup established by the General Assembly, it has several vital measures:

1. It includes hospital overstays in the definition of an unlicensed setting. DHS has steadfastly resisted this, so it is necessary and long overdue. Hospitals are not licensed to provide

February 27, 2026

Page 3

foster-care services. Their licensure as hospitals is immaterial as they are not providing acute medical care once the child is medically ready for discharge.

2. It creates a full-time placement manager, a review panel with outside participation, and a rapid response team. We have sought this since the crisis first emerged. As pointed out above, many of the children would have been placed had accurate and timely assessments and planning been conducted. External mechanisms like these are necessary.

3. Vesting the Governor's Office for Children and Youth with responsibility for the case manage, review panel, and rapid response team. Back in the early 1990s, an entity called the State Coordinating Council (SCC) had multi-agency authority to address and resolve cases like these. It wasn't perfect, but it broke through logjams and creates solutions for many children. The Governor's Office is the modern-day successor to the SCC. Giving it responsibility here is crucial, but the Governor's Office will need to staff up to return to an active role in child welfare casework.

HB 1559 is not a panacea. It will not solve the problem, and the Workgroup's final report will not be issued until the current Session's close. But it is an important first step. and, in conjunction with HB 980 (Kanaiyah's Law), which also is pending, it will make a significant difference. If possible, HB 1559 and HB 980 should be folded together, as they overlap.

Seven years of hospital overstay is an outrage. It must stop.

I thank the Speaker for her leadership on this issue and thank the Committee for its consideration.

Respectfully submitted,

/s/ Mitchell Y. Mirviss