



**HB1290 - Child in Need of Assistance – Proceedings – Child’s Right to be Present
February 26, 2026
Position: FAVORABLE**

Maryland Legal Aid submits written and oral testimony on HB1290 at the request of its sponsor, Delegate Jamila J. Woods.

Maryland Legal Aid asks that the Committee report **favorably** on HB1290, which authorizes a child who is the subject of a child in need of assistance proceeding to be present at the proceeding; and authorizes the court to exclude the child from a proceeding under certain circumstances and after considering certain alternatives. Maryland Legal Aid serves residents in each of Maryland’s 24 jurisdictions, providing free legal services to the State’s low-income and vulnerable residents in a range of civil legal matters. Maryland Legal Aid is Maryland’s largest civil non-profit law firm, representing vulnerable young people in Child in Need of Assistance (CINA) matters across the State. This proposed legislation is grounded in a simple but critical principle: a child’s voice matters.

Maryland Legal Aid’s staff represent thousands of children in CINA and Guardianship (“TPR”) proceedings throughout the state. Our attorneys represent children from infancy to young adulthood continuously, while under the jurisdiction of the juvenile court, including when the youth transitions from foster care to adulthood. As a result of its extensive work in the field, Maryland Legal Aid has expertise in matters concerning child welfare and children in foster care.

CINA proceedings determine where a child will live, whether they will be reunified with family, and what their future will look like. Ensuring that children can be present and heard strengthens both the fairness and the quality of those decisions. In 2024, Maryland had 3,605 children in foster care, which illustrates the scale of critical court decisions affecting children’s lives.¹

Maryland law recognizes that children in CINA proceedings are entitled to counsel at every stage of the case; the statute requires that a child “shall be represented by counsel,” reflecting that children have independent rights and interests that must be protected.² Maryland uses a hybrid client-directed and/or best interest model of representation. If the attorney concludes that a child has considered judgment, they should advocate for the position of the child as they would for any adult client.³ Representation alone, however, is not sufficient to ensure that the child’s opinions,

¹ U.S. Dep’t of Health & Hum. Servs., Child Welfare Outcomes Data Site: Maryland (2023), <https://cwoutcomes.acf.hhs.gov/cwodatasite/byState/maryland/>.

² Md. Code Ann., Cts. & Jud. Proc. § 3-813 (2024).

³ Md. R. Att’y’s App. 19-C 2(a)–(b). Provides that the attorney for the child is responsible for determining
a. “whether the child has considered judgment;” and
b. “whether the presence of the child at the proceedings will be waived,” including whether the child “wants or needs to be present” or “will be harmed by appearing in court.”

needs, and interests are centered in the critical legal proceedings that impact their lives. HB1290 promotes and protects a child's right to be present at their own hearings.

An attorney does not replace the child's voice. Even the most skilled advocate cannot fully replicate a child's lived experience, their perspective, their concerns, or their understanding of safety and family. When children are not present, their opinions are filtered through others, and something essential is lost. Their voices are effectively muted, and their ability to meaningfully participate in decisions that directly affect their lives is limited. This bill ensures that children have the right to be present in these proceedings, making their existing rights more meaningful in practice.

HB1290 aligns the Family Law Statute with Maryland Rule 11-109's Presumption of the Child's Presence. Maryland Rule 11-109 (Production of Child) already sets a clear expectation of a child's attendance at their own CINA hearings: "Unless the child's presence is excused by the court for good cause, the child's custodian shall bring the child to all hearings under the Rules in this Title." The Rule adds that "[a]n attorney for the child may waive the child's presence in any proceeding other than a delinquency proceeding or a child consultation pursuant to Code, Courts Article, § 3-823(j)."⁴ HB1290 codifies and clarifies this presumption in statute for CINA matters, strengthening uniformity across jurisdictions and ensuring that any exceptions to a child's presumptive presence in court are truly grounded in good cause and the child's well-being

This statutory alignment also complements federal requirements. Congress has long required courts conducting permanency hearings to consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan, and more recently to ask the child about the desired permanency outcome at each hearing.⁵

The American Bar Association Center on Children and the Law has found that children who attend and actively participate in their hearings are more likely to understand the proceedings, trust the process, and feel that their voices have been heard.⁶ When children are excluded from their

⁴ Md. R. 11-109 (2022).

⁵ 42 U.S.C. § 675(5)(C) (2024) (requiring age-appropriate consultation with the child at permanency hearings). 42 U.S.C. § 675a(a)(2)(A) (2024) (A court must "[a]sk the child about desired permanency outcome for the child" at each permanency hearing).

⁶ "When placed in foster care, youths' lives are turned upside down and decisions are often made without their input. They lose control over many facets of their lives. Youth feel empowered and more in control when they are allowed to provide input to the decision makers about issues that affect them. Judges make critical decisions about placement, education, permanency, visitation with family, and well-being needs. Involving youth in the decisions about these topics empowers them." ABA Bar-Youth Empowerment Project & Nat'l Child Welfare Res. Ctr. on Legal & Jud. Issues, *Engaging Youth in Court: Sample Court Policy*, Child L. Prac. (May 2011),

hearings, they are left to piece together what happened from others. Empirical research confirms the benefits of children attending their own hearings without evidence of harm. A controlled study of youth participation in foster-care review hearings found "no evidence of high distress immediately preceding or following their hearings" among attending youth and that those who attended "reported more positive feelings about the dependency process (e.g., trust in judge, perceived fairness, and more comfort with their guardians ad litem and caseworkers).⁷ Their participation leads to more informed and more accurate decision-making. Children can clarify misunderstandings, express their wishes, and provide insight that no report or subsequent secondhand account can capture.

HB1290 affirms that children are not merely the subject of these proceedings; they are participants in them and deserve to be present so they can be involved in the decisions that directly affect their lives. By aligning with Maryland Rule 11-109 and longstanding federal requirements, HB1290 strengthens the fairness, accuracy, and legitimacy of CINA decisions in every courtroom in our state.

Maryland Legal Aid urges the Committee to issue a FAVORABLE report on House Bill 1290 and urges its ultimate passage. If you have any questions, please contact: Erica I. LeMon, Advocacy Director for Children's Rights at elemon@mdlabor.org (410) 951-7648 or (410) 935-0937.

https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol30/may_2011/engaging_youth_incourtsamplecourtpolicy/.

⁷ "Overall, the findings suggest that policies encouraging children's attendance at dependency hearings are viewed positively by and not harmful to children." Victoria Weisz, Twila Wingrove, Sarah J. Beal & April Faith-Slaker, Children's Participation in Foster Care Hearings, 35 Child Abuse & Neglect 267 (2011).