



**House Bill 1323: Health Care Decisions Act – Surrogate Decision Making –
Hospital Surrogate
House Health Committee
March 11, 2026**

POSITION: OPPOSE

The Arc Maryland and the Maryland Association of Community Services (MACS) are statewide organizations dedicated to protecting and advancing the rights of Marylanders with intellectual and developmental disabilities (IDD). For decades, our organizations have advocated for the right of individuals to retain their legal decision-making authority and have supported the development and expansion of alternatives to guardianship that individuals can access when assistance with decision-making is needed.

Adults with developmental disabilities are often faced with biased assumptions about their intellectual capacity and decision-making abilities. In 2022, Maryland enacted SB 559, which authorized the use of Supported Decision-Making (SDM) agreements. SDM allows a person with IDD to identify a trusted supporter or supporters who can assist them in understanding information, considering options, and making important decisions about their lives. This reform, along with other alternatives such as medical surrogate decision-making, limited powers of attorney, and related tools, has expanded the range of options available to individuals who may benefit from decision-making support while retaining their legal rights.

This bill would establish a surrogate committee for hospital patients designated as “unrepresented patients,” meaning individuals who do not have another authorized decision maker. We have concerns about both the composition of the proposed committee and the scope of its authority. For example, it is unclear whether the committee would have the authority to initiate or withdraw medical treatment without any knowledge of the individual’s personal wishes, values, or beliefs.

Experiences during the COVID-19 pandemic demonstrated how disability can sometimes be misunderstood in medical decision-making contexts. Early in the pandemic, some policies and practices raised concerns among disability advocates regarding access to scarce medical resources, protective equipment, and vaccine prioritization. These

experiences highlight the importance of ensuring that decisions affecting a person's care reflect an understanding of disability and respect the value and preferences of the individual. We are concerned that a committee composed primarily of professionals may not always have sufficient knowledge of a person's life, values, and preferences to make such decisions.

The bill defines an "unrepresented person" as an individual who has been certified as incapable of making an informed decision under § 5-606(a). Given the historical experiences of people with intellectual, cognitive, communication, and other disabilities, we are concerned about the potential for individuals with IDD to be inappropriately determined to lack decision-making capacity due to misunderstandings or unconscious bias.

It is also unclear whether a patient would have the ability to decline the advice or direction of the surrogate committee, or how the committee's role would end if the individual's condition improved. For example, if a patient's health improves as a result of treatment and they regain the ability to make informed decisions, the bill does not clearly describe how the patient would terminate the committee's involvement in decisions about their care.

For all of these reasons, The Arc and MACS oppose this legislation.

For more information, please contact:

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