

House Bill 1323

Health Care Decisions Act – Surrogate Decision Making – Hospital Surrogate Committee
In the Health Committee - Hearing on March 11, 2026

Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on HB 1323 at the request of Delegate Rosenberg.

MLA is a non-profit law firm that provides free legal services to thousands of the state's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including guardianship cases. MLA is the court-appointed law firm for persons facing a guardianship petition in three Maryland counties.

Guardianship is the most restrictive form of civil intervention. The imposition of a guardianship reduces an adult to the legal status of a child. It removes their right to make decisions about their health, where they live, and finances, and places all decision-making into the hands of a guardian. The guardian is not required to consult with them or ask about their preferences before making potentially life-changing decisions. The guardian can impose or withhold medical treatment and make financial decisions without consulting the adult subject to the guardianship.

HB 1323 provides an alternative to guardianship. It would allow individuals who lack sufficient understanding, or who otherwise cannot make a proposed medical decision to receive that medical treatment without a guardianship order. As Court-Appointed Counsel, we often see individuals facing Petitions for Guardianship simply because they are hospitalized, cannot make decisions for themselves, require medical treatment, but have no family members or other surrogate medical decision-makers. In this situation the hospital is likely to file for guardianship because the Alleged Disabled Individual lacks an authorized individual who can make medical decisions on their behalf. HB 1323 would implement a Hospital-Surrogate-Committee, which would be able to engage in a process to make medical decisions for an individual who is a) incapable of doing so for themselves and b) has no family or friends who can lawfully make the medical consent or denial decision.

Unlike a formal guardianship order, HB 1323 would preserve the dignity of the Alleged Disabled Individual. The Alleged Disabled Individual retains their legal rights to autonomy for the future. Additionally, HB 1323 requires the Surrogate Committee include a Patient Advocate who is not employed by the hospital. The presence of a Patient Advocate should ensure that, to the extent they are able, the wishes of the Alleged Disabled Individual are considered by the Surrogate Committee in their decision.

Passage of HB 1323 would add to the less restrictive statutory alternatives to guardianship. It also contemplates a future for the Alleged Disabled Individual where they are experiencing only a short-term inability to participate in decision-making. Less restrictive alternatives to guardianship are preferable to a complete dissolution of an adult person's legal rights.

HB 1323 strengthens the options available to Alleged Disabled Individuals by providing another alternative to avoid the loss of all autonomy suffered under guardianship. For these reasons, **Maryland Legal Aid urges the Committee to issue a FAVORABLE report on House Bill 1323.** If the Committee has any questions, please contact Jim Silver, Supervising Attorney, or Genna Amick, Staff Attorney, Maryland Legal Aid, at; gamick@mdlab.org.