



Empowering People to Lead Systemic Change

The Protection and Advocacy System for the State of Maryland

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DisabilityRightsMD.org

House Health Committee

House Bill 1323: Health Care Decisions Act – Surrogate Decision Making – Hospital Surrogate Committee

March 11, 2026

POSITION: SUPPORT

Disability Rights Maryland (DRM), a non-profit legal advocacy organization, is the federally mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. We have been serving children, youth, and adults with disabilities in our state for over 40 years. DRM works to increase opportunities for Marylanders with disabilities to be integrated into their communities, live independently and access high-quality, affordable health care.

Currently, under Maryland law, absent a medical emergency that has been determined to lead to a substantial risk of death or imminent injury, hospitals must petition for guardianship before proceeding with a non-emergent medical procedure on a patient who is incapable of making an informed decision and does not have a legal representative (an “unrepresented patient”). When placed under guardianship, however, patients can lose their authority to make many personal decisions; this can include decisions regarding their own healthcare, finances or even their own relationships. Too often, these guardianship orders are overbroad and unnecessary, stripping away an individual’s basic rights to direct their own life. Additionally, many of these orders are permanent; once a guardian is appointed, it is often very difficult to terminate or limit the guardianship order.

Alternatives to guardianship such as advance directives or surrogate decision-makers allow for individuals to retain their medical decision-making authority and avoid guardianship. In recent years, Maryland has continued to expand the use of these alternatives to limit, terminate or avoid guardianship. Notably, in 2022, DRM, along with over 27 partners in the Cross-Disability Supported Decision Making Coalition, advocated for the passage of SB 559, codifying the use of supported decision-making (SDM) as a less restrictive alternative to guardianship.¹ The passage of this bill served as a critical turning point in protecting the decision-making authority of people with disabilities in Maryland.

House Bill 1323 operates as another alternative that ensures that unrepresented patients within hospitals are not unnecessarily placed under guardianship simply to receive medical treatment. By creating a multidisciplinary Surrogate Committee that can consent to medical treatments on behalf of unrepresented patients, hospitals can ensure that patients will not have broad and varied rights stripped away just so their essential medical needs can be met. Patients can also receive

¹ Md. Estates and Trusts Article, §13-204.



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necessary treatment in a timely manner; instead of having to wait weeks or months for a guardianship order to obtain consent for a procedure, a patient can receive their treatment promptly upon the determination of the Surrogate Committee.

Additionally, the bill's proposed composition of the Surrogate Committee ensures that a wide range of voices are heard in the medical decision-making process. The committee is composed of hospital members and members of the community who represent the patient population, such as a patient advocate and an individual with a disability. This combination of medical expertise and lived experience ensures a fair decision process that is not compromised by conflicts of interest, biases or values of any one particular individual. By additionally requiring that the final decision of the committee be supported by two hospital members and two community members, the bill ensures that the ultimate decision is based on a balance of perspectives.

The over-reliance and improper use of guardianship is a complex problem rooted in disability discrimination and ageism; it restricts the rights of a person to direct their own life, leading to dangerous, long-term consequences. However, the expansion of alternatives to guardianship ensures that people with disabilities are able to exercise greater self-determination. Studies have shown that greater self-determination leads to better life outcomes, including greater community integration, better money management skills and greater independence in everyday life.² HB 1323 creates another mechanism to increase the self-determination of individuals with disabilities, allowing them to lead the lives that they choose.

For these reasons, DRM strongly supports HB 1323 and urges a favorable report.

Sincerely,

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² Peter Blanck & Jonathan Martinis, 'The Right to Make Choices': The National Resource Center for Supported Decision Making, 3 Inclusion 24-33 (2015).