



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HB0134: Family Law – Incapacitated or Protected Persons – Petition for Visitation

Judiciary Committee

Thursday, February 5th - 2:00pm

Chair Bartlett, Vice Chair Davis, and Members of the Health and Government Operations Committee,

In 2018, the House of Delegates passed legislation creating a legal framework for family visitation for incapacitated adults. Late-session Senate amendments, however, weakened the law by eliminating a clear process to challenge unfairly denied visitation—leaving families and other legal decision-makers without recourse, particularly when a caretaker or facility acts improperly. HB 0134 closes these gaps by establishing a clear court process to petition for reasonable visitation.

This legislation would create a new process within Maryland family law setting rules for when certain family members (or other legally recognized decision makers) can visit an adult who is incapacitated and/or under protection. This includes individuals who have a guardian, caregiver, or reside in a healthcare facility of any kind (assisted living facility, hospice, nursing home, or hospital). Petitioners may request “reasonable visitation” when they believe access is being unfairly blocked, except when a public guardian is the authorized decision-maker.

Petitioners must show they are eligible, provide evidence that visitation was improperly restricted and by whom, and agree to comply with court orders and background checks if required. They must formally notify the incapacitated adult, their legal representatives and decision-makers, relevant healthcare providers, facilities, and anyone alleged to have blocked visits.

If the adult has objected to visits, the petitioner would need to prove by clear and convincing evidence that the objection is invalid. Courts may deny visitation based on abuse, neglect, protective orders, the adult’s stated wishes, or risks to health or safety. Judges must issue written findings and may impose limits, including supervised visitation at the petitioner’s expense. Petitioners may be required to cover costs or attorneys’ fees, but the incapacitated adult cannot. Facilities and decision-makers are shielded from liability when restricting visits under a court order or a good-faith belief that doing so protects the adult’s best interest.

JOE VOGEL
Legislative District 17
Montgomery County

Ways and Means Committee

Subcommittees

Education

Revenues



The Maryland House of Delegates
6 Bladen Street, Room 224
Annapolis, Maryland 21401
410-841-3103 · 301-858-3103
800-492-7122 Ext. 3103
Joe.Vogel@house.state.md.us

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Furthermore, if an interested party inquires about the person's location and funeral arrangements or burial details (if applicable), an authorized decision-maker must provide the following information accurately within 72 hours of inquiry.

While implementing privacy and personal safeguards for the incapacitated family members, HB0134 strikes the necessary balance. It upholds strong privacy safeguards for incapacitated adults while ensuring families have a legal path to reconnect. No family member should be arbitrarily barred from seeing a loved one in their final years.

I urge the Committee to give a favorable report on HB0134.