



DEPARTMENT OF HUMAN SERVICES

Wes Moore, Governor · Aruna Miller, Lt. Governor · Gloria Brown Burnett, Interim Secretary

March 11, 2026

The Honorable Heather Bagnall, Chair
House Health Committee
240 Taylor House Office Building
Annapolis, Maryland 21401

**RE: TESTIMONY ON HB1323 - HEALTH CARE DECISIONS ACT - SURROGATE
DECISION MAKING - HOSPITAL SURROGATE COMMITTEE - POSITION:
INFORMATION**

Dear Chair Bagnall and Members of the Health Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for its consideration and respectfully submits information on House Bill 1323 (HB 1323).

With offices in every one of Maryland's jurisdictions, DHS provides preventative and supportive services, economic assistance, and meaningful connections to employment development and career opportunities to assist Marylanders in reaching their full potential. Our Social Services Administration implements the Office of Adult Services (OAS) programs, including Adult Protective Services and Adult Public Guardianship, which is affected by HB 1323. HB 1323 would create a framework to provide a medical decision-making process for individuals who lack the capacity to make such decisions and are admitted to hospitals without advanced directives or available surrogate decisionmakers.

HB 1323 would require hospitals to establish a surrogate committee to provide surrogate decision-making for an unrepresented patient, and authorizes that surrogate committee to make treatment decisions for unrepresented patients under certain circumstances. HB 1323 has the potential to support DHS's Adult Public Guardianship program by reducing its involvement in medical decision-making where State intervention is not appropriate.

Under current law, guardianship is the only option that allows for medical decisions to be made for an individual who lacks capacity and for whom no surrogate decision-maker is available. Guardianship is an intentionally adversarial process, as it involves the potential loss of an adult's rights to all self-determination, including the

right to make medical decisions. Such a time-consuming process can be inappropriate, even harmful, for certain medical decisions, as any delay has the potential to cause further harm.

HB 1323 would establish the role of a surrogate decision-maker empowered to make discrete decisions in the best interest of an incapacitated individual without requiring a time-consuming court process that could delay a medical decision. The proposed surrogate committee structure would serve as a last resort for adults suffering from an injury, disability, or cognitive impairment, and for whom no surrogate decision-maker is otherwise available.

We appreciate the opportunity to provide information to the Committee for consideration during your deliberations. If you require additional information, please contact Justin Hayes, Acting Director of Government Affairs, at justin.hayes1@maryland.gov.

In service,

A handwritten signature in blue ink that reads "Gloria Brown Burnett". The signature is written in a cursive style with a large initial "G".

Gloria Brown Burnett
Interim Secretary